



LAND USE SERVICES DEPARTMENT PLANNING COMMISSION STAFF REPORT

HEARING DATE: July 21, 2022

AGENDA ITEM #2

Project Description

Applicant: San Bernardino County Land Use Services Department

Community: Countywide

Location: Countywide

Project No: PMISC-2020-00059

Staff: Heidi Duron with Colin Drukker, PlaceWorks, Inc.

Topic: Updates to the Policy Plan Housing Element and Hazards Element related to 2021-2029 planning period and environmental justice data updates.

Newspaper Publication Date: July 10, 2022

Report Prepared By: Heidi Duron

PROJECT DESCRIPTION

The project consists of amendments to San Bernardino County's (County) Policy Plan (General Plan) related to the Housing and Hazards Elements (Project). The Housing Element is a mandatory element of the General Plan. The County is required by state law to prepare a housing element to address existing local housing needs and an assigned share of the County's housing growth. The Housing Element contains goals, policies, and programs to address the state law requirements and the needs of the County's unincorporated communities.

The County is also required by state law to have goals, policies and objectives related to environmental justice. The Hazards Element contains goals and policies to address this requirement by identifying disadvantaged communities and adopting policies to reduce the unique health risks in each of the disadvantaged communities. The Project includes an update to the Environmental Justice and Legacy Communities Background Report (EJ Report) and minor updates to the Hazards Element Tables and Policy Map HZ-10 to reflect new state data for identifying disadvantaged communities within the County. The County prepared these updates as part of the Local Early Action Planning (LEAP) Grant Program Funds received from the California Department of Housing and Community Development (HCD) (Grant No. 20-LEAP-15357).

BACKGROUND

Housing Element

Since 1969, the State of California has required that all cities and counties adequately plan to meet the housing needs for their communities. This is accomplished by adopting a housing plan, known as the Housing Element, and is one of the eight required elements for general plans. The County's Housing Element is one of 11 elements of the County's General Plan. The County's Housing Element is updated on an 8-year cycle, separate from the rest of the General Plan, and is subject to detailed statutory requirements and mandatory review by HCD. (See Government Code §§ 65580-65589.11.) The Housing Element must address both existing and future housing needs. Through the Regional Housing Needs Assessment (RHNA) allocation process, each jurisdiction is assigned a number of units which is then broken down into income categories. In the previous 5th cycle, planning for years 2013 – 2021, the County was allocated 39 units. For the current 6th cycle, planning for years 2021 – 2029, the County was allocated 8,832 units. Additionally, new housing laws require the County to meet more stringent requirements in identifying sites that are suitable for new housing.

Hazards Element - Environmental Justice

The topic of environmental justice was introduced (Senate Bill 1000) as a required topic for general plans in 2016 and is addressed in the County's General Plan through the adoption of goals and policies within the Hazard Element. The primary focus on this topic is to reduce the unique or compounded health risks and improve conditions in disadvantaged communities that may bear a disproportionate burden of pollution and health risks due to past land use decisions and socioeconomic inequality.

The County is updating data (as directed by Policy HZ-3.20 in the Hazards Element) related to environmental justice focus areas based upon a recent update to CalEnviroScreen, which is the State's tool that evaluates various pollution and population factors to determine disadvantaged communities. The update requires amendments to existing Tables HZ-1 (CalEnviroScreen Scores for EJFA), HZ-2 (EJ Assessment in the El Mirage Valley), HZ-6 (EJ Assessment in Valley Unincorporated Islands) and Policy Map HZ-10. Existing Table HZ-4 (EJ Assessment in Mountain Communities) will be deleted and Tables HZ-5 through HZ-7 will be renumbered as HZ-4 through HZ-6.

OVERVIEW

The following summarizes the Draft Housing Element and updates to the Hazards Element and includes the following items for public and Planning Commission review, comment, and recommendation:

- Housing Element contents
- New Housing Laws
- The RHNA allocation process and County's housing needs
- Housing types, density, and affordability

- Review outreach efforts
- Environmental Justice updates to the Hazards Element

ANALYSIS

Housing Element Contents

- Evaluation of the previous Housing Element
- Analysis of existing and projected housing needs
- Inventory of available land for housing
- Analysis of the potential constraints on housing
- Goals, policies, and implementation programs to meet unmet housing needs

New Housing Laws

Since 2017, over a dozen new housing laws have been adopted, including:

- Site suitability. More stringent requirements to demonstrate that land and zoning are suitable for housing (AB 1397)
- Site capacity. Prohibited reductions of overall residential development capacity specified in a general plan (SB 166, SB 330)
- Fair housing. Significantly expanded fair housing requirements to mirror federal law (AB 686)
- Compliance. Increased penalties for noncompliant housing element including legal and financial penalties (AB 72)

Regional Housing Needs Assessment

The RHNA is mandated by State Housing Law as part of the periodic process of updating local general plan Housing Elements. RHNA quantifies the need for housing within each jurisdiction during specified planning periods. HCD projects housing needs for each planning period (2021 – 2029 for this cycle) and for each region in the state. The County's assigned region is the Southern California Association of Governments (SCAG). For this 6th cycle planning period, HCD determined the housing need to be 1,341,827 units for the SCAG region.

SCAG is the regional planning agency encompassing all jurisdictions in Los Angeles, Ventura, Orange, San Bernardino, Riverside, and Imperial counties and 191 cities. The methodology used to determine the distribution of units among jurisdictions considers a variety of factors of both existing and future housings needs and is meant to meet the following objectives: 1) to increase the housing supply and mix of housing types, tenures and affordability in an equitable manner, 2) promote infill development and socioeconomic equity, the protection of environmental and agricultural resources, and the encouragement of efficient development patterns, 3) promote an improved intraregional relationship between jobs and housing, 4) allocating a lower proportion of housing need in income categories in jurisdictions that have a disproportionately high share in comparison to the

County distribution, and 5) affirmatively furthering fair housing. The adopted methodology yielded a total of 8,832 units for unincorporated San Bernardino County and broken down below in detail.

Income Level	Housing Units	Percent
Very Low (<50% AMI)	2,179	25%
Low (50%–80% AMI)	1,360	15%
Moderate (81%–120% AMI)	1,523	17%
Above Moderate (>120% AMI)	3,770	43%
Total	8,832	100%

Housing Types, Densities and Affordability

The price of land is one of the biggest influences on the cost of housing. By increasing the density, or number of units allowed per acre, the cost per unit goes down allowing each unit to be sold or rented at a lower price. However, because of the County’s geographic diversity, lower density development can still be available at a relatively low cost. While affordability is typically achieved with higher densities, certain areas in the County, particularly the North Desert, are often affordable at lower densities. In addition to rural homes, manufactured homes and accessory dwelling units also provide affordable housing in the County.

Sites and Zoning for Lower Income RHNA

As part of the required sites inventory, the County must identify vacant or underutilized land zoned at appropriate densities to accommodate the projected new housing units for each income category. The income categories are above moderate, moderate, low, and very low. Lower income RHNA includes both low- and very low-income housing. State law allows the use of higher density zones as a proxy for lower income affordability.

County zoning currently allows up to 20 units per acre in the Multiple Residential (RM) zones. State density bonus law allows increased densities for affordable housing projects. The density which the state deems appropriate is dependent on the type of jurisdiction; for the County, sites allowing for at least 30 units per acre (excluding state density bonus provisions) are viewed as appropriate or able to accommodate for lower income affordable housing. While the County’s strategy to rely on low density housing sites was accepted by HCD for previous Housing Elements, the County’s previous RHNA allocation was very small (39 units) in comparison to the 2021 – 2029 cycle (8,832 units). After discussions with HCD, it became clear that the County would not be able to obtain state certification of its Housing Element without creating a path to increase densities for affordable housing.

Accordingly, a new County density bonus was approved by the Board of Supervisors on October 5, 2021 (Ordinance No. 4415). The County density bonus will facilitate affordable housing by allowing a maximum density of 30 units per acre for affordable housing projects on properties with a RM zoning designation located in the Valley region and the Desert region when served by piped water, sewer, and paved roads. This County density bonus

will ensure the County can retain a lower base density for the RM zoning designation (5 in the Mountain and Desert regions and 11 in the Valley region).

Outreach Efforts

The County has been engaged in a continuous conversation with the public, community groups and other stakeholders on housing needs, issues, policies, and programs. These outreach efforts are summarized below.

- Countywide Plan – The San Bernardino County Land Use Services Department held over 80 meeting between 2016 and 2018 in dozens of unincorporated communities to discuss both local and regional needs and concerns.
- Consolidated Plan and Analysis of Impediments to Fair Housing – The San Bernardino County Community Development and Housing Department engaged approximately 500 people through their community engagement process which included 20 stakeholder interviews, 177 attendees at public meetings, and over 300 survey responses.
- Point-in-Time Count – The San Bernardino County Office of Homeless Services finalized the 2022 Point-in-Time Count to better understand the characteristics and needs of people facing or experiencing homelessness.
- Homeless Strategic Plan – The County hosted 15 stakeholder meetings between May and August 2021 (roughly 500 participants) and two steering committee meetings (20 representatives) in September 2021. Attendees and representatives included target populations (veterans, youth, seniors, and individuals with lived experience), and County departments/agencies, cities, law enforcement, housing developers, faith and community-based organizations, and homeless advocates.
- In 2021, the following groups were contacted by the Land Use Services Department in an effort to solicit Community specific input: Rim of the World Recreation and Parks District, Big Bear Area Regional Wastewater Agency, Morongo Valley CSD & Fire Department, Homestead Valley Community Center, Lucerne Valley Economic Development Association, Newberry CSD, Helendale CSD and the Mentone Chamber of Commerce.
- Between August 2021 and March 2022, the County conducted a survey of residents and property owners in the Mountain and Desert regions on the concerns regarding short-term rentals.
- An informational workshop regarding the Draft Housing Element was advertised and conducted at the September 9, 2021 Planning Commission Meeting, and again at the July 7, 2022 Planning Commission Meeting.
- Notice of the availability of the Draft Housing Element was posted on the County's website including Land Use Services and Community Development and Housing pages; sent out to over 150 interested parties on the County's GovDelivery; as well as emails and letters to participants in CDH's Fair Housing Choice interested parties list and social media accounts (Facebook, Twitter, and Instagram).

A copy of the Housing Element containing updated goals, policies and programs to address state law requirements and the needs of the County is attached as Exhibit A. The Revised

Draft Housing Element Technical Report (June 2022) and HCD Comment Letter with responses are attached as Exhibits B and C, respectively.

Environmental Justice

In addressing the topic of environmental justice, the County uses the State's online mapping tool called CalEnviroScreen (CES) to evaluate roughly 20 different factors involving exposure to toxic pollutants and the presence of vulnerable populations. The tool ranks the results for all census tracts in California to identify those that are the most and least disadvantaged communities. The resulting ranking scores for each factor are combined to create a composite score, with a score of 100 indicating a census tract that exhibits the most severe combination of pollution exposure and vulnerable populations compared to all other census tracts in California. A score of 1 indicates the opposite --- the least amount of pollution burden and vulnerable populations. The State Environmental Protection Agency (CalEPA), as part of its various grant programs, deems those census tracts with composite scores between 75 and 100 (upper quartile) to be disadvantaged communities.

The County must address disadvantaged communities in the unincorporated areas (cities and towns must address environmental justice for disadvantaged communities within their incorporated boundaries). Consistent with the methodology used by CalEPA, the County defines a disadvantaged community as a portion of a census tract with a score between 75 and 100 from CES, provided the land is also within a community planning area or unincorporated sphere of influence (excluding land under the control of the federal government, incorporated cities/towns, or tribal entities). To avoid confusion with other state laws (which also use the term "disadvantaged communities" differently), the County uses the term "environmental justice focus areas" or "EJFAs" to map and describe areas of concern as directed by statutes enacted through Senate Bill 1000.

During the preparation of the Countywide Plan, the latest available data was from CES version 3.0. After the Countywide Plan was adopted in 2020, the State updated CES to version 4.0 in October 2021. The County's Policy Plan Hazards Element contains Policy HZ-3.20, Updating EJFAs, which states "We update the assessment of boundaries, issues, policies, objectives, and implementation strategies regarding environmental justice focus areas subsequent to updates in CalEnviroScreen, equivalent state tools, or as the County deems necessary." As directed by this policy, the County updated the mapping and analysis to identify changes to the areas considered to be EJFAs and evaluated the need for any changes to the policies, objectives, and implementation strategies. A redline of an update to the EJ Report is attached as Exhibit D.

The updated data resulted in minor adjustments to all census tracts in California, with the most notable change being the introduction of a new factor: children's lead risk from housing through lead in house paint and plumbing, and as a gasoline additive. While lead levels have declined over the past five decades in the United States, it persists in older housing. Since most of the housing growth and construction in San Bernardino County took place later compared to the coastal counties, census tracts in the county (especially

unincorporated) generally do not have a score of 75 or above for the topic of children's lead risk from housing. Additionally, socioeconomic data throughout many of the population factors was updated for greater accuracy.

In terms of areas designated as EJFAs, updated data from CES version 4.0 changed a handful of environmental justice focus areas. Overall, portions of three census tracts were added as EFJAs while portions of six census tracts were removed as EFJAs.

- Valley Unincorporated Islands. Small portions of larger areas in the unincorporated SOIs for Chino, Montclair, Fontana, and Colton were either added or removed as EFJAs.
- Mountain Region. The one census tracts that was an EFJA under CES 3.0 is no longer an EJFA in CES 4.0. Accordingly, there are no census tracts that are EJFAs anywhere in the Mountain region.
- North Desert – Barstow. Two census tracts near Barstow's northern incorporated boundary swapped status, with the smaller, more dense census tract directly adjacent the city dropping out and the larger, less dense census tract (which includes places like Hinkley) being added as an EJFA.
- North Desert – Oro Grande. One census tract was added as an EJFA. This tract extends from Oro Grande to Victorville's northern SOI to Barstow's southern SOI, though nearly all the existing population is in Oro Grande.

The County is amending the HZ Tables and Policy Map HZ-10 in the Hazards Element to reflect the latest CES 4.0 data. Table HZ-1 is being updated to remove census tracts that are no longer EFJAs and add census tracts that are EFJAs. Existing Tables HZ-2 (EJ Assessment in the El Mirage Valley) and HZ-6 (EJ Assessment in Valley Unincorporated Islands) are being amended to add the updated census tracts within the El Mirage Valley and Valley Unincorporated Islands. Table HZ-4 in the current Hazards Element is being deleted as it identified EJFAs in the Mountain communities (per CES 4.0, there are no longer any EJFAs in the Mountain communities). The numbering for the remaining tables are being revised accordingly. A redline of the updated HZ Tables and Policy Map HZ-10 are attached as Exhibit E.

ENVIRONMENTAL DETERMINATION

Housing Element

The Housing Element Update is a discretionary approval by the County that has the potential for environmental impacts, and therefore, requires compliance with the California Environmental Quality Act (CEQA) prior to adoption. In accordance with CEQA (Guidelines Section 15162), a proposed project is eligible to be processed with an EIR Addendum if only minor changes are necessary to make the previous EIR adequate for the new project, and the changes proposed would not result in new significant environmental effects or a substantial increase in the severity of a previously identified significant effect.

An Addendum to the CWP Program Environmental Impact Report (PEIR) certified in November 2020 has been prepared (Exhibit F). The Addendum analyzes the potential for the proposed Housing Element to result in environmental impacts beyond those addressed in the CWP PEIR for 20 individual topical areas (per the CEQA Guidelines Appendix G checklist). For each topic, a determination was made whether any of the following conditions that would trigger a subsequent EIR apply:

Condition 1. Whether or not the proposed project represents a substantial change that will require major revisions to the Certified PEIR due to new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

Condition 2. Whether or not substantial changes in the circumstances under which the proposed project is being undertaken will require major revisions to the Certified PEIR due to new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or

Condition 3. If new information shows that the proposed project would have one or more new significant effects; that significant effects would be substantially more severe than previously described; that mitigation measures or alternatives previously found not to be feasible would be feasible and substantially reduce impacts, but project proponents decline to adopt them; or that new or previously rejected mitigation measures or alternatives would be feasible and would substantially reduce one or more project impacts, but project proponents decline to adopt them.

Since none of the above conditions was met, the analysis identifies where impacts of the proposed Project would result in either a less than significant impact or no impact.

CEQA focuses on the potential for physical impacts to the environment. The Addendum analyses, therefore, focuses on the potential for increased impacts associated with new housing development. The 2020 certified PEIR evaluated a projected increase of 15,355 residential units within the unincorporated County between 2016 and 2040. The analysis was conducted for the statistical breakdown of these units within four individual subregions: Valley, Mountains, East Desert, and North Desert. In comparison, the Housing Element identifies the housing capacity to accommodate a total of 9,277 units countywide, providing a 445-unit surplus capacity over the 8,832-unit RHNA. Although the total housing capacity identified in the Housing Element is well within the projected growth of the County as evaluated (and mitigated as feasible) in the PEIR, one of the four subregions (East Desert) would potentially exceed the growth projected for that subregion (by a total of 818 units). Additionally, CWP growth projections within some individual subareas in other regions would be exceeded. Although total units would exceed the projected number of units in some areas, the Housing Element does not identify any RHNA units on properties that would require a CWP amendment or zone change.

Regional impacts, including Air Quality (AQMP consistency, criteria pollutant exceedance, etc.) and Greenhouse Gas (GHG) emissions, would be well within the potential impacts addressed in the CWP PEIR. Also, since the CWP identified the following impacts as significant and unavoidable, and because subarea unit changes are not substantial, the Housing Element units would not result in new or substantial increases to the following: Air Quality, Biological Resources, GHG Emissions, Hazards, Mineral Resources, Noise, Transportation and Traffic. Moreover, the CWP adopted mitigation measures would apply to new projects not exempt from CEQA.

Hazards Element Update

The Hazards Element update proposes to amend HZ Tables and Policy Map HZ-10 as shown in Exhibit E. The Hazards Element is being updated to reflect new environmental justice data available from the California Office of Environmental Health Hazard Assessment's model known as CalEnviroScreen (CES). While environmental justice is not a stand-alone environmental topic pursuant to CEQA and the CEQA Guidelines Appendix G checklist, the topic is indirectly addressed in the related topical areas of the CWP PEIR, particularly Air Quality and Hazards. As with the CWP, the CWP PEIR was supported by CES version 3.0 data. The EIR Addendum includes a summary of the CES updates and refinement to the Environmental Justice Focus Area (EJFA) boundaries based on CES version 4.0. The Hazard Element updated reflects the updates and refinements to the EJFA boundaries. No changes to CWP policies are proposed. The updated data would not result in a direct or indirect physical impact to the environment. The Addendum substantiates that the updated data and refinement of EJFA boundaries would not affect the impact significance conclusions in the PEIR, not result in any of the Conditions described above (1-3) that would trigger the requirement for a Subsequent EIR.

FINDINGS

The following findings and the evidence support the adoption of the proposed updates:

1. The Housing Element Update is consistent with the Countywide Plan – Policy Plan. Updating the Housing Element pursuant to provisions of state law will provide up-to-date housing goals, policies, and programs designed to provide a variety of housing choices and opportunities throughout the County. This promotes a high quality of life in the County, consistent with the Countywide Vision and the following goals and policies of the Policy Plan Land Use Element:
 - a. Goal LU-1 Fiscally Sustainable Growth. Growth and development that builds thriving communities, contributes to our Complete County, and is fiscally sustainable.
 - b. Goal LU-2 Land Use Mix and Compatibility. An arrangement of land uses that balances the lifestyle of existing residents, the needs of future generations, opportunities for commercial and industrial development, and the value of the natural environment.

2. The Hazards Element update is consistent with the Countywide Plan – Policy Plan, and is directed explicitly by the following County Policy:
 - a. Policy HZ-3.20 Updating EJFAs. We update the assessment of boundaries, issues, policies, objectives, and implementation strategies regarding environmental justice focus areas subsequent to updates in CalEnviroScreen, equivalent state tools, or as the County deems necessary.
3. The proposed updates to the Housing Element and Hazards Element will not be detrimental to the public interest, health, safety, convenience, or welfare of the County. The 2021-2029 Housing Element Update was prepared to comply with state Housing Element law, and the Hazards Element was prepared to implement County Policy and maintain up-to-date information to guide future decisions and investments that promote environmental justice. Therefore, the proposed updates will have a beneficial effect on the public interest, health, safety, convenience, and welfare.
4. The County has evaluated the potential environmental impacts of the Project in an Addendum to the CWP PEIR (SCH No. 2017101033). The County, acting as the Lead Agency, has determined that none of the CEQA Guidelines Section 15162 conditions triggering the preparation of a subsequent or supplemental EIR apply to the Project and that the Addendum is appropriate and has been prepared in compliance with CEQA. Prior to initiating and adopting the Addendum, the County has considered this Addendum together with the previously certified PEIR. The adoption of the Addendum reflects the independent judgment and analysis of the County.

RECOMMENDATION

That the Planning Commission recommend that the Board of Supervisors:

1. **ADOPT** the Addendum to the San Bernardino Countywide Plan PEIR (SCH No. 2017101033) (Exhibits F);
2. **ADOPT** the Findings as contained in the Staff Report;
3. **ADOPT** a resolution to amend the text of the Housing Element in its entirety (Exhibit A);
4. **ADOPT** an update to the Environmental Justice and Legacy Communities Background Report (Exhibit D);
5. **ADOPT** a resolution to amend the HZ Tables and Policy Map HZ-10 of the Hazards Element (Exhibit E); and
6. **DIRECT** the Clerk of the Board to file the Notice of Determination.

ATTACHMENTS

Exhibit A: 2021-2029 Housing Element Amendment

Exhibit B: Revised Draft Housing Element Technical Report June 2022 at:

http://www.sbcounty.gov/uploads/LUS/HousingPlans/JUNE_DRAFT_FOR%20HCD/HousingElement_CWP_TechReport_Draft_2022_June.pdf

Exhibit C: HCD Comment Letter with Responses at:

http://www.sbcounty.gov/uploads/LUS/HousingPlans/JUNE_DRAFT_FOR%20HCD/sbdSanBernardinoCouDraftOut020722_CountyResp.pdf

Exhibit D: Environmental Justice and Legacy Communities Background Report Update at:

https://www.sbcounty.gov/uploads/LUS/PC/EJ_LEGACY_CWP_BackgroundReport_FinalDraft_20220128_tracked.pdf

Exhibit E: Hazards Element Amendment (Table HZ-1 and Policy Map HZ-10)

Exhibit F: Addendum to the CWP PEIR at:

https://www.sbcounty.gov/uploads/LUS/PC/SB_HE_Addendum_July2022_Updated_ToCounty.pdf

Exhibit G: CWP PEIR at: [https://countywideplan.com/resources/document-download/FINAL EIR \(CERTIFIED 2020\)](https://countywideplan.com/resources/document-download/FINAL_EIR_(CERTIFIED_2020))

Exhibit H: Public Comment

EXHIBIT A

2021-2029 Housing Element Amendment

Housing Element

An adequate supply of quality and affordable housing is fundamental to the economic and social well-being of the county. California cities and counties are required by state law to prepare a housing element to address existing local housing needs and an assigned share of the region's housing growth in eight-year cycles. State law also requires that the cities and counties identify and analyze existing and projected housing needs and prepare a series of goals, policies, and quantified objectives, financial resources, and programs to further the development, improvement, and preservation of housing.

The Housing Element contains goals, policies, and programs to address the state law requirements and the needs of our unincorporated communities. The County also provides housing services to the entire county through the Housing Authority and Community Development & Housing Agency.

NOTE: The Housing Element is updated every eight years and is subject to detailed statutory requirements and mandatory review by a State agency, the California Department of Housing and Community Development (HCD). This Housing Element is for the 2021–2029 planning period. The following presents the purpose, principles, goals, and policies, with the balance of the Element presented as a technical report under separate cover.

Purpose

The Housing Element:

- Identifies adequate sites to facilitate and encourage housing for households of all economic levels, including persons with disabilities.
- Removes governmental constraints to housing production, maintenance, and improvement as legally feasible and appropriate.
- Assists the development of adequate housing for low- and moderate-income households.
- Preserves publicly assisted multiple-family housing developments in each community.
- Conserves and improving conditions in existing housing and neighborhoods, including affordable housing.
- Promotes a range of housing opportunities for all individual and households consistent with fair and equal housing opportunity.

Principles

We believe:

- A range of housing for all income levels is essential to a complete county.
- The county's housing stock should match the type and price needed by current and future residents and workforce, including those with special needs.

- New housing development should be focused in areas where there is potable water, wastewater treatment, roadways, and public services.
- Affordable, moderately-priced, and higher density housing should be placed in areas served by public transportation.
- Preserving, maintaining, improving, and creating distinct neighborhoods and communities protects property values and provides a desirable place to live.
- Affordable, quality housing helps attract and retain a qualified workforce and supports a prosperous local economy.

Goals & Policies

Goal H-1 Housing Production and Supply

A broad range of housing types in sufficient quantity, location, and affordability levels that meet the lifestyle needs of current and future residents, including those with special needs.

- Policy H-1.1 **Appropriate range of housing.** We encourage the production and location of a range of housing types, densities, and affordability levels in a manner that recognizes the unique characteristics, issues, and opportunities for each community.
- Policy H-1.2 **Concurrent infrastructure.** We support the integrated planning and provision of appropriate infrastructure (including water, sewer, and roadways) concurrent with and as a condition of residential development to create more livable communities.
- Policy H-1.3 **Income-restricted multifamily.** Where infrastructure and public services are available, we encourage the production of affordable multifamily housing by providing assistance and incentives for projects that include new affordable units reserved for lower income, moderate income, or special needs households.
- Policy H-1.4 **Accessory dwelling units.** We incentivize and encourage the construction of accessory dwelling units through various methods, including but not limited to public education, fee modification, and making necessary resources available.
- Policy H-1.5 **RHNA transfers with annexation.** We work with the Southern California Association of Governments, Local Agency Formation Commission, and incorporated jurisdictions to develop agreements for the transfer of the regional housing need allocation as a precondition for annexations.
- Policy H-1.6 **Life-cycle costs.** We encourage energy-conservation techniques and upgrades in both the construction and rehabilitation of residential units that will reduce the life-cycle costs of housing.

Goal H-2 Development Regulations

An efficient administrative process that recognizes the need for efficient and timely review of residential projects while also ensuring and valuing the need for quality design, environmental review, and planning.

- Policy H-2.1 **Streamlining development regulations.** We review the County Development Code regularly for possible revisions that might unduly constrain the production or rehabilitation of residential development. We also advocate for changes in state law, state and federal tax codes, and funding vehicles that will make market rate and affordable housing more feasible.
- Policy H-2.2 **Small lot sizes.** We continue to utilize Planned Development density bonus and density transfer provisions as described in the Development Code to allow the development of lot sizes less than that normally required by residential land use districts.
- Policy H-2.3 **Flexible standards and incentives.** We maintain development incentives and allow flexibility in the application of residential and mixed-use development standards to gain benefits such as exceptional design quality, economic advantages, sustainability, or other benefits that would not otherwise be realized.
- Policy H-2.4 **Certain and transparent process.** We maintain a residential development review process that provides certainty and transparency for project stakeholders and the public, complies with streamlining provisions in state law, and provides sufficient review to ensure safe and high quality housing development.
- Policy H-2.5 **Critical infrastructure.** We ensure that the efficient provision of critical infrastructure accompanies residential development and the building of complete communities, and ensure that the costs are fairly apportioned to the development community.

Goal H-3 Housing and Neighborhood Quality

Neighborhoods that protect the health, safety, and welfare of the community, and enhance public and private efforts in maintaining, reinvesting in, and upgrading the existing housing stock.

- Policy H-3.1 **Public services, amenities, and safety.** We support the provision of adequate and fiscally sustainable public services, infrastructure, open space, nonmotorized transportation routes, and public safety for neighborhoods in the unincorporated area.
- Policy H-3.2 **Code enforcement.** We support the timely removal of neighborhood blight through graffiti abatement, abandoned or inoperative automobile removal, trash and debris removal, housing repair, and other code enforcement efforts.
- Policy H-3.3 **Housing maintenance.** We establish and enforce public health, safety, building, and zoning standards to ensure housing and property maintenance that yields safe, sound, and attractive residential properties.
- Policy H-3.4 **Housing rehabilitation and improvement.** We seek funding to facilitate the rehabilitation, repair, and improvement of single family homes, multiple family housing, and mobile homes and, if needed, the demolition of substandard housing through available loan and grant programs.
- Policy H-3.5 **Inspection of subsidized housing.** We inspect or facilitate the inspection of assisted multifamily rental housing, contract shelters, voucher hotels, and other housing projects

on a regular basis to ensure that properties are regularly repaired and maintained in good condition.

Policy H-3.6 **Neighborhood improvements.** We support comprehensive neighborhood efforts to address housing conditions, property maintenance, infrastructure repair, public safety, landscaping, and other issues affecting the livability of neighborhoods.

Goal H-4 Affordable Housing Assistance

The development, maintenance, modernization, and preservation of affordable housing; and the provision of assistance, where feasible, for residents to rent or purchase adequate housing in San Bernardino County.

Policy H-4.1 **At-risk units.** We seek funding to preserve income-restricted housing units that are at risk of converting to market rents within 10 years due to the expiration of affordability covenants or funding contracts. In establishing or extending affordability requirements, we prefer the preservation of affordability in perpetuity.

Policy H-4.2 **Rental assistance.** We support the provision of rental assistance to qualified extremely low, very low, and low income households and special needs households served by the County Housing Authority, Department of Behavioral Health, and other County entities.

Policy H-4.3 **Homeowner assistance.** We support the expansion of homeownership opportunities and preservation by offering financial assistance when available, working in collaboration with partners to increase funding, and supporting foreclosure prevention programs.

Policy H-4.4 **Modernize and replace multiple-family projects.** We support the Housing Authority's efforts to modernize and replace, where needed, existing multiple-family projects to provide safe, sound, and affordable housing options for qualified low income individuals and families.

Policy H-4.5 **Nonprofit partnerships.** We continue to form and strengthen partnerships with nonprofit organizations, public agencies, community-based organizations, and housing developers in order to increase housing opportunities for very low and low income and special needs households.

Goal H-5 Equal housing opportunities

Equal housing opportunities for all persons regardless of race, age, religion, sex, marital status, disability status, ancestry, national origin, or color.

Policy H-5.1 **Housing discrimination.** We further fair housing opportunities by prohibiting discrimination in the housing market; providing education, support, and enforcement services to address discriminatory practices; and removing potential impediments to equal housing opportunity.

Policy H-5.2 **Local organizations.** We utilize local organizations that provide fair housing services to the San Bernardino County area to better prevent, monitor, and resolve fair housing issues. We also utilize local organizations to provide housing information, counseling, and financial literacy to lower income households.

Policy H-5.3 **Higher resource areas.** In census tracts identified by the state as high/highest resource areas, we facilitate the production of new income-restricted housing and target rental assistance for lower income households overpaying for housing costs in high/highest resource areas.

Policy H-5.4 **Transitional, supportive, and emergency housing.** We encourage the production of transitional and permanent supportive housing to serve special needs groups in unincorporated communities. We promote access to emergency housing for individuals and families living throughout the county by coordinating with cities and incorporated towns to facilitate the production of emergency shelters and low barrier navigation centers in incorporated areas that are close to public services, transit, and food stores.

EXHIBIT B

Revised Draft Housing Element Technical Report June 2022 at:
http://www.sbcounty.gov/uploads/LUS/HousingPlans/JUNE_DRAFT_FOR%20HCD/HousingElement_CWP_TechReport_Draft_2022_June.pdf

EXHIBIT C

HCD Comment Letter with Responses at:

http://www.sbcounty.gov/uploads/LUS/HousingPlans/JUNE_DRAFT_FOR%20HCD/sbdSanBernardinoCouDraftOut020722_CountyResp.pdf

EXHIBIT D

Environmental Justice and Legacy Communities Background Report Update at:
https://www.sbcounty.gov/uploads/LUS/PC/EJ_LEGACY_CWP_BackgroundReport_FinalDraft_20220128_tracked.pdf

EXHIBIT E

Hazards Element Amendment (Table HZ-1 and Policy Map HZ-10)

Table HZ-1. CalEnviroScreen Scores for Environmental Justice Focus Areas

CES Rankings		Quartile 1 = Good	Quartile 2 = Moderate	Quartile 3 = Poor	Quartile 4 = Challenged	
Variables/Factors in the CES model:						
POLLUTION EXPOSURE		ENVIRONMENTAL EFFECTS		SENSITIVE POPULATION		
AQ = Air Quality		CS = Toxic Cleanup Sites		AS = Asthma		
PEST = Pesticides		GW: Groundwater Threats		LB = Low Birth Weight		
DW = Drinking Water		HZ = Hazardous Waste		CVD = Heart Disease		
TR = Toxic Releases		IW = Impaired Waters		UE = Unemployment		
TD = Traffic Density		SW = Solid Waste Sites/Facilities		HB = Housing Burden		
LD = Lead from Housing				ED = Educational Attainment		
Census Tract	Low Income	Percentile and Quartile Rank			Scores in the Upper Quartile	
		Composite Score	Pollution Score	Population Score	Pollution Factors	Population Factors
El Mirage Valley						
6071011700 Oro Grande	Yes	<u>7981</u>	<u>6772</u>	<u>8079</u>	AQ, HZ, SW	LB, <u>CVD</u> , <u>POV</u> , <u>UE</u>
6071009117 El Mirage	Yes	<u>8889</u>	<u>6865</u>	<u>9495</u>	AQ, <u>DW</u> , CS, <u>HW</u> <u>HZ</u>	<u>AS</u> , <u>CVD</u> , <u>ED</u> , <u>POV</u> , <u>UE</u> , <u>HB</u> <u>AS</u> , <u>LB</u> , <u>CVD</u> , <u>ED</u> , <u>POV</u> , <u>UE</u> , <u>HB</u>
North High Desert						
6071011900 Hinkley	No	<u>7879</u>	<u>5967</u>	<u>8379</u>	<u>AQ</u> , CS, <u>GW</u> , <u>HWAQ</u> , <u>DW</u> , CS, <u>GW</u> , <u>SW</u>	<u>AS</u> , <u>CVD</u> , <u>ED</u> , <u>UE</u> <u>CVD</u> , <u>LB</u> , <u>POV</u> , <u>UE</u>
6071010300 Daggett/ Newberry Springs/Baker	Yes	<u>7579</u>	<u>6267</u>	<u>7779</u>	<u>AQ</u> , <u>DW</u> , CS, <u>GW</u> , <u>HZ</u> , <u>SWAQ</u> , <u>DW</u> , CS, <u>GW</u> , <u>SW</u>	<u>LB</u> , <u>POV</u> , <u>UE</u> <u>LB</u> , <u>POV</u> , <u>UE</u>
Bloomington-Colton						
6071003606	Yes	<u>7787</u>	<u>8088</u>	<u>6676</u>	<u>AQ</u> , TD, <u>DW</u> <u>AQ</u> , TR, TD, <u>DW</u>	<u>AS</u> , <u>CVD</u> , <u>ED</u> , <u>LI</u> , <u>POV</u> <u>AS</u> , <u>CVD</u> , <u>ED</u> , <u>LI</u> , <u>POV</u>
6071004001	Yes	<u>9495</u>	<u>8892</u>	<u>8990</u>	<u>AQ</u> , TD, <u>DW</u> <u>AQ</u> , TR, TD, <u>DW</u>	<u>AS</u> , <u>CVD</u> , <u>ED</u> , <u>LI</u> , <u>POV</u> , <u>UE</u> <u>AS</u> , <u>CVD</u> , <u>ED</u> , <u>LI</u> , <u>UE</u>
6071004003	Yes	<u>9597</u>	<u>9194</u>	<u>8993</u>	<u>AQ</u> , <u>DW</u> , LD, <u>GW</u> , <u>HZ</u> , <u>SWAQ</u> , TR, <u>DW</u> , LD, <u>GW</u> , <u>HZ</u> , <u>SW</u>	<u>AS</u> , <u>LB</u> , <u>CVD</u> , <u>ED</u> <u>AS</u> , <u>LB</u> , <u>CVD</u> , <u>ED</u> , <u>LI</u> , <u>POV</u> , <u>UE</u>
6071004004	Yes	<u>9698</u>	<u>9999</u>	<u>7679</u>	<u>AQ</u> , TD, <u>DW</u> , CS, <u>GW</u> , <u>HZ</u> , <u>SWAQ</u> , TR, TD, <u>DW</u> TD, CS, <u>GW</u> , <u>HZ</u> , <u>SW</u>	<u>AS</u> , <u>LB</u> , <u>CVD</u> , <u>ED</u> <u>AS</u> , <u>LB</u> , <u>CVD</u> , <u>ED</u>
6071003302	Yes	<u>9190</u>	<u>9595</u>	<u>7572</u>	<u>AQ</u> , TR, TD, <u>DW</u> , <u>SWAQ</u> , TR, <u>DW</u> , <u>SW</u>	<u>ED</u> , <u>LI</u> , <u>POV</u> , <u>UE</u> <u>ED</u> , <u>LI</u> , <u>POV</u>
6071006601	Yes	<u>7882</u>	<u>8386</u>	<u>6570</u>	<u>AQ</u> , TD, LD <u>AQ</u>	<u>AS</u> , <u>CVD</u> <u>AS</u> , <u>CVD</u>

Table HZ-1. CalEnviroScreen Scores for Environmental Justice Focus Areas

CES Rankings		Quartile 1 = Good		Quartile 2 = Moderate		Quartile 3 = Poor		Quartile 4 = Challenged			
Variables/Factors in the CES model:											
POLLUTION EXPOSURE			ENVIRONMENTAL EFFECTS			SENSITIVE POPULATION			SOCIOECONOMIC FACTORS		
AQ = Air Quality			CS = Toxic Cleanup Sites			AS = Asthma			LI = Linguistic Isolation		
PEST = Pesticides			GW: Groundwater Threats			LB = Low Birth Weight			POV = Poverty		
DW = Drinking Water			HZ = Hazardous Waste			CVD = Heart Disease			UE = Unemployment		
TR = Toxic Releases			IW = Impaired Waters						HB = Housing Burden		
TD = Traffic Density			SW = Solid Waste Sites/Facilities						ED = Educational Attainment		
LD = Lead from Housing											
Census Tract	Low Income	Percentile and Quartile Rank			Scores in the Upper Quartile						
		Composite Score	Pollution Score	Population Score	Pollution Factors	Population Factors					
					TD, LD	HB					
Muscoy-San Bernardino											
6071004104	Yes	9597	7787	9998	AQ, LD, CSAQ, TR, DW, LD, CS	AS, LB, CVD, ED, LI, POV, UE, HBAS, LB, CVD, ED, LI, POV, UE, HB					
6071004101	Yes	8689	6370	9394	AQ, LD, CS, AQ, TR, DW, LD, CS	AS, LB, CVD, ED, POV, UEAS, LB, CVD, ED, UE					
6071004103	Yes	9294	7785	9494	AQ, LD, CSAQ, TR, DW, LH, CS	AS, CVD, ED, POV, UE, HBAS, CVD, ED, POV, UE, HB					
Valley Unincorporated Islands: Chino-Montclair											
6071000303	Yes	8486	9194	6766	AQ, DW, CS, HZ, SWAQ, TR, DW, CS, HZ, SW	ED, LI, POVED, LI, POV, UE					
6071000304	No	8491	7891	7978	AQ, DW, CSAQ, TR, DW, CS	LB, ED, LILB, ED, LI, UE					
Valley Unincorporated Islands: Western Fontana											
6071002402	Yes	8187	6678	8385	AQ, HZ, AQ, TR, HZ	CVD, ED, LI, POVAS, CVD, ED, POV, UE, HB					
6071002204	Yes	9395	9698	7777	AQ, TR, CS, HZ, SWAQ, TR, CS, HZ, SW	CVD, ED, UECVD, ED, LI, UE					
6071002501	No	9188	9289	7976	AQ, TR, TD, HZ, SWAQ, TR, TD, SW	CVD, ED, POV, CVD, ED, POV					
6071002401	Yes	8487	7983	7980	AQ, CS, HZ, AQ, TR,	CVD, ED, LI,					

Table HZ-1. CalEnviroScreen Scores for Environmental Justice Focus Areas

CES Rankings		Quartile 1 = Good		Quartile 2 = Moderate		Quartile 3 = Poor		Quartile 4 = Challenged			
Variables/Factors in the CES model:											
POLLUTION EXPOSURE			ENVIRONMENTAL EFFECTS			SENSITIVE POPULATION			SOCIOECONOMIC FACTORS		
AQ = Air Quality			CS = Toxic Cleanup Sites			AS = Asthma			LI = Linguistic Isolation		
PEST = Pesticides			GW: Groundwater Threats			LB = Low Birth Weight			POV = Poverty		
DW = Drinking Water			HZ = Hazardous Waste			CVD = Heart Disease			UE = Unemployment		
TR = Toxic Releases			IW = Impaired Waters						HB = Housing Burden		
TD = Traffic Density			SW = Solid Waste Sites/Facilities						ED = Educational Attainment		
LD = Lead from Housing											
Census Tract	Low Income	Percentile and Quartile Rank			Scores in the Upper Quartile						
		Composite Score	Pollution Score	Population Score	Pollution Factors	Population Factors					
					LD, CS, HZ	POV, CVD, ED					
Valley Unincorporated Islands: San Bernardino											
6071006302	Yes	8384	5653	9393	AQ, DW, LDAQ, TR, DW, LD	AS, CVD, ED, POV, UE, HBAS, CVD, ED, POV, UE, HB					
6071006500	Yes	8792	6678	9394	AQ, LD, CSAQ, DW, LD, CS	CVD, ED, POV, UE, HBED, POV, UE, HB, CVD					
6071006100	Yes	7879	4852	9190	AQ, DW, LDAQ, TR, DW, LD, CS	AS, LB, CVD, HBAS, LB, CVD, HB					

Table HZ-2. EJ Assessment in the El Mirage Valley

Topic	Environmental Conditions
Reduction of pollution exposure and improving air quality	Pollution Exposure El Mirage has hazardous waste cleanup sites from past military and aerospace uses, groundwater threats, and a remediated/closed hazardous waste storage facility.
	Air Quality El Mirage <u>and Oro Grande are</u> in the Mojave Air Quality Management District. Like much of southern California, the region has air quality issues. The region does not meet federal standards for ozone and respirable particulate matter (PM10) or state standards for ozone and respirable and fine PM2.5.
Promoting public facilities (including infrastructure and community services)	Water and Sewer El Mirage has limited water infrastructure and relies on private wells that tap into the aquifer. El Mirage is also reliant on septic tanks and leach fields, with no ability to support the installation of a regional wastewater treatment plant due to the extremely low levels of population and density. Groundwater has been known to be vulnerable to contaminants. <u>Oro Grande has sufficient water,</u>

Table HZ-2. EJ Assessment in the El Mirage Valley

Topic	Environmental Conditions
	<p><u>but lacks adequate storage, is a high priority basin, and is susceptible to contaminants.</u></p> <p>Fire and Sheriff County Fire Station 311 serves El Mirage and responds in an average of 19 minutes. <u>Station 322 serves Oro Grande at an average response time of 8 minutes</u>, due primarily to the extremely low levels of population and density. Police service is provided by the County Sheriff in Victorville and response time is not known.</p>
Promoting health care Infrastructure	<p>Health Needs <u>Health needs for El Mirage and Oro Grande are significant—including a 39% adult obesity (13 points above the state average), 30% of working age adults in fair or poor health (50% higher than state averages), 14% diabetes rate (50% above the state average), and higher asthma rates among adults. Heart disease is also a significant concern in the area.</u> Health needs for El Mirage are significant—including a 39% adult obesity (13 points above the state average), 30% of working age adults in fair or poor health (50% higher than state averages), 14% diabetes rate (50% above the state average), and higher asthma rates among adults. Heart disease is also a significant concern in the area.</p> <p>Health Care Infrastructure <u>Both El Mirage and Oro Grande are designated a HPSA for mental health and primary care services and is a medically underserved area. Both areas have limited medical infrastructure, and residents must travel some distance to access facilities in other communities.</u> El Mirage is designated a HPSA for mental health and primary care services and is a medically underserved area. Both areas have limited medical infrastructure, and residents must travel some distance to access facilities in other communities.</p>
Promoting food access	<p>Food Security The poverty rate in El Mirage and Oro Grande is 30%, which is twice the state average. As a result, food insecurity is similarly high, affecting 16% of low income households, twice the state average. In El Mirage <u>and Oro Grande</u> schools, over 70% of children are eligible for free or reduced-price meals.</p> <p>Food Access <u>El Mirage has limited grocery outlets, limited located in-to a cluster near SR-395 in Adelanto. There are no WIC (Women, Infants, and Children) vendors and only 1 one Cal-Fresh-certified vendor in El Mirage. Due to the general lack of access to nearby stores, El Mirage is designated a food desert. Oro Grande also has limited food options, but is not considered a food desert due to its access to stores in Victorville.</u> El Mirage has limited grocery outlets, limited to a cluster near SR-395 in Adelanto. There are no WIC (Women, Infants, and Children) vendors and only 1 Cal-Fresh-certified vendor in El Mirage. Due to the general lack of access to nearby stores, El Mirage is designated a food desert.</p>
Promoting safe and	Housing

Table HZ-2. EJ Assessment in the El Mirage Valley

Topic	Environmental Conditions
sanitary housing	As part of the consolidated plan process, residents indicated a need to promote safe and sanitary housing. Although housing is relatively affordable in El Mirage and Oro Grande compared to other areas, concerns remain. Residents mentioned that abandoned homes should be demolished or rehabbed; code enforcement is understaffed; more is needed.
Promoting physical activity	<p>Level of Physical Activity</p> <p>Among youth ages 5 to 17, 26% participated in at least of one hour of physical exercise regularly versus 24% in the county and 21% in the state. For adults, the percentages of adults who walked more than 150 minutes per week was lower in the area versus the county and state averages.</p>
	<p>Opportunities for Physical Activity</p> <p>Recreational outlets include trails and outdoor sports, including opportunities in state and federal parks. The unincorporated areas in the community plan areas have few developed parks. Road have limited pedestrian and bicycling facilities. This is not uncommon for desert roads.</p>
Civil Engagement	<p>Community Participation</p> <p>With daytime Planning Commission and Board of Supervisors meetings and a conventional notification process, it can be difficult for residents in this area to learn about and provide input on proposed development in a timely manner that substantively and effectively impacts the decision making process. Additionally, this area is far from public meeting sites, most households do not have good internet access, and approximately 11 percent of households do not speak English well.</p>

Table HZ-3. EJ Assessment in the North High Desert

Topic	Environmental Conditions
Reduction of pollution exposure and improving air quality	<p>Pollution Exposure</p> <p>The area’s primary exposure to pollution is groundwater threats, hazardous wastes, and solid wastes. It should be noted, however, that this area extends 200 square miles to the Nevada border. Many of these pollutant sources are in unpopulated areas, far from Daggett, Newberry Springs, and Yermo.</p>
	<p>Air Quality</p> <p>This area is in the Mojave Air Quality Management District. Although the area has very high levels of ozone, there are few other appreciable air pollutants, except for a small area around the Barstow BNSF railyard, which has high levels of diesel particulate matter.</p>
Promoting public facilities (including	<p>Water and Sewer</p> <p>LAFCO identified Daggett as a hotspot for insufficient water supply, water</p>

Table HZ-3. EJ Assessment in the North High Desert

Topic	Environmental Conditions
infrastructure and community services)	<p>quality concerns, deficient infrastructure, and financial concerns. Unincorporated areas rely on individual septic systems. Drinking water is known to be at risk of contamination from nitrate, lead, and radioactive elements.</p> <p>Fire and Sheriff County Sheriff’s Barstow Station serves this area; response times are not available. County Fire provides fire protection services from stations #52, #53, #56, and #4. Response times vary—from 20 to 50 minutes depending on staffing for the paid-call firefighter station.</p>
Promoting health care Infrastructure	<p>Health Needs Health issues include a 28% obesity rate and 10% diabetes rate—all close to state averages. Despite more modest income levels compared to other parts of the county, the health conditions of residents are better than many other areas of the county.</p> <p>Health Care Infrastructure Currently, the area is designated an HPSA for primary care, mental health, and dental services and a medically underserved area/population. There is a significant need for all the major medical services; residents must now travel to Barstow for service.</p>
Promoting food access	<p>Food Security The poverty rate in the area for adults is high (21%), far above the state average, and 11% of low income households are food insecure. Food insecurity affects children in the area as well. Approximately 78% of children in Barstow Unified School District were eligible for free/reduced-price meals in 2016.</p> <p>Food Access Except for small markets, these areas lack a full-service grocery store, and residents must drive to Barstow. There are no WIC vendors or Cal-Fresh–certified vendor closer than Barstow. Due to limited access to grocery stores, the entire area is designated a food desert by the USDA.</p>
Promoting safe and sanitary housing	<p>Housing Limited information is available about safe and sanitary housing in the area. Generally, the housing stock has a high proportion of mobile home units on septic service. Given the construction type and age of structures, there is a significant need to rehabilitate aging housing and demolish abandoned or dilapidated homes. Code enforcement issues may be concentrated in certain areas as well.</p>
Promoting physical activity	<p>Level of Physical Activity State physical fitness tests show one-third of students need improvement in aerobic capacity. However, the percentage of youth (age 5–17) getting regular physical activity is greater (31%) than in California (21%). The level of physical activity (measured by walking) among adults is lower than state averages.</p> <p>Opportunities for Physical Activity Recreational outlets include trails, hiking, and outdoor sports. Outside of</p>

Table HZ-3. EJ Assessment in the North High Desert

Topic	Environmental Conditions
	Barstow and schools, formal park facilities are limited to Newberry Springs Park. Roadways have no pedestrian and bicycling facilities or other amenities. However, residents can walk and bicycle on public streets because traffic is very light.
Civil Engagement	<p>Community Participation</p> <p>With daytime Planning Commission and Board of Supervisors meetings and a conventional notification process, it can be difficult for residents in this area to learn about and provide input on proposed development in a timely manner that substantively and effectively impacts the decision making process. Many parts of this area are far from public meeting sites. Additionally, the Daggett, Newberry Springs, and Baker communities do not have good internet access and approximately 10 percent of households do not speak English well.</p>

Table HZ-4. EJ Assessment in Mountain Communities

Topic	Environmental Conditions
Reduction of pollution exposure and improving air quality	<p>Pollution Exposure</p> <p>While the area is affected by solid waste facilities and some impaired waterways, the greatest concern is drinking water. Drinking water tests have shown elevated levels of arsenic, nitrate, lead, uranium, and other contaminants in certain areas. Maximum contaminant level violations may have also occurred.</p> <p>Air Quality</p> <p>This area is in the South Coast Air Quality Management District. Although the area has very high levels of ozone, air pollutant concentrations are low, except for a small area affected by PM_{2.5} around Crestline. Due to the lack of heavy industry and trucking, air quality is good in the mountain communities.</p>
Promoting public facilities (including infrastructure and community services)	<p>Water and Sewer</p> <p>The Mountain area has 8 public and 16 private water systems. According to LAFCO, there are no areas with significant water issues.</p> <p>Fire and Sheriff</p> <p>In the Crest Forest area, San Bernardino County Fire response times vary between 6 and 13 minutes. Hilltop communities have a similar fire response time, less than 15 minutes. The entire area is served by the County Sheriff.</p>
Promoting health care infrastructure	<p>Health Needs</p> <p>While there are some variations among different communities, the overall health needs for the Mountain areas generally mirror the county and state. There are few differences in rates of asthma, diabetes, obesity, mental health problems, or other chronic diseases, according to statewide surveys. Obesity rates for the mountain communities (33%) are lower than the County (35%),</p>

Table HZ-4. EJ Assessment in Mountain Communities

Topic	Environmental Conditions
	<p>but higher than in California (26%).</p> <p>Health Care Infrastructure The Crest Forest area is served by Mountain Community Hospital. All the communities are designated HPSAs for primary care and mental health.</p>
Promoting food access	<p>Food Security The poverty rate in the area for adults is like the county and California as a whole, but only 5% of low income households are food insecure, which is half the state and county average. Percentages of children eligible for free and reduced-price meals is 50% in Rim of the World.</p> <p>Food Access parts of the area south to Rim of the World Highway and parts of Crestline are considered food deserts.</p>
Promoting safe and sanitary housing	<p>Housing Limited information is available about safe and sanitary housing in the area. However, residents reported issues with junk and trash, excessive outside storage, inoperative vehicles, group homes, construction without permits, and vacant or seasonal housing.</p>
Promoting physical activity	<p>Level of Physical Activity Limited data is available. Based on California Health Interview Survey, youth appear to get more regular exercise than youth in the county and state, but the reverse is true for adults. The size of this area and its unpopulated nature make it difficult to create accurate comparisons.</p> <p>Opportunities for Physical Activity Recreational outlets include trails, hiking, and outdoor sports. In addition to access to the surrounding National Forest, Bear Valley, Crest Forest, Lake Arrowhead, and Hilltop have public parks. Outside of the downtown areas, roadways generally have limited pedestrian and bicycling facilities. This is not uncommon for areas with mountain roads and periodic inclement weather.</p>
Civil Engagement	<p>Community Participation With County Government Centers located outside of the Mountain region, daytime Planning Commission and Board of Supervisors meetings, and a conventional notification process, it can be difficult for residents in this area to provide input on proposed development in a timely manner that substantively and effectively impacts the decision making process.</p>

Table HZ-45. EJ Assessment in Bloomington and Muscoy

Topic	Environmental Conditions
Reduction of pollution exposure and improving air quality	<p>Pollution Exposure Nearly all census tracts (11 of 13) has high levels of air pollution and drinking water contamination concerns. Other pollution exposure issues include traffic density, toxic releases from industry, hazardous waste and cleanup sites from military and industrial land uses.</p>
	<p>Air Quality This area is in the South Coast Air Quality Management District and as a nonattainment status for ozone and particulate matter. Pollutant concentrations are high for particulate matter, including diesel particulate matter due to trucking routes in and around both communities.</p>
Promoting public facilities (including infrastructure and community services)	<p>Water and Sewer Water and sewer challenges are significant. For Muscoy, water service is provided by the Muscoy Mutual Water Company, and septic tanks and leach fields are used for its wastewater needs. For Bloomington, several water districts provide potable water for the community. For sewer, Bloomington was also developed with reliance on septic tanks and leach field systems.</p>
	<p>Fire and Sheriff San Bernardino County Fire Station #75 serves Muscoy and response times are 4 to 6 minutes, which is generally with NFPA standards. Bloomington Fire Station #76 serves the community and response times are unknown but are assumed to be also within NFPA standards due to the size of the community. Both areas are served by County Sheriff and response times were not available.</p>
Promoting health care infrastructure	<p>Health Needs Within this area, Muscoy has elevated levels of asthma and high levels of obesity (35%) versus statewide average of 26%, and emergency room admits for cardiovascular disease. For Bloomington, key health needs include diabetes, a 43% obesity rate, and high rate of emergency room admits for heart disease.</p>
	<p>Health Care Infrastructure Access to health-supporting land uses is mixed. While Bloomington is not defined as a HPSA, all areas south of I-10 are designated a medically underserved population/area. Muscoy is also not a HPSA, although utilization of existing clinics in the area is mixed.</p>

Table HZ-45. EJ Assessment in Bloomington and Muscoy

Topic	Environmental Conditions
Promoting food access	<p>Food Security</p> <p>The poverty rate in both Bloomington and Muscoy is high. Low income household food insecurity is high in Bloomington (13%) and Muscoy (10%) versus state averages (8%). County has designated both areas as an HPLA—high poverty low access food desert.</p>
	<p>Food Access</p> <p>Food access is generally poor. In Bloomington, the area south of I-10 is designated by the USDA as a food desert, but other areas north of the I-10 have adequate access. Muscoy is also considered a food desert. There is a high preponderance of fast food outlets, liquor markets, and convenience stores.</p>
Promoting safe and sanitary housing	<p>Housing</p> <p>Limited information is available about safe and sanitary housing in the area. No code enforcement data are available. However, residents reported issues with the need for demolition and/or rehabilitation of homes, illegal dumping, junk and trash, and vacant homes in certain locations.</p>
Promoting physical activity	<p>Level of Physical Activity</p> <p>Among youth ages 5 to 17, 20% in Bloomington and 24% in Muscoy participated in at least of one hour of physical exercise regularly versus 24% in the county and 21% in the state. The percentage of adults who walked more than 150 minutes per week was lower in the area versus the county and state averages.</p>
	<p>Opportunities for Physical Activity</p> <p>Recreational outlets include bicycling, walking, and active recreation at parks. Roadways generally have limited pedestrian and bicycling facilities. Safety concerns (traffic and trucking) along streets makes active transportation uses generally not optimal.</p>
Civil Engagement	<p>Community Participation</p> <p>Despite the area’s proximity to the primary County Government Center, daytime Planning Commission and Board of Supervisors meetings and a conventional notification process can make it difficult for residents in such areas to learn about and provide input on proposed development in a timely manner that substantively and effectively impacts the decision making process. Additionally, approximately 13 to 23 percent of households in Bloomington, 15 percent of households in the Colton SOI, and 5 to 13 percent of households in selected portions of Muscoy do not speak English well.</p>

Table HZ-56. EJ Assessment in Valley Unincorporated Islands

Topic	Environmental Conditions
Reduction of pollution exposure and improving air quality	<p>Pollution Exposure</p> <p>Pollution exposure is significant for valley unincorporated islands, particularly those located within or near to industrial land uses or transportation infrastructure. Locations and issues where the CES scores exceeds the 75th percentile are as follows:</p> <p><u>Chino-Montclair: drinking water, and toxic releases</u></p> <p><u>Western Fontana: toxic releases</u></p> <p><u>San Bernardino: toxic releases, lead from housing, drinking water, and cleanup sites</u> <u>Chino-Montclair: drinking water, cleanup sites, and hazardous and solid waste facilities</u></p> <p><u>Western Fontana: cleanup sites, and hazardous and solid waste facilities</u></p> <p><u>San Bernardino: drinking water, cleanup sites, and hazardous and solid waste facilities</u></p>
	<p>Air Quality</p> <p>The San Bernardino Valley is in the South Coast Air Quality Management District and is designated as a nonattainment status for ozone and particulate matter. Pollutant concentrations are high for particulate matter, including diesel particulate matter due to trucking routes in these communities. Of concern, west Fontana and Chino-Montclair areas are near industrial centers. Toxic releases from industrial uses exceed the 75th percentile in every census tract within these two communities. None of the other census tracts in unincorporated San Bernardino or the Mentone area score high in toxic releases from industries.</p>
Promoting public facilities (including infrastructure and community services)	<p>Water and Sewer</p> <p>None of the four valley unincorporated islands were noted by the San Bernardino LAFCO as a hotspot for providing water. Wastewater service capacity is being studied by LAFCO. Based on technical reports for the countywide plan, infrastructure in all the unincorporated islands is able to provide water and sanitation services to support projected residential and nonresidential growth over the foreseeable future. However, it should be noted that drinking water contamination levels exceeded the 75th percentile in the Chino-Montclair and San Bernardino, unincorporated islands.</p>
	<p>Fire and Sheriff</p> <p>Chino-Montclair: Montclair FD and Chino Valley FD provides service; response times are unknown</p> <p>Western Fontana: County Station #72 serves west Fontana; response times are unknown</p> <p>San Bernardino: County Fire provides services to these areas; response times are unknown</p> <p>County Sheriff provides law enforcement services for all areas; response times are unknown</p>

Table HZ-56. EJ Assessment in Valley Unincorporated Islands

Topic	Environmental Conditions
Promoting health care Infrastructure	<p>Health Needs</p> <p>Chino-Montclair: high levels of diabetes (13%), obesity (37%), and emergency room visits for heart disease</p> <p>Western Fontana: high levels of diabetes (13%), obesity (41%), and emergency room visits for heart disease</p> <p>San Bernardino: high levels of diabetes (12%), obesity (40%), and emergency room visits for heart disease</p>
	<p>Health Infrastructure</p> <p>While the desert regions are known for a lack of health care infrastructure, most areas in the valley are fairly well-served with health care professionals, with a few exceptions by area.</p> <p>Chino-Montclair: not designated as a HPSA</p> <p>Western Fontana: not designated as a HPSA</p> <p>San Bernardino: designated as a HPSA for medically underserved area /population only</p>
Promoting food access	<p>Food Security</p> <p>A significant portion of children in these areas are eligible for free or reduced meals at local schools. With respect to household food insecurity, rates vary by community.</p> <p>Chino-Montclair: food insecurity similar to state (8%) and county averages (9%)</p> <p>Western Fontan: a-high levels of food insecurity among low income households (15%)</p> <p>San Bernardino: moderate levels of food insecurity among low income households (11%)</p>
	<p>Food Access</p> <p>Food access according to the USDA is generally good, with a few exceptions.</p> <p>Chino-Montclair: small portion along Mission Boulevard is a food desert</p> <p>Western Fontana: southeast quadrant is a food desert</p> <p>San Bernardino: selected unincorporated census tracts are food deserts</p>
Promoting safe and sanitary housing	<p>Housing</p> <p>There is no source of data documenting the condition of safe and sanitary housing in unincorporated islands. Most cities and the County do not track the data nor is this information included in consolidated plans or other mandated reports for individual areas. However, visual inspection indicates a need for housing rehabilitation, demolition of dilapidated structures, code enforcement concerns, property maintenance, and debris and vehicle clearance. While not all unincorporated islands display these issues, many of the lower income census tract areas have one or more of the above conditions affecting neighborhood quality.</p>

Table HZ-56. EJ Assessment in Valley Unincorporated Islands

Topic	Environmental Conditions
Promoting physical activity	<p>Level of Physical Activity</p> <p>Levels of physical activity are similar for most valley communities as follows.</p> <p>Chino-Montclair: 22% of youth exercised regularly and 30% of adults walked at least 150 minutes per week</p> <p>Western Fontana: 21% of youth exercised regularly and 31% of adults walked at least 150 minutes per week</p> <p>San Bernardino: 24% of youth exercised regularly and 30% of adults walked at least 150 minutes per week</p>
	<p>Opportunities for Physical Activity</p> <p>As the Valley is urbanized, there are ample opportunities for bicycling, walking, and active recreation at parks. Roadways generally have limited pedestrian and bicycling facilities. However, safety concerns (traffic and trucking) along streets makes active transportation uses generally not optimal. Certain neighborhoods may also have elevated levels of crime and vagrancy that may discourage use of physical activity opportunities.</p>
Civil Engagement	<p>Community Participation</p> <p>Despite the area’s proximity to the primary County Government Center, daytime Planning Commission and Board of Supervisors meetings and a conventional notification process can make it difficult for residents in such areas to learn about and provide input on proposed development in a timely manner that substantively and effectively impacts the decision making process. Additionally, approximately 17 percent of households in the Montclair SOI, 14 to 17 percent of households in the western Fontana SOI, and 7 to 20 percent of households in the City of San Bernardino SOI do not speak English well.</p>

Table HZ-67. Objectives for Unincorporated Environmental Justice Focus Areas

Topic	Objective
Reduction of pollution exposure and improving air quality	<ul style="list-style-type: none"> ▪ Contaminated soils. Remediation of hazardous waste sites and other contaminated sites. ▪ Water quality. Improved water quality and elimination of groundwater threats. ▪ Air quality. Reduction of ozone emissions and particulate matter to levels that meet federal and state standards.
Promoting public facilities (including infrastructure and community services)	<ul style="list-style-type: none"> ▪ Fire and Sheriff. Improved response times for public safety services. ▪ Public facilities. Improved access to existing and new public facilities that serve community needs for safety, health, and physical activity. ▪ Water and wastewater infrastructure. Adequate leach fields for onsite wastewater treatment systems and safe drinking water.
Promoting health care Infrastructure	<ul style="list-style-type: none"> ▪ Health needs and infrastructure. Reduction in the number of residents that lack access to health care professionals.
Promoting food access	<ul style="list-style-type: none"> ▪ Food access. Improved food security and access to fresh food.
Promoting safe and sanitary housing	<ul style="list-style-type: none"> ▪ Housing. Improved housing conditions for homeowners and renters.
Promoting physical activity	<ul style="list-style-type: none"> ▪ Joint use facilities. New joint use facilities that reduce barriers to exercise opportunities and increase access to physical fitness facilities. ▪ Opportunities for physical activity. New alternative transportation improvements in mobility focus areas.
Civil Engagement	<ul style="list-style-type: none"> ▪ Community participation. Increased awareness and understanding of potential projects and more opportunities for meaningful public participation that can affect the decision making process.

EXHIBIT F

Addendum to the CWP PEIR at:

https://www.sbcounty.gov/uploads/LUS/PC/SB_HE_Addendum_July2022_Update_ToCounty.pdf

EXHIBIT G

CWP PEIR at: <https://countywideplan.com/resources/document-download/> FINAL EIR
(CERTIFIED 2020)

EXHIBIT H

Public Comment

SENT VIA EMAIL ONLY

June 6, 2022

County of San Bernardino
385 N. Arrowhead Ave.
San Bernardino, CA 92415

**Re: County of San Bernardino's Revised Draft 6th Cycle
Housing Element**



Dear Mr. Hallen,

We, the Peoples Collective for Environmental Justice (PCEJ), a community based organization working to address environmental racism in the Inland Empire, write to provide comments on the County of San Bernardino's (County) Revised Draft Sixth Housing Element (Draft) which we believe does not comply with the Housing Element Law. In this letter you will find concerns and recommendations that stem from our experience working with communities that are pushing back on the ways environmental racism is impacting the quality of life in the unincorporated areas of the County. With a growing number of County residents experiencing housing insecurity and disproportionate levels of toxic air pollution, it is unacceptable that the County has been out of compliance with their Housing Element since October 15, 2021. We hope that we can work together to address issues of outreach and engagement; and sufficient and fair housing.

1. Outreach and Engagement

We do not believe that the County has executed a diligent effort to achieve sufficient public participation for the housing element. Although we thank the County for extending the review period for the revised Draft seven days, it is still not enough for our community to review and provide substantial comment. The reading level and technical expertise needed to review a document of this length should signal to the County that there needs to be more time and creative ways of breaking up the document for meaningful engagement. It would be fruitful if the County was able to hold community meetings to discuss each revision so that residents are able to better engage with the document. Along with the sufficient time to review the document, it is also necessary to translate the document to Spanish and other languages that are spoken in the County. Nearly half of the residents of the County speak a language other than English, many being mono-lingual speakers in another language. By not translating documents or creating bilingual spaces to discuss the document, the County is not doing its due diligence and thus disenfranchising a large sector of its residents. We also believe that the County should have better outreach strategies. For one, the County could have reached out to environmental justice organizations like ours to share the information. They also can use other community and civic organizations, churches, and the use of on the ground promoters to get the word out. It would be helpful to not only know what strategies the County used for engagement but how many residents it actually got involved through those strategies. We live with a great digital divide and are still operating under a pandemic that begs us to extend time periods and options for engagement.

2. Assessment of Sufficient Housing

A growing issue with the communities we work with is the unavailability of affordable housing and options for home ownership. We know that there are multiple variables (many times out of control of the County) at play when it comes to the issue of housing accessibility and affordability, however there are many variables that the County can control and should to its full extent to ensure that our residents are getting the options necessary for them to thrive. One option that the County has control over is its land-use and inventory that it can preserve for housing. Unfortunately, we are seeing the loss of housing, both existing and future plans, with the growth of the logistics industry in the Inland Empire, especially in the unincorporated areas of the County. We have seen multiple examples over the last couple of years of eminent domain for rail yard expansion, community plans for residential and recreational areas changed to industrial plans and most concerning, the County proposing to rezone entire existing residential neighborhoods to industrial causing displacement and loss of available housing¹. The County should be assessing the impact that industrial development is having on available housing and incorporate the data to the housing element along with provisions and policies that protect any further loss of housing to industrial development. Such as, creating greater restrictions on rezoning land from residential to industrial given the housing crisis the State and County are in.

The County needs to also analyze false solutions to loss of residential land use. From our experience, we have noticed how projects will provide a false solution to the loss of land to warehouse development. In the case of the Bloomington Business Park Specific Plan, a warehouse project that would displace over 100 homes in a disproportionately Latinx, disproportionately low-income community that is already disproportionately impacted by environmental hazards, the argument that the loss of land will be recovered through “upzoning” other property is insufficient. We have heard from County Board of Supervisors appointees on Municipal Advisory Councils that upzone sites are only but a “paper exercise” and that residents shouldn’t be worried about their neighborhoods increasing their density. Specific plans and upzoning measures should be required to give timelines, phasing, approvals and affordability.

The County also needs to do more in analyzing its available housing inventory. Not all “planned” community projects such as housing community plans come to fruition and we have noticed that general plans are amended constantly to give way for rezoning of residential land, thus not giving an accurate representation of the future possible housing. There needs to be an adequate analysis of what the housing needs are outside of these “planned” housing projects.

3. Assessment of Fair Housing

The County did not conduct a conditions survey of the housing, despite reporting that there are indicators of substandard housing. With the increased growth of logistics in the Inland Empire, more communities, specifically in the unincorporated areas of the County, are now living within 1,000 ft of warehouse development and truck routes. Despite the the California Air Resources Board and the California Attorney General’s Office of Environmental Justice recommending a 1,000ft minimum setback between sensitive receptors such as homes, schools, parks, etc and warehouses and their truck routes - this is rarely followed. Instead there are thousands of homes in the County that live within 1,000 ft. from a warehouse

¹ <https://iecn.com/concerned-neighbors-of-bloomington-fight-for-their-livelihood-amid-warehouse-oversaturation/>

or a truck route that experience a disproportionate impact of air pollution, noise pollution and regular disturbance to the foundation and infrastructure of their homes and neighborhoods. The County should analyze how the encroachment of warehouses in residential communities is affecting and creating substandard housing. The County should also ensure that future housing options are not being created within 1,000ft of logistics projects.

There are tens of thousands of families in the County living within some of the worst air quality in the Nation². The County identifies Muscoy and Bloomington in having “the poorest environmental health” in the unincorporated County but does not describe the causes or decisions that have led to this reality. Our organization conducted a study³ that showed that 80% of the warehouses in the South Coast Air Basin are located near low-income and communities of color. There should be an analysis on the role of where logistics development projects are being sited are having on the continued segregation of communities in the County, the creation of substandard housing and the disproportionate impact that low-income and communities of color experience from their housing options.

Additionally, the Draft does not discuss the housing problems faced by residents that have had to move because of industrial development encroaching onto their residential community or the deterioration of quality of life due to industrial development cited next to them. All of this needs to be analyzed in the housing element to ensure that the County is doing everything in its power to preserve and create options for housing. Ultimately, this will allow the County to be in better standing with the Housing Element Law.

In conclusion, we believe the County can do much more to be in compliance with the Housing Element Law and furthermore, increase its affordability and accessibility of safe and non-toxic housing. The County should start by creating more outreach and engagement opportunities with its residents that takes into account the language and reading levels obstacles. We encourage the County to create a community meeting or workshop that residents can attend that uses multiple outreach strategies to ensure good turnout. We also believe that there are several analyses that need to be conducted, all mentioned in the letter. Lastly, we need the County to do more in creating policies that protect residential communities from being rezoned to industrial and preserve and create more affordable and accessible housing options. We cannot lose any further housing to industrial development. Especially while being out of compliance with the State’s goals.

We appreciate your time in considering our recommendations and reviewing our concerns. If there are any further questions, please contact Andrea Vidaurre (andrea.v@pc4ej.org). We look forward to continuing to be involved in the process.

Sincerely,

Andrea Vidaurre

Peoples Collective for Environmental Justice

² <https://www.lung.org/research/sota/city-rankings/states/california/san-bernardino>

³ <https://earthjustice.org/blog/2021-april/warehouses-pollution-and-social-disparities>

EXECUTIVE DIRECTOR
Darrell K. Moore, Esq.

BOARD OF DIRECTORS
Marvin Powell Jr., President
Erica Alfaro, Esq., Vice
President
Goushia Farook, Esq.,
Secretary
Christina Perez, Treasurer
Daniel Aguilar
David P. Colella, Esq.
Rebecca Eckley, Esq.
Bob Garcia
Andrew R. Morand, Esq.
Julie D. Neal, Esq.
Elaine S. Rosen, Esq.
Steven R. Weber, Esq.

ICLS is a non-profit
501(c)(3) corporation
IRS Tax ID 95-6124556
Donations are welcome.

Senior Line: 800.977.4257

Toll Free: 888.245.4257

InlandLegal.org

SENT VIA EMAIL ONLY

PlanningCommissionComments@lus.sbcounty.gov

June 6, 2022

San Bernardino County
Land Use Services Department
385 N. Arrowhead Ave., 1st Floor
San Bernardino, CA 92415

**Re: County of San Bernardino's Revised Draft 6th Cycle Housing
Element**

Dear Land Use Services Department:

Inland Counties Legal Services, Inc. (ICLS) and the Public Interest Law Project (PILP) write to provide comments on the County of San Bernardino's Revised Draft Sixth Cycle Housing Element (Draft), which was made available for public review and comment on May 23, 2022. The County's Revised Draft Housing Element still does not substantially comply with Housing Element Law. These comments are based on a preliminary review of the Revised Draft, which identified significant deficiencies.

I. Public Participation

First, the Draft does not reflect a "diligent effort by the local government to achieve public participation of all economic segments of the community in the development of the housing element." Gov. Code, § 65583(c)(9). On December 9, 2021, the County submitted a prior draft to the Department of Housing and Community Development (HCD) for review without providing the public with *any* prior notice or opportunity to comment on the draft. Our offices submitted extensive written comments to HCD and to the County (see attached), but the Draft does not reflect, incorporate, or respond to those comments.

The Draft, like the prior version, does not reflect any outreach efforts specific to the development of the housing element. It relies primarily on community meetings, a community survey, and stakeholder interviews conducted for development of the Analysis of Impediments of Fair Housing Choice (AI—all of which were conducted before 2020) and references the 2020 homeless point-in-time count and a 2021 homeless

strategic plan process. But it does not reflect any outreach regarding past housing element programs, potential constraints on housing for people with disabilities, or the site inventory; nor does it reflect any outreach to obtain input regarding housing needs or fair housing issues since the beginning of the COVID-19 pandemic. Draft, 1-1 to 1-35. It does not reflect any effort to obtain input from “. . . advocacy groups (local, regional, and state level), community members who are lower income, persons and households with special needs, members of protected classes, representative advocacy organizations and other similarly interested parties” Draft, 1-19 to 1-20 (list of stakeholders that participated in the AI process). It does not reflect any effort to obtain input from grassroots and nonprofit advocacy organizations that are active in the County on housing and environmental justice issues.

The Draft also does not reflect an adequate effort to conduct outreach to residents with limited English proficiency, even though 42.1% of County residents speak a language other than English at home.¹ It does not identify any meetings that were conducted in Spanish, and it states that the AI community survey received zero (of 302) responses in Spanish. Draft, 1-31. It does not analyze why the County’s efforts failed to obtain input from Spanish speakers or describe targeted efforts to ensure Spanish speakers were able to participate in the development of the AI or the housing element. See AFFH Guidance, 21-22.

Since HCD issued findings that the December 2021 draft did not comply with the “statutory mandates to make a diligent effort to encourage the public participation in the development of the element” (HCD 2/7/22 Findings, 11), the County’s only outreach effort has been to post this Draft on its website and send the link “to those who had expressed direct interest in and or commented on a previous draft of the element.” Draft, 1-35. There is no indication that the County made any effort to obtain verbal input, in-person input, or input in languages other than English. And, while Government Code section 65585(b)(1) requires that a jurisdiction make a “subsequent” draft available for seven days before its submission to HCD, the statute presumes that the jurisdiction made the first draft available to the public for 30 days, followed by a 10-day period to incorporate comments received. This is the first draft that the County has made available for public comment, and a 14-day comment period is too short to solicit and receive meaningful input.

II. Population & Employment Trends & Housing Needs, Including the Needs of Extremely Low-Income (ELI) Households

Government Code section 65583(a)(1) requires an analysis of population and employment trends and a quantification of existing and projected housing needs for all income levels, including extremely low-income households.

While the Draft reports overall population growth trends for the unincorporated area as compared with the total County area from 1950-2020, it provides only snapshots of the population in these areas for the year 2019 with regard to age, race, and ethnicity. It does not report population growth trends for these categories. Draft, 2-37 to 2-38.

¹ See <https://www.census.gov/quickfacts/fact/table/sanbernardinocalifornia/AFN120212>.

Similarly, the Draft reports jobs by sector for the unincorporated area and the total County area for the year 2019, but it does not report employment trends by sector. Draft, 2-39. The specific “Total County” job numbers shown in Table 2-5 appear incorrect. Draft, 2-39. The Draft reports average annual salaries only for the three largest employment sectors in the unincorporated area, but not for a wider range of employment sectors. Draft, 2-39. In addition, the Draft does not discuss the impact of employment trends on the housing market in the County.

The Draft does not provide an assessment of the types of housing available and suitable for ELI households. Draft, 2-65 to 2-66.

III. Household and Housing Characteristics

Government Code section 65583(a)(2) requires an analysis of household characteristics.

The Draft reports the number of households by tenure for the year 2019 in both the unincorporated areas and the County as a whole, but it does not address changes in the proportion of renter and owner households, as well as the number and change of renters in single-family vs. multifamily units. Draft, 2-48.

The Draft reports data on several key indicators of substandard housing and indicates that the County did not conduct a conditions survey because the County is so large. Draft, 2-49 to 2-50; 2-86. But the County could have at least conducted and provided a sampling of housing age and condition from housing throughout the unincorporated area and the total County area, including input regarding this housing sampling from community builders/developers and nonprofit housing organizations.

While the Draft now also draws upon County Code Enforcement records to obtain the numbers of substandard housing citations issued in unincorporated areas between 1999 and 2021, it does not indicate the specific numbers for recent citations (e.g. within the last 5 years) or how many of these recent citations involved the need for substantial vs. minor repairs. Draft, 2-50. The Draft identifies 130 units from the same time period that were abandoned and requiring major rehabilitation or demolition, but it does not indicate how the County calculated this number based on its records. Draft, 2-50 to 2-51. It does not discuss whether any of these code enforcement actions resulted in the displacement of residents or analyze the impact of code enforcement on members of groups protected by federal and state fair housing laws.

While the Draft reports specific data on two types of single-family homes built between 2018 and 2021, it is unclear as to whether the data are for the unincorporated area or the total County area. Draft, 2-52. The Draft does not otherwise report data on housing units by type, whether for rental units or for single-family homes built before 2018.

IV. Special Housing Needs

The Draft does not adequately analyze special housing needs as required by Government Code section 65583(a)(7). See also HCD 2/7/22 Findings, 8.

A. Individuals With Disabilities

While the Draft reports data on developmentally disabled individuals and their needs, it does not analyze their existing housing needs, the existing housing types and resources that can meet such needs, gaps in resources, and housing policies, programs, and policies that can address these housing needs. Draft, 2-60 to 2-61. Moreover, the Draft does not address the housing needs of individuals with other types of disabilities.

B. Homeless Individuals

There is no indication in Table 2-28 of the numbers and types of existing shelter beds in the listed locations of emergency shelters. In addition, the Draft does not quantify the numbers of vouchers and transitional housing units currently available for homeless individuals. Draft, 2-64 to 2-65.

Additionally, the County should analyze the impact of the administration of its General Relief (GR) program on unhoused County residents. The County's 2020 Point-In-Time Homeless Count indicated that 397 chronically homeless individuals in the county had zero income. See <https://wp.sbcounty.gov/dbh/sbchp/wp-content/uploads/sites/2/2020/04/2020-SBC-Homeless-Count-Report.pdf>, p. 37. But the County's GR program, through which the County is mandated to "relieve and support" County residents without any other means of financial support, had a caseload of only 84 in February 2022, the last month for which data are available. This County program is underserving its eligible residents, in turn impairing their ability to access housing. The Housing Element should analyze this program, including its accessibility to and impacts on members of groups protected by fair housing laws.

C. Farmworkers

The Draft indicates that the County does not know how many migrant farmworkers are in the County, but it reflects no effort to quantify the number of migrant farmworkers or to understand their needs. Draft, 2-66. It does not discuss the number of households or the tenure of farmworkers in the County. While the Draft notes that different types of housing are available to farmworkers, it does not analyze their existing housing needs, the existing housing types and resources that can meet such needs, any gaps in resources, and housing policies, programs, and policies that can address these housing needs. Draft, 2-66 to 2-67.

D. Seniors

While the Draft discusses the issues related to physical access and affordability of housing for seniors and refers to a “variety of resources and housing programs to meet these needs,” it does not analyze the existing housing needs of seniors, the existing housing types and resources that can meet such needs, any gaps in resources, and housing policies, programs, and policies that can address these housing needs. Draft, 2-58 to 2-59.

E. Large Households

The Draft does not report data on the number of large households with lower incomes. It does not analyze their existing housing needs, the existing housing types and resources that can meet such needs, any gaps in resources, and housing policies, programs, and policies that can address these housing needs. Draft, 2-59.

F. Single-Parent and Female-Headed Households

The Draft does not report data on the number of single-parent or female-headed households with or without children 18 years old or younger. It does not analyze the existing housing needs of such households, the existing housing types and resources that can meet such needs, any gaps in resources, and housing policies, programs, and policies that can address these housing needs. Draft, 2-59.

G. Assisted Housing Eligible for Conversion

The Draft reports that the covenant for the Searles Apartments expired in 2009. It states that “according to the property manager, the intent is to keep the project affordable in perpetuity.” Draft, 2-70. But a stated intent does not guarantee continued affordability. The Draft should provide further information and analysis to justify its conclusion that this property is not at risk, or it should include a program to preserve this project.

V. Sites Inventory

Government Code section 65583.2(c) requires the sites inventory to “specify for each site the number of units that can realistically be accommodated on that site and whether the site is adequate to accommodate lower-income housing, moderate-income housing, or above moderate-income housing.”

A. Approved Projects

The Draft now relies on 2,984 “Planned and Entitled Units” to accommodate the RHNA, including 406 to accommodate the lower income RHNA. Draft, 4-3. The Draft updated information about the general areas of where these projects are, including unincorporated areas in Fontana, San Bernardino, and Redlands, but it does not provide project-specific for all units.

Draft, 4-4. Moreover, the Draft is vague regarding when projects were approved. For example, it indicates that the Redlands' projects were "recently" approved and desert region projects were approved in 2021. Draft, 4-4. Finally, HCD instructed the County to "assign affordability of these units based on actual sales price or rent level of the units and demonstrate their availability in the planning period." HCD 2/7/22 Findings, 3. While the Draft updated information about land costs, it continues to fail to demonstrate availability and housing cost of the identified "approved projects" during the planning period.

B. Specific Plans

Regarding Specific Plan areas, "the housing element must identify specific sites by parcel number and demonstrate that the sites are available and suitable for development within the planning period." HCD Sites Inventory Guidebook, 18. The housing element must: (1) identify the date of approval of the plans and expiration date; (2) identify approved or pending projects within these plans that are anticipated in the planning period, including anticipated affordability based on the actual or projected sale prices, rent levels, or other mechanisms establishing affordability in the planning period of the units within the project; (3) describe necessary approvals or steps for entitlements for new development; and (4) describe any development agreements, and conditions or requirements such as phasing or timing requirements, that impact development in the planning period. *Ibid.*

The Draft does not include a site-specific inventory for the specific plan areas. For example, the Draft relies on 100 units in the Hacienda at Fairview specific plan to accommodate the lower income RHNA, but it continues to fail to provide specific identifying information for any of the sites in the specific plan that is required to evaluate the sites. Draft, 4-5. It also does not provide information regarding affordability requirements, timelines, phasing, and outstanding approvals.

C. Realistic Capacity and Density Bonus Utilization

None of the sites identified allows 30 du/acre by-right; while the MR sites' base density is 20 du/acre, it can be increased to 25 du/acre in some regions and 30 du/acre in others with a local density bonus. Draft, 4-18. HCD's findings instructed the County to include additional and clear information on densities to justify its assumption that vacant sites will develop at an assumed density of 80 percent of the maximum allowable density, but the added analysis does not justify the County's assumptions. HCD 2/7/22 Findings, 4. The Draft's assumption that prior applications seeking densities of 10 and 16 units per acre under permitted density between 5 and 20 units per acre justify projections of 20 and 25 units per acre in the RM zone is unfounded. Draft, 4-19. Of the three affordable developments listed as examples, none was in the RM zone, and none developed at more than 21 du/acre. Draft, 3-13. The higher density projects listed are all market-rate and, likewise, were not zoned RM. *Ibid.* The other projects listed were in incorporated areas, with zoning, allowable densities, and affordability levels unspecified. The County is relying on its density bonus ordinance to achieve the projected densities, but it has never submitted a density bonus application. Draft, 3-13, 5-2. The Draft does not include any program to increase density bonus utilization. Accordingly, the Draft still fails to analyze and justify its capacity projections.

VI. Affirmatively Furthering Fair Housing

Assembly Bill 686 requires that housing elements include a robust assessment and analysis of contributing factors to fair housing issues that limit or deny fair housing choice or access to opportunity, including (1) ongoing and concentrated segregation and integration, (2) disparities in access to opportunity, (3) racially concentrated areas of poverty, and (4) disproportionate housing needs and displacement risk. See <https://www.hcd.ca.gov/community-development/affh/index.shtml>.

A. Assessment of Fair Housing

The Draft now includes some fair housing analysis as it relates to sites that have been identified to accommodate the RHNA. However, the analysis falls short of its duty to affirmatively further fair housing. For example, the Draft acknowledges that sites in the communities of Bloomington, Chino, Fontana, Montclair, and San Bernardino are in census tracts with high pollution and linguistic isolation scores. Draft, 2-94. The revisions to the Draft, in response to HCD’s directive to address and analyze these fair housing issues, are incomplete. For example, the Draft indicates that sites in Census tract 6071004001 in Bloomington have a “CES 4.0 population score that is unfavorable compared to the unincorporated county average by more than one standard deviation, due largely to the influence of higher rates of linguistic isolation and somewhat higher rates of asthma and cardiovascular disease.” Draft, 2-94. The Draft indicates that, by 2023, the County will identify additional housing opportunity sites in Bloomington with better CES composite and pollution scores to replace the Bloomington sites in the Draft’s inventory. Draft, 2-98. But the Draft does not include any programs to identify new sites or mitigate environmental hazards affecting the identified sites. If the County knows that identified sites are not appropriate for housing development or that development on those sites will exacerbate environmental justice issues within the County, then the Housing Element must engage in robust analysis and commit to concrete programs that will further fair housing, not defer compliance with the County’s statutory obligations to some future year.

Additionally, the Draft states that one census tract in Lake Arrowhead and “[s]ites located in census tract 6071006302 in San Bernardino’s sphere experience rates of overpayment by renters that are higher than unincorporated county average,” but it does not further evaluate this contributing factor or provide an analysis on how to respond to this issue. Draft, 2-92, 2-94.

Overall, the fair housing analysis does not identify whether the sites improve or exacerbate fair housing conditions, per HCD’s directive, and how to address them.

B. Racially Concentrated Areas of Poverty (R/ECAP)

The analysis must include racially and ethnically concentrated areas of poverty on a regional and a local level, where concentrated areas of poverty are discussed relative to concentrated areas of affluence. AFFH Guidance, 32, citing Gov. Code §§ 65583(c)(10). While the revised Draft generally identifies R/ECAPs and adds maps, it continues to fail to engage in the requisite analysis relative to areas of affluence and how to transform them into areas of opportunity.

C. Environmental Health

The Draft does not analyze the disproportionate impact of environmental pollutants and hazards on members of protected categories. It identifies the communities of Muscoy and Bloomington as having “the poorest environmental health” in the unincorporated County but does not analyze the racial, economic, and other demographic compositions of those communities relative to others in the County. Draft, 2-85. Nor does it discuss the causes of poor environmental health or the County’s role in siting hazardous uses in and around low-income communities of color.

For example, the Bloomington Business Park Specific Plan, for which the County recently completed a draft EIR (available at <http://cms.sbcounty.gov/lus/Planning/Environmental/Valley.aspx>) would site a distribution center in Bloomington, a disproportionately Latinx, disproportionately low-income community that is already disproportionately impacted by environmental hazards. Bloomington’s residents are 83% Latinx; its median household income is \$52,085 per year; and 19.5% of its residents have incomes below the federal poverty level.² Bloomington already “has high levels of air pollution and drinking water contamination concerns. Other pollution exposure issues include traffic density, toxic releases from industry, hazardous waste and cleanup sites from military and industrial land uses.” San Bernardino County, Countywide Policy Plan (adopted Oct. 27, 2020), 59, available at <https://countywideplan.com/policy-plan/>. The Census tract where most of the Specific Plan Area is located has one of the County’s highest (i.e., worst) scores on the CDC’s Social Vulnerability Index (.88), and a Cal EnviroScreen score of 95.44, indicating severe negative impacts from pollution and other environmental factors. The project, if approved, would have severe negative environmental impacts on the surrounding community and will destroy at least 117 existing homes, displacing their residents. And this proposed business park is part of a larger trend of siting warehouses, logistics centers, and other polluting uses near homes in San Bernardino County.³ But the Draft includes no analysis of the disparities created and perpetuated by siting these uses in low-income communities of color, nor of actions the County can take to reduce or mitigate environmental justice issues in the County. See AFFH Guidance, 35.

D. Disproportionate Housing Needs/Displacement Risk

The Draft must analyze the County’s disproportionate housing needs, including displacement risk. AFFH Guidance, 49. The Draft identifies overcrowding and overpayment as the contributing factors to disproportionate housing needs and identifies the unincorporated portion of Fontana as potentially susceptible to higher risks of displacement based on the amount of existing rental stock and ability to accommodate new rental housing. Draft, 2-85 to 2-88. But it does not analyze the disproportionate impact of these displacement risks based on race, income,

² See <https://www.census.gov/quickfacts/bloomingtoncdpcalifornia>.

³ Examples of press coverage: <https://www.sbsun.com/2021/07/22/another-blow-to-bloomington-residents-battling-trucking-industry-development/>, <https://www.abc10.com/article/news/local/california/when-a-package-at-the-front-door-means-a-warehouse-next-door/103-a150ef51-3c94-4502-8f7e-a0329ba32ea2>.

familial status, or membership in any other protected category. See AFFH Guidance, 39-41. It also does not discuss displacement due to the demolition of housing in low-income communities of color to make way for industrial uses, as the County has proposed to do for the Bloomington Business Park Specific Plan, discussed above. The Draft does not discuss displacement risk outside of unincorporated Fontana, even though HCD's AFFH data viewer indicates that many other areas of the unincorporated County are "Sensitive Communities" vulnerable to displacement. See also Draft, Fig. 2-15. Nor does it discuss or analyze the disproportionate effects of eviction on members of protected groups.

The Draft refers repeatedly to the County's role in "public housing modernization" and commits to continuing such efforts. Draft, 5-3, 5-10. But such projects often temporarily or permanently displace public housing residents. The housing element must describe and analyze the impact of public housing modernization efforts on existing public housing residents, including analysis of disproportionate impact based on race, disability, familial status, or membership in other protected groups.

Further, the Draft does not analyze the disproportionate impact of homelessness on members of protected groups. For example, 40.7% of the County's homeless residents are Black, but only 8.1% of the County's general population are Black.⁴ The Draft also does not include any analysis of the County's coordinated entry system. See AFFH Guidance, 37. The housing element must engage in this analysis and include programs to address disparities in the provision of services, shelter, and housing to unhoused County residents.

VII. Constraints to Housing Development

A. Governmental Constraints

Government Code section 65583(a)(5) requires an analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels.

i. Land-Use Controls

While the Draft describes relevant land-use controls, it should analyze their impact on the cost, development, and supply of housing of different types. Draft, 3-1 to 3-5. While it has expanded its discussion of multifamily parking and notes that the "relatively low cost of land" and the availability of "large enough" vacant sites in unincorporated areas will accommodate the required parking spaces, the Draft still does not analyze the impacts on housing choice, affordability, timing, and approval certainty and ability to achieve maximum densities. Draft, 3-13 to 3-14.

⁴ Data available at: <https://bcsh.ca.gov/calich/hdis.html>.

The Draft still needs to analyze locally adopted ordinances that directly impact the cost and supply of residential development, such as inclusionary requirements, short-term rentals, and growth controls.

ii. Housing for Individuals with Disabilities

While the Draft indicates that the County does not consider its current permit processes, requirements, and development standards to be a constraint to the development of residential care facilities (for seven or more residents) due to the County’s “consistent approval” of such facilities, the Draft should still provide data on these approvals to justify this conclusion. Draft, 3-6. It should address the uniform building code and universal design elements. It should also review the permitting and processing procedures for requesting accessibility retrofits and discuss whether current building codes present barriers to developing accessible housing. Although the Draft states that Program 12 (Zoning for a Variety of Housing Types) will streamline the permitting process by subjecting these residential care facilities “only to objective standards,” the required findings for reasonable accommodations to be approved for residential care facilities still include higher discretionary standards, e.g. compatibility with a neighborhood’s character. Draft, 3-6 to 3-8. In addition, while the Draft notes that parking requirements (1 parking space per bedroom) are not a constraint due to the “abundance of parcels...large enough to accommodate” the required parking spaces, it still does not analyze the impacts on cost and housing choices. Draft, 3-13 to 3-14.

The Draft states that consistent with state law, no residential care facilities for six or fewer clients are permitted “within 300 feet of each other” to avoid “overconcentration.” Draft, 3-7. However, this statement conflicts with section 84.32.030(b) of the County’s Development Code, which states that the County cannot require a facility to be more than 300 feet of another preexisting facility, through the reasonable accommodation process. It also contradicts section 1520.5(b) of the California Health and Safety Code, which states that a separation distance of under 300 feet may be approved, depending on “special local needs and conditions.” The Draft also indicates in Table 3-2 that unlicensed residential care facilities for six or fewer persons must obtain an unlicensed residential care facilities permit (RCP) in residential zones. Draft, 3-3. However, the Draft still needs to analyze the approval findings and process for obtaining an RCP and show that the process is not a constraint for persons with disabilities.

iii. Code Enforcement

The Draft should provide a more detailed discussion of residential code enforcement, including AFFH analysis. While it refers to an enforcement program that operates on a complaint basis, it does not explain how this enforcement program works. In addition, while the Draft mentions the County Code Enforcement Division’s enforcement programs, it does not explain how these programs work. Draft, 3-17 to 3-18. The Draft should also describe efforts to link code enforcement activities to housing rehabilitation programs, as well as compliance with the health and safety code.

iv. Permitting Processes

While the Draft describes the permitting processes for various types of permits for residential developments, it should do so by zoning district and housing type. Draft, 3-18 to 3-23. It should also describe the permitting processes for emergency shelters, transitional housing, supportive housing, single-room occupancy units, and farmworker housing. The Draft should also analyze the ways in which the permitting processes potentially serve as constraints on residential development. While the Draft states that the CUP process and requirements do not hinder the development of housing, the Draft must still analyze the impact of the CUP process and requirements on approval certainty for multiple-family projects of 50+ units, in light of the necessary findings regarding the protection of surrounding uses, the environment, and health, safety, and general welfare. Draft, 3-20 to 3-21.

v. Fees and Exactions

While the Draft summarizes average development fees in Table 3-6, it should also describe all processing and planning fees and exactions and analyze how they serve as constraints on residential development. Draft, 3-24. The Draft should also describe how fees are collected and whether there are any efforts or policies to mitigate the fee impact on lower-income households.

B. Nongovernmental Constraints

Government Code section 65583(a)(6) requires an analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels.

i. Land Costs

While the Draft describes ranges of land costs in the County per acre, it does not distinguish between land costs for single-family and multifamily-zoned developable parcels. Draft, 3-24 to 3-25.

ii. Availability of Financing

While the Draft describes the availability of FHA loan programs for first-time homebuyers, it does not address the general availability of housing financing, including private financing, in the County. Draft, 3-26.

iii. Local Efforts to Address Nongovernmental Constraints

The Draft still needs to address any local efforts to remove nongovernmental constraints that create a gap between planning for housing development for all income levels and the construction of that housing.

VIII. Evaluation of 2014-2021 Programs

Government Code section 65588 requires each local government to review its housing element to evaluate (1) the appropriateness of its housing goals, objectives, and policies in contributing to the attainment of the state housing goal, (2) the housing element's effectiveness in attaining the community's housing goals and objectives, (3) the progress of the city or county in implementing the housing element, and (4) the effectiveness of the housing element's goals, policies, and related actions in meeting the community's special housing needs.

While the Draft reports on the implementation, in Table 5.1, of programs from the 5th Cycle Housing Element, it should also analyze each program's effectiveness, discuss what was learned from implementing each program, and indicate how this knowledge will determine whether each program should be continued, modified, or discontinued. Draft, 5-1 to 5-4. The Draft should also analyze the effectiveness of these programs in meeting the housing needs of special needs populations.

IX. Housing Programs

Government Code section 65583(c) requires the housing element to contain programs that set forth a schedule of actions that the local government is undertaking or intends to undertake to implement the policies and achieve the housing element's goals and objectives.

While the Draft describes 23 programs intended to address the goals and policies of the County's 6th Cycle Housing Element for the 2021-2029 planning period, it should ensure that there are specific timelines for each program, as well as specific action steps to implement each program and proposed measurable outcomes. Draft, 5-5 to 5-20.

Program 3—Land Use Inventory

Program 1 indicates that the County will rezone five vacant sites identified in two prior housing element cycles to allow by-right development of projects with at least 20 percent of units affordable to lower-income households. Draft, 5-5 to 5-6. However, it does not commit to rezone by October 15, 2023, as required by Government Code section 65583.2(c). The Housing Element will also need additional programs to ensure adequate site capacity for lower-income housing, as discussed in above.

Program 4 – Short-Term Rentals

The Draft should describe the proposed public planning process, public outreach, and study in more detail. Draft, 5-8.

Program 6 – Rental Assistance

The Draft should describe the program's continuing implementation of federally funded programs in more detail. Draft, 5-9.

Program 8 – Public Housing Modernization Program

The Draft should describe how candidate sites will be identified, as well as how many. Draft, 5-10. It should also include actions to prevent or mitigate the displacement of current residents.

Program 18 – Code Enforcement

The Draft should provide a list of other existing code enforcement programs and activities in addition to the Community Clean Up Program and Proactive Community Enforcement Program. Draft, 5-15 to 5-16. It should also include actions to address any racial or other disparities in the County’s code enforcement program.

Program 19 – Units that are Abandoned or to be Demolished

The Draft should require the County to reach out to all property owners of units that are abandoned or to be demolished. Draft, 5-16.

Program 20 – Assisted Housing

The Draft states that none of the assisted projects within the County’s incorporated areas (with the exception of the Sunset Village Apartments) is at risk of converting to market rates prior to 2042. Draft, 5-17. However, the covenant for the Searles Apartments expired in 2009, and the Draft does not sufficiently explain why this property is not at risk. Draft, 2-70. As noted in the comments in Section III.G above, the Draft should provide further information and analysis to justify its conclusion that this property is not at risk, or it should include a program to preserve this project. In addition, while the Draft addresses the County’s commitment to proactive and prompt outreach with qualified entities, it still needs to address the County’s commitment to providing education and support for tenants. Draft, 5-17.

No Programs to Address Eviction and Displacement

The Draft identifies the threat of eviction as a serious housing issue affecting County residents. Draft, 2-49 (“Without additional eviction restrictions and other financial assistance (at national, state, or local levels), the vacancy rate is expected to increase as well as rates of overcrowding and homelessness.”) And public comments received for development of the AI repeatedly and consistently identified eviction as one of the primary housing issues affecting community members. Draft, 1-4, 1-6, 1-17, 1-27 to 1-29. But the Draft does not include any policies or programs regarding local eviction protections, financial support for tenants at risk of eviction, or legal support to help tenants stay in their homes. As such, it does not include adequate programs to “conserve and improve the existing affordable housing stock.” Gov. Code, § 65583(c)(4). Such programs are likely also necessary to affirmatively further fair housing; but, as discussed above, the Draft does not analyze the fair housing impacts of eviction. Gov. Code, § 65583(c)(5), (10).

Additionally, the Draft does not include programs to address overcrowding, overpayment, or displacement risk in the unincorporated portion of Fontana, all of which were identified as fair housing issues in the Draft’s assessment of fair housing.

X. Conclusion

As addressed above, the County of San Bernardino’s Revised Draft 6th Cycle Housing Element still does not substantially comply with Housing Element Law.

If you have any questions or would like to discuss our comments, you may contact Sharilyn Nakata by phone at 951-368-2584 or by email at snakata@icls.org, or Melissa A. Morris by phone at 408-692-4320 or by email at mmorris@pilpca.org.

Sincerely,



Sharilyn Nakata
INLAND COUNTIES LEGAL SERVICES, INC.



Melissa A. Morris
PUBLIC INTEREST LAW PROJECT

CC: Reid Miller, HCD Analyst (Reid.Miller@hcd.ca.gov)

Attachment:
2/1/22 Comment Letter on County of San Bernardino’s Draft 6th Cycle Housing Element

ATTACHMENT

EXECUTIVE DIRECTOR
Darrell K. Moore, Esq.

BOARD OF DIRECTORS
Elaine S. Rosen, Esq.
President
Erica Alfaro, Esq.
Vice President
Marvin Powell Jr.
Secretary
Christina Perez
Treasurer
Daniel Aguilar
David P. Colella, Esq.
Goushia Farook, Esq.
Bob Garcia
Andrew R. Morand, Esq.
Julie D. Neal, Esq.
Mark I. Richards, Esq.
Steven R. Weber, Esq.

ICLS is a non-profit
501(c)(3) corporation
IRS Tax ID 95-6124556
Donations are welcome.

Senior Line: 800.977.4257

Toll Free: 888.245.4257

InlandLegal.org

SENT VIA EMAIL ONLY

February 1, 2022

Reid Miller (Reid.Miller@hcd.ca.gov)
California Department of Housing and Community Development
2020 W. El Camino Ave., Suite 500
Sacramento, CA 95833

Re: County of San Bernardino's Draft 6th Cycle Housing Element

Dear Mr. Miller:

Inland Counties Legal Services, Inc. (ICLS) and the Public Interest Law Project (PILP) write to provide comments on the County of San Bernardino's Draft Sixth Cycle Housing Element (Draft), submitted to the California Department of Housing and Community Development on December 9, 2021. The County's Draft Housing Element does not substantially comply with Housing Element Law. These comments are based on a preliminary review of the Draft, which identified significant deficiencies.

I. Analysis of Population & Employment Trends & Housing Needs, Including the Needs of Extremely Low-Income (ELI) Households

Government Code section 65583(a)(1) requires an analysis of population and employment trends and a quantification of existing and projected housing needs for all income levels, including extremely low-income households.

While the Draft reports overall population growth trends for the unincorporated area as compared with the total County area from 1950-2020, it provides only snapshots of the population in these areas for the year 2019 with regard to age, race, and ethnicity. It does not report population growth trends for these categories. Draft, 2-37 to 2-38.

Similarly, the Draft reports jobs by sector for the unincorporated area and the total County area for the year 2019, but it does not report employment trends by sector. Draft, 2-39. The specific "Total County" job numbers shown in Table 2-5 appear incorrect. Draft, 2-39. The Draft reports average annual salaries only for the three largest employment sectors in the unincorporated area, but not for a wider range of employment sectors. Draft, 2-39. In addition, the Draft does not discuss the impact of employment trends on the housing market in the County.

The Draft does not provide an assessment of the types of housing available and suitable for ELI households. Draft, 2-65.

II. Analysis and Documentation of Household and Housing Characteristics

Government Code section 65583(a)(2) requires an analysis of household characteristics.

The Draft reports the number of households by tenure for the year 2019 in both the unincorporated area and total County area, but it does not address changes in the proportion of renter and owner households, as well as the number and change of renters in single-family vs. multifamily units. Draft, 2-48.

The Draft reports data on several key indicators of substandard housing and indicates that the County did not conduct a conditions survey because the County is so large. Draft, 2-49 to 2-50; 2-82. But the County could have at least conducted a sampling of housing age and condition from housing throughout the unincorporated area and the total County area should be provided, including input regarding this housing sampling from community builders/developers and nonprofit housing organizations.

While the Draft reports specific data on two types of single-family homes built between 2018 and 2021, it is unclear as to whether the data are for the unincorporated area or the total County area. Draft, 2-52. The Draft does not otherwise report data on housing units by type, whether for rental units or for single-family homes built before 2018.

III. Analysis of Special Housing Needs

Government Code section 65583(a)(7) requires an analysis of special housing needs.

A. Individuals With Disabilities

While the Draft reports data on developmentally disabled individuals and their needs, it does not discuss the housing problems faced by such individuals, the housing types that can accommodate them, their unmet needs, or housing programs that address their identified needs. Draft, 2-60 to 2-61. Moreover, the Draft does not address the needs of individuals with other types of disabilities.

B. Homeless Individuals

There is no indication in Table 2-28 of the number and type of existing shelter beds in the listed locations of emergency shelters; nor does the Draft quantify the number of vouchers and transitional housing units currently available for homeless individuals. Draft, 2-64 to 2-65.

C. Farmworkers

The Draft indicates that the County does not know how many migrant farmworkers are in the County but reflects no effort to quantify the number of migrant farmworkers or to understand their needs. See Draft. 2-66. It does not discuss the number of households or of the tenure of

farmworkers in the County. While the Draft discusses different types of housing available to farmworkers, it does not analyze the housing needs of farmworkers, assess unmet needs, or include programs to address their housing needs. Draft, 2-66.

D. Seniors

While the Draft discusses the issues related to physical access and affordability of housing for seniors and alludes to a “variety of resources and housing programs to meet these needs,” it does not identify what these resources and programs are, describe how they meet seniors’ housing needs, or analyze the unmet housing needs of seniors. Draft, 2-58.

E. Large Households

The Draft does not report data on the number of large households with lower incomes. It does not discuss programs to address the housing needs of large households, and there is no assessment of their unmet needs. Draft, 2-59.

F. Single-Parent and Female-Headed Households

The Draft does not report data on the number of single-parent or female-headed households with or without children 18 years old or younger. It does not discuss programs to address the housing needs of single-parent or female-headed households, and there is no assessment of their unmet needs. Draft, 2-59.

G. Assisted Housing Eligible for Conversion

The Draft reports that none of the assisted multifamily housing units in Table 2-30 is at risk of converting to market rate by 2031 (within 10 years of the beginning of the 6th Cycle). Draft, 2-67. However, it also reports that the covenants for the Searles Apartments expired in 2009. Draft, 2-69. It states that “according to the property manager, the intent is to keep the project affordable in perpetuity.” Draft, 2-69. But a stated intent does not guarantee continued affordability. The Draft should provide further information and analysis to justify its conclusion that this property is not at risk, or it should include a program to preserve this project.

IV. The Inventory of Sites does not demonstrate a realistic capacity of available sites to meet the lower income RHNA during the planning period.

Government Code section 65583.2(c) requires the sites inventory to “specify for each site the number of units that can realistically be accommodated on that site and whether the site is adequate to accommodate lower-income housing, moderate-income housing, or above moderate-income housing.” The Draft does not adequately identify sites with a realistic capacity to accommodate the lower-income Regional Housing Needs allocation (RHNA) during the current planning period.

A. HCD's Sites Inventory Form

An inventory of sites in housing elements submitted on or after January 1, 2021 “must be prepared using the standards, form, and definitions adopted by HCD.” Housing Element Sites Inventory Guidebook (June 10, 2020), 7, available at https://www.hcd.ca.gov/community-development/housing-element/docs/sites_inventory_memo_final06102020.pdf. The Sites Inventory Form adopted by HCD includes requisite information about each site, including whether the parcel has available or planned and accessible infrastructure and if the parcel was identified in a previous planning period site inventory. Appendix A of the Draft does not use the Sites Inventory form adopted by HCD, nor does it provide specific information regarding infrastructure or information about whether sites were identified to accommodate the RHNA in prior housing elements. The County cannot assess the realistic capacity to accommodate the lower-income RHNA during the planning period without the requisite information.

B. Approved Projects

The Draft relies on 3,666 “Planned and Entitled Units,” including specific plans, to accommodate its RHNA. Draft, 4-2. It does not provide specific information about where these units are, when they were approved, what stage of entitlement they are in, or when they are expected to be completed. See HCD Sites Inventory Sites Inventory Guidebook (June 10, 2020), 5, available at https://www.hcd.ca.gov/community-development/housing-element/docs/sites_inventory_memo_final06102020.pdf (“For projects yet to receive their certificate of occupancy or final permit, the element must demonstrate that the project is expected to be built within the planning period.”) These unsupported figures are questionable when compared to the County’s Annual Progress Reports, which indicate that the County entitled only 3,112 units between 2013 and 2020. The Draft also does not provide adequate information or analysis to justify its affordability projections for these units, including over 200 single family homes that the Draft assumes will be affordable to lower-income households.

C. Specific Plans

Regarding Specific Plan areas, the housing element must “the housing element must identify specific sites by parcel number and demonstrate that the sites are available and suitable for development within the planning period.” Sites Inventory Guidebook, 18. The housing element must: (1) identify the date of approval of the plans and expiration date; (2) identify approved or pending projects within these plans that are anticipated in the planning period, including anticipated affordability based on the actual or projected sale prices, rent levels, or other mechanisms establishing affordability in the planning period of the units within the project; (3) describe necessary approvals or steps for entitlements for new development; and (4) describe any development agreements, and conditions or requirements such as phasing or timing requirements, that impact development in the planning period. *Ibid.* The Draft does not include a site-specific inventory for the specific plan areas, nor does it include the requisite information regarding timelines, phasing, outstanding approvals, etc. Draft, 4-3 to 4-5. The Draft assumes that a significant percentage of units in each specific plan will be affordable to lower-income

households, but it does identify any affordability requirements in these specific plans or otherwise justify its assumption that affordable units will develop in the specific plan areas before the end of the planning period.

D. Realistic Capacity

The Draft relies on both vacant and nonvacant sites designated Multiple Residential (MR) to accommodate its lower-income RHNA, assuming that they will develop at 25 du/acre. Draft, 4-11 to 4-20. However, the MR zone does not allow multifamily development at densities above 20 du/acre by right. Draft, 3-3. Further, the Draft does not justify this assumption except to say that the County adopted a new density bonus policy in 2021. *Ibid.* The Draft also notes that the County received zero applications for density bonuses during the 5th Cycle planning period and does not include any programs to increase density bonus utilization. Draft, 5-2.

E. Vacant Sites

Government Code section 65583.2(c) requires that, if the housing element's site inventory identifies vacant sites that were identified in two or more consecutive planning periods, then it must include a program to allow residential use by right at specified densities for housing developments in which at least 20 percent of the units are affordable to lower income households. The Draft relies on vacant sites to accommodate 2,285 units of its lower income RHNA within the planning period. Draft, 4-23. The Draft identifies five vacant sites as sites that are identified in the previous planning period, but does not indicate whether any of these sites were identified in the last two planning periods. Draft, 4-13.

F. Nonvacant Sites

Government Code section 65583.2(g)(1) requires the housing element to describe the extent to which a nonvacant site's existing use impedes additional residential development, the jurisdiction's past experience converting existing uses to higher density residential development, market trends and conditions, and regulatory or other incentives or standards that encourage additional housing development on the nonvacant sites to demonstrate the potential for residential development within the planning period. The Draft relies on nonvacant sites to accommodate 394 units of its lower-income RHNA. Draft, 4-20. It does not indicate whether these sites were identified in prior housing elements. See Gov. Code, § 65583.2(c). The Draft mentions two prior projects where the County "encouraged and helped facilitate the development of multiple affordable multifamily residential units" (at less than 25 du/acre), but the Draft does not explain how these projects demonstrate the potential for residential development of housing that is affordable to lower-income households on the identified sites, especially in light of the sites' current, ongoing uses. Draft, 4-16.

Additionally, the Draft acknowledges that all of the identified nonvacant sites have existing residential uses, but it does not include a program for replacement housing. Draft, 4-17 to 4-19; Gov. Code, § 65583.2(g)(3).

G. Accessory Dwelling Units

The Draft relies on ADUs to accommodate its RHNA but includes inconsistent information regarding current and projected ADU production. Table 4-2 (page 4-2) relies on 442 approved ADUs, but page 4-3 indicates that there are “221 ADUs in the development pipeline from the past 2 1/2 years.” The Draft projects that 513 more ADUs will be built in the planning period. But it does not provide any information or analysis regarding the number or percentage of ADUs that will be used as housing, as opposed to short term rentals, studios, guest houses, or other uses, even while acknowledging elsewhere that ADUs are used as short-term rentals in the County. See Draft, 5-8 (discussion of short-term rentals); Sites Inventory Guidebook, 30 (requiring analysis of “the availability of ADUs and JADUs for occupancy, rather than used as offices or guest houses”).

V. Affirmatively Furthering Fair Housing

Assembly Bill 686 requires that housing elements include a robust assessment and analysis of contributing factors to fair housing issues that limit or deny fair housing choice or access to opportunity, including (1) ongoing and concentrated segregation and integration, (2) disparities in access to opportunity, (3) racially concentrated areas of poverty, and (4) disproportionate housing needs and displacement risk. See <https://www.hcd.ca.gov/community-development/affh/index.shtml>. The Draft’s Assessment of Fair Housing should engage in more robust analysis of segregation within the County; and the Draft should include more concrete programs, to address segregation, disproportionate housing needs, and displacement risk within the County.

A. Ongoing and Concentrated Segregation and Integration

The analysis must address areas of ongoing and concentrated segregation and integration and compare concentrations of protected characteristics and incomes at both a regional and local level. AFFH Guidance, 31, citing Gov. Code §§ 65583(c)(10). Despite mentioning the regions having a lower diversity index score, the Draft does not identify the groups that experience the highest levels of segregation. Draft, 2-73 to 2-76.

B. Racially Concentrated Areas of Poverty (R/ECAP)

The analysis must include racially and ethnically concentrated areas of poverty on a regional and a local level, where concentrated areas of poverty are discussed relative to concentrated areas of affluence. AFFH Guidance, 32, citing Gov. Code §§ 65583(c)(10). The Draft identifies Phelan and Pinon Hills as R/ECAPs, as well as “very small portions of the unincorporated SOI of the City of San Bernardino.” Draft, 2-74 to 2-75. However, the Draft does not engage in the requisite analysis because it does not address whether identified sites in the site inventory are located in or near the R/ECAPs, and whether sites in those neighborhoods perpetuate patterns of R/ECAPs.

C. Environmental Health

The Draft does not analyze the disproportionate impact of environmental pollutants and hazards on members of protected categories. It identifies the communities of Muscoy and Bloomington as having “the poorest environmental health” in the unincorporated County but does not analyze the racial, economic, and other demographic compositions of those communities relative to others in the County. Nor does it discuss the causes of poor environmental health or the County’s role in siting hazardous uses in and around low-income communities of color.

For example, the Bloomington Business Park Specific Plan, for which the County recently completed a draft EIR (available at <http://cms.sbcounty.gov/lus/Planning/Environmental/Valley.aspx>) would site a distribution center in Bloomington, a disproportionately Latinx, disproportionately low-income community that is already disproportionately impacted by environmental hazards. Bloomington’s residents are 83% Latinx; its median household income is \$52,085 per year; and 19.5% of its residents have incomes below the federal poverty level.¹ Bloomington already “has high levels of air pollution and drinking water contamination concerns. Other pollution exposure issues include traffic density, toxic releases from industry, hazardous waste and cleanup sites from military and industrial land uses.” San Bernardino County, Countywide Policy Plan (adopted Oct. 27, 2020), 59, available at <https://countywideplan.com/policy-plan/>. The Census tract where most of the Specific Plan Area is located has one of the County’s highest (i.e., worst) scores on the CDC’s Social Vulnerability Index (.88), and a Cal EnviroScreen score of 95.44, indicating severe negative impacts from pollution and other environmental factors. The project, if approved, would have severe negative environmental impacts on the surrounding community and will destroy at least 117 existing homes, displacing their residents. And this proposed business park is part of a larger trend of siting warehouses, logistics centers, and other polluting uses near homes in San Bernardino County.² But the Draft includes no analysis of the disparities created and perpetuated by siting these uses in low-income communities of color, nor of actions the County can take to reduce or mitigate environmental justice issues in the County. See AFFH Guidance, 35.

D. Disproportionate Housing Needs/Displacement Risk

The Draft must analyze the County’s disproportionate housing needs, including displacement risk. AFFH Guidance, 49. The Draft identifies overcrowding and overpayment as the contributing factors to disproportionate housing needs and identifies the unincorporated portion of Fontana as potentially susceptible to higher risks of displacement based on the amount of existing rental stock and ability to accommodate new rental housing. Draft, 2-81 to 2-84. But it does not analyze the disproportionate impact of these displacement risks based on race, income,

¹ See <https://www.census.gov/quickfacts/bloomingtoncdpcalifornia>.

² Examples of press coverage: <https://www.sbsun.com/2021/07/22/another-blow-to-bloomington-residents-battling-trucking-industry-development/>, <https://www.abc10.com/article/news/local/california/when-a-package-at-the-front-door-means-a-warehouse-next-door/103-a150ef51-3c94-4502-8f7e-a0329ba32ea2>.

familial status, or membership in any other protected category. See AFFH Guidance, 39-41. It also does not discuss displacement due to the demolition of housing in low-income communities of color to make way for industrial uses, as the County has proposed to do for the Bloomington Business Park Specific Plan, discussed above. The Draft does not discuss displacement risk outside of unincorporated Fontana, even though HCD’s AFFH data viewer indicates that many other areas of the unincorporated County are “Sensitive Communities” vulnerable to displacement. See also Draft, fig. 2-15. Nor does it discuss or analyze the disproportionate effects of eviction on members of protected groups.

The Draft refers repeatedly to the County’s role in “public housing modernization” and commits to continuing such efforts. Draft, 5-3, 5-9, But such projects often temporarily or permanently displace public housing residents. The housing element must describe and analyze the impact of public housing modernization efforts on existing public housing residents, including analysis of disproportionate impact based on race, disability, familial status, or membership in other protected groups.

Further, the Draft does not analyze the disproportionate impact of homelessness on members of protected groups. For example, 40.7% of the County’s homeless residents are Black, but only 8.1% of the County’s general population is Black.³ The Draft also does not include any analysis of the County’s coordinated entry system. See AFFH Guidance, 37. The housing element must engage in this analysis and include programs to address disparities in the provision of services, shelter, and housing to unhoused County residents.

VI. Analysis of Constraints to Housing Development

A. Governmental Constraints

Government Code section 65583(a)(5) requires an analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels.

i. Land-Use Controls

While the Draft describes relevant land-use controls, it should analyze their impact on the cost, development, and supply of housing of different types. Draft, 3-1 to 3-5.

ii. Housing for Individuals with Disabilities

While the Draft indicates that the County does not consider its current permit processes, requirements, and development standards to be a constraint to the development of residential care facilities (for seven or more clients) due to the County’s “consistent approval” of such facilities, the Draft should still provide data on these approvals to justify this conclusion. Draft,

³ Data available at: <https://bcsh.ca.gov/calich/hdis.html>.

3-6. It should address the uniform building code and universal design elements. It should also review the permitting and processing procedures for requesting accessibility retrofits and discuss whether current building codes present barriers to developing accessible housing.

iii. Code Enforcement

The Draft should provide a more detailed discussion of residential code enforcement, including AFFH analysis. While it refers to an enforcement program that operates on a complaint basis, it does not explain how this enforcement program works. In addition, while the Draft mentions the County Code Enforcement Division's enforcement programs, it does not explain how these programs work. Draft, 3-14. The Draft should also describe efforts to link code enforcement activities to housing rehabilitation programs, as well as compliance with the health and safety code.

iv. Permitting Processes

While the Draft describes the permitting processes for various types of permits for residential developments, it should do so by zoning district and housing type. Draft, 3-15 to 3-18. It should also describe the permitting processes for emergency shelters, transitional housing, supportive housing, single-room occupancy units, and farmworker housing. In addition, the Draft should analyze the ways in which the permitting process potentially serves as a constraint on residential development.

v. Fees and Exactions

While the Draft summarizes average development fees in Table 3-6, it should also describe all processing and planning fees and exactions and analyze how they serve as constraints on residential development. Draft, 3-19. The Draft should also describe how fees are collected and whether there are any efforts or policies to mitigate the fee impact on lower-income households.

B. Nongovernmental Constraints

Government Code section 65583(a)(6) requires an analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels.

i. Land Costs

While the Draft describes ranges of land costs in the County per acre, it does not distinguish between land costs for single-family and multifamily-zoned developable parcels. Draft, 3-20.

ii. Availability of Financing

While the Draft describes the availability of FHA loan programs for first-time homebuyers, it does not address the general availability of housing financing, including private financing, in the County.

VII. Evaluation of 2014-2021 Programs

Government Code section 65588 requires each local government to review its housing element to evaluate (1) the appropriateness of its housing goals, objectives, and policies in contributing to the attainment of the state housing goal, (2) the housing element's effectiveness in attaining the community's housing goals and objectives, (3) the progress of the city or county in implementing the housing element, and (4) the effectiveness of the housing element's goals, policies, and related actions in meeting the community's special housing needs.

While the Draft reports on the implementation, in Table 5.1, of programs from the 5th Cycle Housing Element, it should also analyze each program's effectiveness, discuss what was learned from implementing each program, and indicate how this knowledge will determine whether each program should be continued, modified, or discontinued. Draft, 5-1 to 5-4. The Draft should also analyze the effectiveness of these programs in meeting the housing needs of special needs populations.

VIII. Housing Programs

Government Code section 65583(c) requires the housing element to contain programs that set forth a schedule of actions that the local government is undertaking or intends to undertake to implement the policies and achieve the housing element's goals and objectives.

While the Draft describes nineteen programs intended to address the goals and policies of the County's 6th Cycle Housing Element for the 2021-2029 planning period, it should ensure that there are specific timelines for each program, as well as specific action steps to implement each program and proposed measurable outcomes. Draft, 5-5 to 5-16.

Program 4 – Short-Term Rentals

The Draft should describe the proposed planning process, public outreach, and study in more detail. Draft, 5-8.

Program 6 – Rental Assistance

The Draft should describe the program's continuing implementation of federally funded programs in more detail. Draft, 5-9.

Program 8 – Public Housing Modernization Program

The Draft should describe how candidate sites will be identified, as well as how many. Draft, 5-9. It should also include actions to prevent or mitigate the displacement of current residents.

Program 16 – Code Enforcement

The Draft should provide a list of other existing code enforcement programs and activities in addition to the Community Clean Up Program and Proactive Community Enforcement Program. Draft, 5-13 to 5-14. It should also include actions to address any racial or other disparities in the County’s code enforcement program.

No Programs to Address Eviction and Displacement

The Draft identifies the threat of eviction as a serious housing issue affecting County residents. Draft, 2-49 (“Without additional eviction restrictions and other financial assistance (at national, state, or local levels), the vacancy rate is expected to increase as well as rates of overcrowding and homelessness.”) And public comments received for development of the AI repeatedly and consistently identified eviction as one of the primary housing issues affecting community members. Draft, 1-5 to 1-6, 1-27 to 1-28. But the Draft does not include any policies or programs regarding local eviction protections, financial support for tenants at risk of eviction, or legal support to help tenants stay in their homes. As such, it does not include adequate programs to “conserve and improve the existing affordable housing stock.” Gov. Code, § 65583(c)(4). Such programs are likely also necessary to affirmatively further fair housing; but, as discussed above, the Draft does not analyze the fair housing impacts of eviction. Gov. Code, § 65583(c)(5), (10).

Additionally, the Draft does not include programs to address overcrowding, overpayment, or displacement risk in the unincorporated portion of Fontana, all of which were identified as fair housing issues in the Draft’s assessment of fair housing.

IX. Public Participation

The Draft does not reflect a “diligent effort by the local government to achieve public participation of all economic segments of the community in the development of the housing element.” Gov. Code, § 65583(c)(9). The Draft, which the County did not make available to stakeholders or the public for review and comment before submitting it to HCD, does not reflect any outreach efforts specific to the development of the housing element. It relies primarily on community meetings, a community survey, and stakeholder interviews conducted for development of the Analysis of Impediments of Fair Housing Choice (AI); all of these were conducted in 2019 or before. Draft, 1-1 to 1-33. The Draft also references the 2020 homeless point-in-time count and a homeless strategic plan process from 2021. But it does not reflect any outreach regarding past housing element programs, potential constraints on housing for people with disabilities, or the site inventory; nor does it reflect any outreach to obtain input regarding housing needs or fair housing issues since the beginning of the COVID-19 pandemic. Draft, 1-1 to 1-35. It does not reflect any effort to obtain input from “. . . advocacy groups (local, regional, and state level), community members who are lower income, persons and households with special needs, members of protected classes, representative advocacy organizations and other similarly interested parties” See Draft, 1-19 to 1-20 (list of stakeholders that participated in the AI process). It does not reflect any effort to obtain input from legal services organizations like ICLS or from grassroots and nonprofit advocacy organizations that are active in the County

on housing and environmental justice issues. It also does not reflect an adequate effort to conduct outreach to residents with limited English proficiency, even though 42.1% of County residents speak a language other than English at home.⁴ It does not identify any meetings that were conducted in Spanish, and it states that the AI community survey received zero (of 302) responses in Spanish. Draft, 1-31. It does not analyze why the County's efforts failed to obtain input from Spanish speakers or describe targeted efforts to ensure Spanish speakers were able to participate in the development of the AI or the housing element. See AFFH Guidance, 21-22.

Conclusion

As addressed above, the County of San Bernardino's Draft 6th Cycle Housing Element does not substantially comply with Housing Element Law.

If you have any questions or would like to discuss our comments, you may contact Sharilyn Nakata by phone at 951-368-2584 or by email at snakata@icls.org, or Melissa A. Morris by phone at 408-692-4320 or by email at mmorris@pilpca.org.

Sincerely,



Sharilyn Nakata
INLAND COUNTIES LEGAL SERVICES, INC.



Melissa A. Morris
PUBLIC INTEREST LAW PROJECT

CC: Karen Watkins, Planning Manager (karen.watkins@lus.sbcounty.gov)

⁴ See <https://www.census.gov/quickfacts/fact/table/sanbernardinocalifornia/AFN120212>.

June 6 202
Kerrie Aley

SBC Planning Commission-
Public Comment on Housing Element & Technical Report

Reference:

[HCD Comment Letter](#)

[Countywide Plan Policy Plan- Revised Draft Housing Element- May 2022](#)

[Countywide Plan - Housing Element Revised Draft Technical Report - May 2022](#)

Comments on Housing Element Technical Report

1. Community Outreach/Needs

While there are four Planning Areas in the Morongo Basin described in the Housing Element Technical Report-Community Outreach/Needs- only Joshua Tree was addressed.

The Technical Report fails to mention Homestead Valley, Pioneertown, and Morongo Valley outreach ,“Greatest Needs” or Fair Housing Issues. This report should be updated with community outreach and stated issues of concern for these omitted areas.

It should be noted that Joshua Tree, Pioneertown, Homestead Valley and the Morongo Valley all are areas that have lost a large number of homes due to the proliferation of Short Term Vacation rentals.

2. Employers

Housing Element fails to include large area employers The 29 Palms Marine Base, Copper Mountain College and Joshua Tree National Park jobs. The omission of this information affects the access to jobs and transportation topics brought up in the Housing Element.

3. Constraints/ Vacancy Rate

The US Census considers Short Term Rental homes as vacant.

However in many areas of the Morongo Basin there is no USPS delivery and the Census Bureau does not mail to P.O. boxes. SBC has no vacancy rate shown for the Pioneertown Planning Area.

The vacancy rates shown for Joshua Tree 23%, Homestead Valley 36% and Morongo Valley 28% were obtained from an American Community Survey.

The rolling 5-year vacancy rate estimates from the ACS are "period" vacancy rate representing data collected over a period 2009-2020 and averaged.

The vacancy rates shown in this report need to be further analyzed to factor in the impact of no USPS mail service and the growth of STRs rates between 2016-2022 (when most of the growth in STRs occurred).

The 5-year estimates from the ACS are "period" estimates that represent data collected over a period of time. The primary advantage of using multiyear estimates is the increased statistical reliability of the data for less populated areas and small population subgroups. While this method might provide some reliability for rural areas it produces inaccurate numbers when large numbers of homes are converted into STRs at a rapid and changing rate.

The Housing Element should add the missing vacancy numbers for the Pioneertown Planning Area.

SBC has stated that they intend to-*“Through the implementation of Program 4, the County will evaluate and address the potential impact of short-term rentals on the availability and/or affordability of housing in the unincorporated areas. The County will also, through Program 4, ensure that no short-term rentals are counted toward the County’s RHNA allocation.”*

In order to “evaluate and address the impact of short-term rentals” this Housing Element must be updated to show a more accurate picture of true “housing” vacancy rate (excluding STRs) and not a 5 year rolling estimate.

Vacancy Status for Select Unincorporated Census Designated Places					
Unincorporated Place	Total Units	Total Vacant	Percent of Total Units that are Vacant and...		
			For Rent/Sale	Seasonal/Rec	Other
Valley Region CDPs	13,899	7%	3%	<1%	3%
Bloomington	6,352	10%	6%	0%	4%
Mentone	3,451	3%	2%	0%	1%
Muscoy	2,800	3%	1%	1%	2%
San Antonio Heights	1,296	9%	5%	1%	3%
Mountain CDPs	23,303	59%	4%	52%	4%
Big Bear City	7,575	58%	2%	55%	2%
Crestline	3,685	51%	5%	38%	9%
Lake Arrowhead	8,529	71%	5%	63%	3%
Lytle Creek	131	27%	7%	20%	0%
Oak Glen	17	9%	0%	9%	0%
Running Springs	2,158	57%	4%	49%	4%
Wrightwood	1,208	44%	5%	34%	5%
North Desert CDPs	2,885	15%	3%	8%	4%
Homestead Valley	778	36%	3%	26%	7%
Lenwood	195	14%	7%	3%	5%
Lucerne Valley	707	25%	3%	14%	7%
Mountain View Acres	65	5%	4%	0%	2%
Oak Hills	298	9%	2%	4%	3%
Phelan	520	10%	1%	4%	5%
Spring Valley Lake	322	10%	4%	6%	1%
East Desert CDPs	1,478	25%	3%	18%	4%
Joshua Tree	923	23%	2%	18%	3%
Morongo Valley	555	28%	5%	17%	5%

Source: American Community Survey, 2019 5-Year Estimates; figures subject to rounding.

4. Housing Constraints - New Development

The Housing Element Technical Report fails to identify constraints to development within the Planning Areas of Joshua Tree, Homestead Valley, Pioneertown and Morongo Valley.

Here is a list of SBC “Constraints to Development” and the areas I believe are impacted. This is not a complete list, only an example with my limited knowledge and time to verify.

Constraints-

Wells and Sewer Connections- Per this technical report- “New development may only use a well if the underlying aquifer is not in a state of overdraft. “
Area impacted- Pioneertown, parts of Joshua Tree-Homestead Valley and Morongo Valley.

Septic Systems- Area without access to sewer systems.
Area impacted- Joshua Tree, Pioneertown, Homestead Valley and Morongo Valley.

Environmental Hazards Earthquake Fault zones
Area impacted- Homestead Valley, Pioneertown

Liquefaction and landslides Dam and basin inundation & Flood zones
Area impacted- Pioneertown, Joshua Tree, Homestead Valley and Morongo Valley.

Fire hazard severity

Area impacted-Pioneertown

Open space/conservation

Area impacted- Pioneertown, Joshua Tree, Morongo Valley, Homestead Valley

Infrastructure Systems- Areas inaccessible to utilities-power/water.

Area impacted- Pioneertown, Joshua Tree.

Groundwater basins Wastewater treatment capacity**Onsite wastewater restrictions**

Area impacted- Pioneertown, Homestead Valley, Joshua Tree

Well Water- Diminishing groundwater / Quality

Area impacted- Pioneertown, Joshua Tree, Morongo Valley.

Per this very Housing Element Technical Report-

“The County identified areas of the County where growth was optimal and supported by local communities, and where growth was constrained by one or more of the factors listed above. These factors can be found in policy maps associated with the following Policy Plan Elements: Infrastructure & Utilities, Natural Resources, Hazards, and Personal and Property Protection. Despite the magnitude and extent of these environmental and infrastructure limitations, and despite the federal government owning or controlling nearly 90% land in the county, sheer size of San Bernardino County (over 20,000 square miles) means that the amount of vacant and developable land is still larger than the amount of land within most large cities in southern California. Most of the land, however, would require substantial extensions of roads, sewer systems, and water systems to support any substantial amount of new housing.”

“New residential developments in the North and East Desert regions are more likely to encounter restrictions due to proximity to areas owned or controlled exclusively for open space or as sensitive areas for biological resources. “

Conclusion-

SBC is allowing large numbers of Short Term Rentals in areas where there already are significant constraints to development.

As a result our communities have lost a large number of available affordable housing units..... in areas SBC's own Land Use Element and Housing Element admits little new development can or should occur.

The only way SBC can “address” the loss of housing in these areas..... is a significant cap on the number of short term rentals and an alternative plan for affordable housing adjacent areas more suited

Kerrie Aley
Pipes Canyon



June 28, 2022

County of San Bernardino

Land Use Services - Jessie.Bruckhart@lus.sbcounty.gov

State Department of Housing and Community Development - reid.miller@hcd.ca.gov

Via email

6/28/2022

Dear Reader,

We appreciate the opportunity to comment upon and provide observations on the June 2022 San Bernardino County draft Housing Element:

http://www.sbcounty.gov/uploads/LUS/HousingPlans/JUNE_DRAFT_FOR%20HCD/HousingElement_CWP_TechReport_Draft_2022_June.pdf

We are pleased to see within this current draft that the timeline for implementation of Program 4 has been moved up. This accelerated timeline is appropriate for beginning to acknowledge and address the severe effects of the unbridled introduction of Short Term Rentals (STRs) within the unincorporated areas of the county. The current 45 day pause in the issuance of new STR permits provides space where the actions described with Program 4 can begin, however will be insufficient to complete the studies needed to fully understand the scope of the issue associated with STRs.

The changes we see in this written document of the Housing Element are very positive, however we believe these changes should be implemented prior to adoption of the Housing Element after this round of State HCD review. The Program 4 studies, including the study on displacement, must to be initiated, along with the creation of ad hoc community committees in the STR-affected community plan areas, PRIOR to approval of this Housing Element by the Planning Commission and adoption by the Supervisors.

Following are general comments based upon the “**highlighted**” notes made by Colin Drukker of Placeworks on the February 7, 2022 letter by HCD to the County on the Draft Housing Element. (In some cases we were not able to read the entirety of the notes that refer to changes made within the June 2022 Housing Element Technical Report) :

Post Office Box 24, Joshua Tree CA 92252 – www.mbconservation.org

MBCA is a 501(c)3 non-profit, community based, all volunteer organization

http://www.sbcounty.gov/uploads/LUS/HousingPlans/JUNE_DRAFT_FOR%20HCD/sbdSanBernardinoCouDraftOut020722_CountyResp.pdf

Here is the updated section that reviews the changes that Placeworks has made due to the last round of comments. We have included the updated changes to the County's Housing Element Technical Report (in italics) so that the readers of our MBCA letter benefit from seeing the sections that discuss the housing concerns related to STR saturation in one location together, in a relatively "accessible" document (our MBCA letter) as opposed to having to find these sections in the very large Tech Report.

On page 1-37 of the June Technical Report:

During the 14 days of public review, the County received eight comment letters, including representatives from the Inland Counties Legal Services, Morongo Basin Conservation Association, Peoples Collective for Environmental Justice, Sierra Club, and several residents from East Desert communities. The County considered these comments over the course of two weeks and made the following types of revisions:

- ♣ Data corrections and clarifications (e.g., incorrect figures or notes on sources)*
- ♣ Clarifications on the amount and nature of public outreach*
- ♣ Expedited dates, additional narrative, and refinement of Program 4. Short-term Rentals*

"Displacement" section of the HCD comment letter.

We were not able to see the entirety of the highlighted Drukker note. We agree with Drukker's note per their changes to 1.3.5. The changes now make it clearer that the community is very concerned about issues with short term rentals. The large number of residents, and a surprising number of non-residents, that answered the county survey indicates the widespread concern about the effects of so many STRs in the community.

We have copied the corrected narrative from the Tech Report that now emphasizes the concerns on housing impacts due to so many STRs during public outreach meetings:

On page 1-35 of the June Technical Report:

Of the roughly 1,700 respondents, roughly a third or more expressed some level of concern on every issue. Many of the issues relate to nuisance concerns (e.g., noise) and a request for greater regulation and/or code enforcement. Other issues (e.g., impact on roads) relate to concerns over greater population impacting infrastructure. One issue relates closely to the provision of suitable housing stock: concerns on short-term rentals reducing long-term rental options. Roughly 40% of Desert region respondents and 35% of Mountain region respondents indicated that they were concerned about this issue.

Additional public input from Desert region residents received during the distribution of the draft Housing Element reiterated this concern.

On page 1-36 of the June Technical Report:

Unincorporated residents also expressed concern about the persistent popularity of short-term rentals, both in terms of nuisance issues and the potential negative impact on the supply of affordable longterm housing for lower income residents and employees. To bolster the County’s recent modifications to limit the development of short-term rentals to the Mountain and Desert areas (see str.sbcounty.gov), public input directly influenced the creation of Program 4 to evaluate the potential impacts of short term rentals on the supply of affordable housing and the local hotel industry.

In parallel, unincorporated residents across a broad range of communities communicated a desire for more rental housing opportunities and rental assistance—particularly during the outreach for the Consolidated Plan and Analysis of Impediments to Fair Housing. In addition to influencing Program 4, this input encouraged the County to include a program in the Consolidated Plan and Programs 7 and 8 in this Element to support the development and modernization of affordable rental housing, including projects located near job centers that will be affordable to service employees and other low-wage members of the workforce. While the initial quantified objective is relatively small, the County is looking for additional funds and opportunity sites to bolster its efforts.

See below for inconsistencies in dates for implementation of Program 4.

“Assessment of Fair Housing Issues” highlighted note of the HCD comment letter. This change continues to better report the concerns over housing related to so many STRs in the community.

On page 2-89 of the June Technical Report, added:

Related Outreach

The County received public input related to disproportionate need and displacement related to overpayment, homelessness, and displacement. Input on overpayment and displacement were most commonly cited together in connection with the surging popularity of short-term rentals, with members of the public expressing strong concern in the Mountain and Desert regions that property owners have been converting a sizable portion of the long-term rental housing stock to short-term rentals, which is cited as a problem for some long-time residents, lower wage workers, and businesses that employ lower wage workers. Public input on homelessness highlighted the need to address the root causes of homelessness and expand homelessness prevention and housing programs, both related and unrelated to COVID.

On page 2-91 of the June Technical Report under **Homelessness**, (we did not copy that section here due to its size.)

We are pleased to see more clarity and the acknowledgement that the Point In Time Count was not fully accurate, as the many people and families doubling up on couches or living in cars in friends' driveways was not included in the count, etc.

We have been informed by Morongo Basin ARCH that the point in time count was shifted one month due to COVID, and consequently previous arrangements had to be abandoned and re-scheduled affecting the accuracy of the count.

Under the Displacement Risk heading on Page 2-92 of the Tech Report the following was added:

Some public input stated that the tremendous popularity of short-term rentals (particularly in the East Desert region), is pushing out residents that previously occupied homes as long-term renters. As part of the County's short-term rental survey (2021-2022), roughly 650 residents from the Mountain and Desert regions expressed concern about the potential reduction in long-term rental housing due to the increase in short-term rentals. Additional anecdotal evidence was offered regarding a reduction in the number of monthly rentals being advertised and residents' statements that they know others who have had to find new housing.

Through additional analysis as part of Program 4 of the Housing Strategy, the County will evaluate the prior tenancy history of homes that obtained short-term rental permits to better understand whether a substantial number of property owners are terminating or deciding against renewing leases with long-term tenants in order to convert the property to a short-term rental. The County will also evaluate the supply of rental properties (and at what rate) in locations where short-term rentals are popular.

While the above describes that a review of displacement is to be added to Program 4, the description of Program 4 found on page 5-8 makes no mention of displacement.

A study of displacement will require careful analysis. Within the Joshua Tree community, we recommend consultation with the Joshua Basin Water District to study the records of property ownership in this regard. The formation of ad hoc committees familiar with the individual communities would play an important role in establishing the effects of STRs on their community.

On page 2-93 of the June Technical Report:

The County considers short-term rental housing to be a potential contributor to increasing displacement risks in the Mountain and Desert regions, although the County must complete further study to confirm where and how many property owners are changing from long- to short-term rental patterns, as well as where and how many property owners are developing new housing units explicitly for use as a seasonal home

(by the property owner) and that is being made available to others as a short-term rental.

Referring to page 2-101 of the June Technical Report:

We are pleased to see the timeline moved up for study and caps by community plan area. The delineation of communities and neighborhoods is of utmost importance in the initiation of the studies described in Program 4. Some communities requiring studies may not have a pre-described community plan boundary and the boundaries of the study areas will need to be established.

The detailed description of Program 4 must include a displacement study as described in 2-92 of the Tech Report

Again, we appreciate the County listening to all the comments and accelerating the dates for the initiation and completion of Program 4. We do need to see that this great plan has been initiated with robust action, prior to the approval of the Housing Element by the County.

2.6.4 Contributing Factors on page 2-99 of the June Technical Report:

(This section refers to Table 2-34. There is no Table 2-34. Should be 2-33.)

Table 2-33 page 2-101

Factors that Contribute to Fair Housing Issues

Contributing Factors (High Priority)

Short-term Rental Housing: The prevalence of short-term rental housing, particularly in tourism areas, may constrict the availability of rental housing and increases rental prices even after County amendments in 2019. This can create an issue where lower income residents and employees lack access to affordable housing.

Meaningful Actions, Metrics, and Milestones

Conduct a public planning process to develop policies to limit the negative impacts of short-term, whole-home rentals on the availability of affordable long term rental housing (see also Program 4 in the Housing Strategy).

Timeline:

2022: Initiate a study to determine the current and projected impact of short-term rentals on the housing supply throughout the unincorporated county and on the motel/hotel businesses in the Mountain and Desert regions.

2023 Draft and bring forward an interim cap for consideration by the Board of Supervisors on the total number of short-term rental permits on an annual basis and/or

a percentage of total housing units within each community planning area in the Mountain and Desert regions

2023: Conduct public engagement to obtain insight from property owners, employers, and employees in target areas

2023: Conclude study and initiate implementation of strategies based on the study's findings

Metrics: Completed study and public input; new regulations on short-term rentals and incentive program to use properties for long-term rentals for local employees and lower income residents

We appreciate the County fixing the issue of removing the stand-alone STRs from the RHNA numbers. These details of what to include and what not to include in numbers and statistics must be addressed in depth, during the Program 4 study. For example, hosted STRs do not carry the same impact on housing as stand-alone (whole house) STRs, so the numbers must reflect these distinctions. Community members renting out a trailer or RV STR on their property is a potentially a source of extra income, and do not affect housing, but could affect surrounding neighbors. There are many issues to discuss, and that is why the Program 4 study also needs to include the creation of community-based ad hoc committees.

On page 3-24 of the June Technical Report:

Housing Constraints

Short-term Rental Permit

Short-Term private home rental permits are required for private homes, located in the Mountain and Desert regions, that are rented for periods of thirty days or less. Permits are required to ensure specific standards are met. Some of the requirements include a limitation of occupants and vehicles, 24-hour availability to resolve complaints, and compliance with relevant fire, building, zoning and health and safety codes. The following types of housing are not eligible for use as a short-term rental: multifamily structures, yurts, travel trailers, and RVs throughout any part of the unincorporated county; and any home in the Valley region. Through the implementation of Program 4, the County will evaluate and address the potential impact of short-term rentals on the availability and/or affordability of housing in the unincorporated areas. The County will also, through Program 4, ensure that no short-term rentals are counted toward the County's RHNA allocation. By their very nature, short-term rentals are not considered to be permanent housing options (by contrast monthly apartment rentals offer the ability to renew and occupy the same unit repeatedly). Accordingly, no analysis of the permitting process is provided.

On page 5-8 of the June Technical Report:

Program 4

Objective: Conduct a public planning process and study to determine the current and projected impact of short-term rentals on the housing supply throughout the unincorporated county and on the motel/hotel businesses in the Mountain and Desert regions. Establish and implement strategies based on the study’s findings. Update and resubmit 2018 through 2021 annual progress reports (APRs) and ensure that future reports account for units (ADUs, site-built homes, or manufactured homes) that apply for a short-term rental permit and communicate this information to HCD to remove such units from being counted as long-term housing units (at any level of affordability).

Timeframe: Initiate study in 2022 and complete public outreach and engagement in 2023, with a target completion date no later than 2023. Establish and begin implementation of recommended solutions by 2024 if the study’s conclusions support the establishment of incentives and/or a limitation (by region and/or for specific unincorporated communities). By March 2023, bring forward an interim cap for consideration by the Board of Supervisors on the total number of short-term rental permits on an annual basis and/or a percentage of total housing units within each community planning area in the Mountain and Desert regions. Update 2018-2021 APRs in 2022 and adjust future APRs annually to remove units used for short-term rentals.

The implementation date shown above is inconsistent with time frame described elsewhere. Implementation should be **2023**.

Program 4 as stated above does not include a study of housing displacement. This study is necessary and was committed to elsewhere by the County.

We are pleased to see a commitment by the County to revise past Annual Progress Reports to remove STRs from the RHNA numbers.

On page 5-18 of the June Technical Report:

5. Housing Programs

Short-term rental housing (see Program 4).

The County will conduct a public planning process to develop policies to limit the potential negative impacts of short-term, whole-home rentals on the availability of affordable long term rental housing. This study will be initiated in 2022, informed by public and stakeholder engagement completed by 2023, and concluded by 2024, followed by implementation of strategies based on the study’s findings.

The time frame associated with Program 4 is not consistent with the time frame stated in Table 2-33. The studies are to be completed and implemented in 2023.

“Local Knowledge and Data” and “Site Inventory” highlighted note of the HCD comment letter:

The incorporation of Community Plans within the Development Code would serve to provide insight on local knowledge and data. However, in October 2020, all 14 Community Plans were repealed by the County, thus hampering the incorporation of local knowledge and input into the decision making process. Given its huge size and diversity, the county must now rely upon input from ad hoc committees in local communities to gain needed insight into local conditions.

We believe incorporating local knowledge into the planning process would serve to promote appropriate development in this diverse county. We recommend that the existing planning commission be re-structured into 4 separate planning commissions: for the Valley region, the Mountain region, the North Desert region, and the East Desert Region.

In this regard pre-construction site inspections must be re-introduced during the permitting process for all construction projects. We are still seeing lot line to lot line clearing in violation of codes, as well as piles of destroyed bladed yuccas. The requirement for pre-construction inspections is written in the Development Code still, in areas with sensitive desert plants: Joshua trees, Mojave yuccas, and others. The code also dictates for dust control, that properties should only be cleared for the buildings, driveways and immediate yards.

These impacts from the increase in development driven by the STR market must be analyzed by the County in a proper EIR analysis of the “Project” under CEQA.

“Consistency with General Plan” highlighted note of the HCD comment letter:

On page 1-1 of the June Technical report:

1.2 General Plan Consistency

State law requires that “the general plan and elements and parts thereof comprise an integrated, internally consistent, and compatible statement of policies.” The purpose of requiring internal consistency is to avoid policy conflict and provide a clear policy guide for the future maintenance, improvement, and development of housing within the unincorporated county.

The County completed an update to its Policy Plan (October 2020), shortly before embarking on the update of its Housing Element. The Policy Plan update included policies that address topics such as complete streets requirements, environmental justice policies and actions, flood hazards and management, and climate adaptation and resiliency. All elements of the County Policy Plan (which serves as its “general plan”) have been reviewed for consistency in coordination with this Housing Element update, and the County will continue to maintain consistency within the entire Policy Plan.

There continues to be an inconsistency between the existing STR ordinance and the County Wide Plan (CWP) that will only be resolved with the implementation of Program 4. Part of the Program 4 study and ad hoc committees should include review of the STR policies as well as the CWP policies for improvement of language.

We appreciate the work to tidy up the percentages and information in this section.

On page 1-1 of the June Technical report:

2.2.3 Housing Tenure and Vacancy

A number of unincorporated communities in the Desert region also contain a substantial amount of vacant housing, with roughly one in four units sitting vacant for at least part of the year. In Joshua Tree, for example, of the estimated 900 to 1,000 total vacant units (23% of all units in Joshua Tree), over 700 or 18% of all units are for seasonal, recreational, or occasional use. In Homestead Valley, roughly one in three units (778) sit vacant for at least part of the year, most of which (563) are for seasonal, recreational, or occasional use.

The above illustrates the importance of relying on accepted current data. Following is a link to an article that was published in the Desert Sun following the June 14 Board of Supervisors hearing and vote that provides insightful data. During the course of comments being accepted on STRs many different data sets were referenced. Detailed data sets were presented by community members who have been tracking the proliferation of STRs, AirDnA has been referenced and the County's own numbers have been utilized. It is critical that transparent, reliable and creditable data be used for Program 4.

<https://www.desertsun.com/story/news/2022/06/14/san-bernardino-county-pauses-new-short-term-rental-permits-joshua-tree-big-bear/7611599001/>

As written on page 2-49 of the Technical Report:

Since 2020, the popularity of short-term rentals has expanded substantially, with thousands of short-term rental permits issued throughout the Mountain and Desert regions. It is unclear exactly how many of these units were previously occupied by long-term renters, how many are maintained as seasonal homes for the property owner (who also makes the units available as short-term rentals), and how many are owned by companies/investors that operate the units exclusively as short-term rentals.

The above analysis must be included within the studies to be undertaken in Program 4.

Continuing on page 2-49 of the Technical Report:

Both the Mountain and Desert regions are popular tourist destinations that draw people from around the nation. The Mountain region in particular contains several resorts with workers earning lower incomes that need seasonal or full-time housing. The Desert

*regions offer their own unique tourist experience, with communities in the East Desert offering nearby access to Joshua Tree National Park. Based on public outreach input, some of these workers have difficulty finding housing due in part because of the prevalence of short-term rentals, which can also cause problems for local businesses that struggle to maintain a workforce. **Concerns expressed in the Desert region related more to noise issues associated with short-term rentals, though some residents also indicated that short-term rentals may impact the ability of some (e.g., students attending Copper Mountain College) to obtain nearby and/or affordable housing.** Other public input indicates that the short-term rental market may have already reached or be reaching a saturation as bookings decrease and some property owners complaining of failing to make adequate revenue.*

The bolded section above was removed within the current draft technical report. This information is needed to comprehend the on-the-ground effects of the housing crisis.

In conclusion we are pleased with many of the revisions made to the Technical Report and look forward to seeing these planning policies being reflected and acted upon by County decision makers of the Planning Commission and the Board of Supervisors.

We believe there must be meaningful actions taken to initiate the studies described within Program 4 prior to the adoption of the Housing Element.

The natural environment is delicate, sensitive, easily scarred and slow to heal. All land use and development decisions have to be made through the lens of the on-going effects of climate change. The desert floor (flora and fauna) must be respected for future generations to enjoy, and for the services of carbon sequestration, dust control and flood prevention. Smart development must be in-scale and in character with the Desert for residents and tourist's enjoyment. Encouraging and allowing conversion of over 20% of our once-affordable housing stock into tourist lodging businesses in residential zones in just three years, led to displacement of many community members of different economic levels (low and middle income) with a population drop and then the knock-on effect of inflating the housing market and rental market out of reach of the majority of remaining residents of all economic levels – a perfect storm of policy being written for one county department, but then not being followed by another. This disconnect cannot be allowed to continue.

Thank you for your consideration.

Steve Bardwell, President MBCA

Janet Johnston, director MBCA

cc gary.hallen@cdh.sbcounty.gov

PlanningCommissionComments@lus.sbcounty.gov

COB@sbcounty.gov

Dawn.Rowe@bos.sbcounty.gov

**Comments on
Revised Draft Housing Element Released for Public Review- May 23.2022
Debra Douglas, Resident of Joshua Tree, CA May 25, 2022**

Provided to County of San Bernardino Planning Commission and

Paul McDougall

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT DIVISION OF HOUSING POLICY DEVELOPMENT

County Program 4 is in black, resident comments are in green italics.

Program 4. Short-term Rentals

The proliferation of short-term, whole-home rentals can reduce the amount of available rental housing (particularly that which is affordable) for people who work in a seasonal and permanent basis in the Mountain and Desert regions (and drive up the cost of housing in the Valley region).

Short Term Rentals (STR) HAVE reduced affordable housing for working residents in the Morongo Valley, including 29 Palms, Wonder Valley, Joshua Tree, Yucca Valley, Landers and Morongo. There are months when there are ZERO rentals are listed for sale in the local paper. This is compared to years past when there were dozens of available rentals. This drives cost of living, displacement of families, loss of safe neighborhoods, cost of social services and environmental costs.

Short-term rentals

may also have a negative impact on local hotel/motel businesses. The County permits private homes, including ADUs, to serve as short-term rentals in the Mountain and Desert regions (maximum stay of 30 days). In the Valley region, private homes or ADUs must be rented for a term longer than 30 days. To increase the availability of long-term housing options, the County will conduct a public planning process and a study to determine if the County should establish a limit on the number of private homes or ADUs that can be developed and used as short-term rentals in the Mountain and Desert regions.

There has already been input that has been largely ignored by the County from residents regarding short term rentals. They have not made their consultants accountable to the residents or even provided transparent communication with them. The need is for speed, rather than being given additional time while residents are losing housing.

-Limits should not be regional, but by neighborhood and by density within that neighborhood. STRs should not be allowed to be developed from the ground up unless in a commercial zone. STRs should not include both a house and an ADU that are both rented out as STRs. There should be no more than 5% STRs per 640 acres, to preserve affordable rental housing. Preserving rental housing is a goal in another section of the Housing Plan that has not been made accountable when issuing STR permits. There is no financial incentive to the County, who receive taxes and permit fees. This needs to be evaluated so the County can receive revenue needed for administration, but not to the detriment of the residents it serves.

-There should be no corporate ownership of STRs. Individual homeowners who have at least 5 years residency, who have contributed to the area through work and forming businesses should have priority. Corporate ownership of STRs does not benefit the local community and takes the vacation dollars or rent away from the local area, just like corporate ownership of housing is now doing.

The study should also evaluate the potential effectiveness of various incentives to encourage long-term rentals, particularly for local employees and lower income residents. If the study identifies a significant

negative effect on the supply of affordable rental housing and/or motel/hotel industry, the County will establish incentives to encourage long-term rentals and/or limit the number of total and/or new short-term rentals that can be permitted in the Mountain and Desert regions.

It is unlikely the County has enough money to provide meaningful subsidies. The more effective response is to limit the amount of permits. Homeowners who convert to STRs are making significant profits and a small incentive will not stop the conversions, which can be seen in towns and cities across the world, no need for additional local study.

Objective: Conduct a public planning process and study to determine the current and projected impact of short-term rentals on the housing supply throughout the unincorporated county and on the motel/hotel businesses in the Mountain and Desert regions. Establish and implement strategies based on the study's findings. Update and resubmit 2018 through 2021 annual progress reports (APRs) and ensure that future reports account for units (ADUs, site-built homes, or manufactured homes) that apply for a short-term rental permit and communicate this information to HCD to remove such units from being counted as long-term housing units (at any level of affordability).

Responsibility: Community Development and Housing, Land Use Services

Funding Source: General Fund

Timeframe: Initiate study in 2022 and complete public outreach and engagement in 2023, with a target completion date no later than 2024. Establish and begin implementation of recommended solutions by 2024 if the study's conclusions support the establishment of incentives and/or a limitation (by region and/or for specific unincorporated communities); update 2018-2021 APRs in 2022 and adjust future APRs annually to remove units used for short-term rentals.

Timeframe: Completion date no later than June 2023, since much of the work to understand STRs has already been done locally, nationally and worldwide. Staff can incorporate what other communities have learned and can benefit our County.

June 6, 2022

TO: Gary Hallen, Director Community Development and Housing Department County of San Bernardino
385 North Arrowhead Ave., 3rd Floor San Bernardino, CA 92415-0043

Cc: Paul McDougall, Senior Program Manager, DEPARTMENT OF HOUSING AND COMMUNITY
DEVELOPMENT DIVISION OF HOUSING POLICY DEVELOPMENT 2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833

Mr. Hallen and Mr. McDougall,

The State Housing and Community Development (HCD) requested in their 2/7/22 letter to the County of San Bernardino (SB County) more clarity on specific points relevant to the Housing Element.

Regrettably, it is all-to-apparent that the County's effort to provide clarity and substance to their previous Housing analysis has failed to address the following concerns noted by HCD:

- **Housing Needs, Resources, and Constraints**
- **Public Participation**
- **Consistency with the General Plan**

Critique #1: **Housing Needs, Resources, and Constraints** have changed drastically since 2019. *There are now at least 5200 short term rentals in SBC – that were **not** in existence in 2019.* This change has seriously affected the rural and tourism-centered communities of both the Mountain and Desert Regions of the county. Furthermore, in spite of the numerous and well-documented effects upon available housing stock, affordability, housing values, special needs populations, senior citizens, neighborhood dynamics, employment, small businesses, etc., -- short term rentals have been, and continue to be granted permits by SBC.

Therefore, SBC's response is woefully lacking relevant data.

Critique #2: **Public Participation** -- Public input was solicited by San Bernardino County in 2019. Input from this period is referenced in SBC's *Countywide Plan-Housing Element Revised Draft Technical Report -May 2022*.

However, it is important to note that SBC has failed to solicit additional input since 2019 (with the exception of the current two-week input period ending June 6, 2022). Additionally, data referenced in the County's revised *Technical Report-May 2022* is **not indicative** of public perceptions about the effects of the county's unchecked STR explosion and the consequential housing crises affecting communities throughout SBC.

In short, MUCH has changed since SBC collected these data in 2019.

Critique #3: SBC has (1) failed to address housing changes associated with the STR explosion within the context of the **General Plan**, and furthermore (2) has eliminated all individual Community Plans in those unincorporated communities most affected by the STR explosion. SBC also (3) engaged in changing zoning definitions and in softening restrictions in those same areas. (4) SBC has failed to channel TOT revenues back into affected communities and neighborhoods that could have been used for

infrastructure needs and/or repair and access provisions for needy individuals and families. (5) SBC has failed to inventory, survey and document economic and social effects upon communities, (6) SBC has failed to adequately staff Code Enforcement (CE). This failure has egregiously forced CE officers to demand that evidence of housing grievances (e.g.: violations of STR Code) needed to be documented by complainants (i.e.: neighbors informing on neighbors).

In summary, these are grievous shortcomings that the administration of the largest county in the state *are well aware of*. My recommendation is that HCD needs to address these issues by whatever means are available to them.

To many people in San Bernardino County have been and continue to be exploited by the county's drive to generate revenue from short term rentals.

Sincerely,

A handwritten signature in blue ink, appearing to read "Gary M. Stiler", with a long horizontal stroke extending to the right.

Gary M. Stiler, PhD

8524 Little Morongo Rd.
Morongo Valley, CA
909-362-2016



June 6, 2022

Sent via email

San Bernardino County Board of Supervisors
San Bernardino County Planning Commission
385 N. Arrowhead Avenue
San Bernardino, California 92415
COB@sbcountry.gov
PlanningCommissionComments@lus.sbcountry.gov

Re: Comments on Proposed Short-Term Rental Ordinance, San Bernardino County General Plan, and Draft Housing Element

Dear San Bernardino County Board of Supervisors and Planning Commission:

We are writing to ask that San Bernardino County (“County”) temporarily pause the issuance of new short-term rental (“STR”) permits to allow study and consideration of the impacts of STRs on communities, housing, and the environment so that appropriate policies and regulations can be adopted. More specifically, we ask that the County (1) conduct an environmental review of the Proposed Short-Term Rental Ordinance (“Proposed STR Ordinance”) consistent with the County’s obligations under the California Environmental Quality Act (“CEQA”); (2) prepare and circulate a supplemental environmental impact report (“EIR”) for the County’s General Plan reflecting the significant changes in circumstances wrought by the explosion of STRs over the past two years; (3) adopt a Housing Element that does not inappropriately count STRs towards the County’s housing allocation and goals, and complies with state housing law; and (4) acknowledge the housing displacement and harm to unincorporated communities of allowing the operation of so many investor-owned STRs, and bring the policies of the Proposed STR Ordinance into better balance and consistency with the Housing Element and General Plan to serve the needs of the community.

A. Background on the Morongo Basin Conservation Association and the Center for Biological Diversity

The Morongo Basin Conservation Association (“MBCA”) is a community-based non-profit that has dedicated 53 years to preserving the economic and environmental welfare of the Morongo Basin located in East Desert Region of San Bernardino County.

The Center for Biological Diversity (“Center”) is a non-profit, public interest environmental organization dedicated to the protection of native species and their habitats through science, policy, and environmental law. The Center has over 1.7 million members and online activists throughout California and the United States. The Center and its members have worked for many years to protect imperiled plants and wildlife, open space, air and water quality, and overall quality of life for people in San Bernardino County.

B. The Proposed Short-Term Rental Ordinance is A Project Requiring CEQA Review.

As explained in further detail below, the Proposed STR Ordinance¹ is a project requiring environmental review under CEQA. CEQA is California’s landmark environmental law, and was enacted to “take all action necessary to protect . . . [and] enhance the environmental quality of the state” and should be “interpreted . . . to afford the fullest possible protection to the environment within the reasonable scope of the statutory language...” (Pub. Res. Code § 21001(a); Cal. Code Regs. 14 § 15003(f).) One of the goals of CEQA is to require “assessment of environmental consequences where government has the power through its regulatory powers to eliminate or mitigate one or more adverse environmental consequences” of proposed projects. (*Friends of Westwood v. City of L.A.* (1987) 191 Cal.App.3d 259, 266-267.)

CEQA applies to any “project” that meets two elements. First, the “project” is a discretionary activity directly undertaken by a public agency or supported in whole or in part by the public agency. (Pub. Res. Code § 21080(a); 14 Cal. Code Regs § 15002(d).) Second, it is an activity that may cause a direct or reasonably foreseeable indirect physical change to the environment. (Pub. Res. Code § 21065; 14 Cal. Code Regs § 15378.)

The definition of “project” also extends to any public agency action that will not have an *immediate* effect on the environment, but still has the *potential* to result in a reasonably foreseeable indirect physical change in the environment. (Pub. Res. Code § 21065; 14 Cal Code Regs §15378(a); *Union of Med. Marijuana Patients, Inc. v. City of San Diego* (2019) 7 Cal.5th 1171, 1187; *Muzzy Ranch Co. v. Solano County Airport Land Use Comm'n* (2007) 41 Cal.4th 372, 381-382.) Public Resources Code section 21080(a) also provides that a project includes activities like a zoning ordinance.

¹ The Proposed STR Ordinance is the proposal to amend Title 8 of the San Bernardino County Code to add and amend various regulations in order to provide clarification and updates to Chapter 84.28 related to Short-Term Residential Rentals.

The Proposed STR Ordinance meets each of these elements.

First, the Proposed STR Ordinance is a discretionary activity/decision of a public agency. Under CEQA, a “discretionary” decision is one “which requires the exercise of judgment or deliberation when the public agency or body decides to approve or disapprove a particular activity, as distinguished from situations where the public agency or body merely has to determine whether there has been conformity with applicable statutes, ordinances, [or] regulations.” (14 Cal. Code Regs. § 15357.) Courts apply a “functional” test to determine whether an action is discretionary, focusing on whether “the agency has the authority to shape or condition the project in ways that are responsive to environmental concerns.” (*Friends of Juana Briones House v. City of Palo Alto* (2010) 190 Cal.App.4th 286, 302.)

Here, there is no requirement or ministerial duty that the Board or Planning Commission adopt the Proposed STR Ordinance. Instead, the Board and Planning Commission are considering whether to approve some version of the ordinance after an administrative process and deliberation. And even if the Proposed STR Ordinance somehow qualified as “hybrid” between a ministerial and discretionary decision, CEQA would still apply. (See *Friends of Westwood*, 191 Cal.App.3d 259, 271 [CEQA extends “to hybrid projects of a mixed ministerial-discretionary character; doubt whether a project is ministerial or discretionary should be resolved in favor of the latter characterization.”].)

Second, the Proposed STR Ordinance may result in a reasonably foreseeable indirect change to the environment. While the Proposed STR Ordinance in and of itself may not have an immediate effect on the environment, there is abundant evidence in letters, testimony, data, and evidence submitted to the County demonstrating the significant impact of STRs on communities and the environment. As outlined below in further detail, the construction and operation of STRs authorized by the ordinance have resulted and/or will result in increased noise and traffic, as well as increased greenhouse gas emissions and air pollution from thousands of people driving to them from communities many miles away. Construction and operation of STRs have also resulted in the destruction and disturbance of habitat for rare and/or endangered plants and wildlife. Construction and operation of STRs has caused impacts by improperly maintained or inadequately regulated septic tanks, including impacts to washes, water quality, and groundwater. There are also risks and impacts associated with construction and operation of STRs in flood zones, and lack of planning for access/egress/emergency routes and warning systems.

CEQA requires preparation of an environmental impact report or “EIR” whenever substantial evidence in the record supports a fair argument that a project may have a significant effect on the environment. (*Quail Botanical Gardens Found., Inc. v City of Encinitas* (1994) 29 Cal.App.4th 1597, 1602; *Friends of “B” St. v City of Hayward* (1980) 106 Cal.App.3d 988, 1002.) An agency may avoid preparing an EIR only if there is *no substantial evidence* in the record that the agency action may have a significant effect on the environment. (*Parker Shattuck Neighbors v Berkeley City Council* (2013) 222 Cal.4th 768, 785.)²

² And even then, a negative declaration must be prepared. (Pub. Res. Code § 21080(c)(1); 14 Cal. Code Regs. §§15063(b)(2), 15064(f)(3).)

Unfortunately, the County has taken the irrational and inconsistent position that (1) STRs are in fact causing environmental impacts, as well as contributing to the housing shortage, but (2) no environmental review under CEQA is appropriate. For instance, the County's own draft ordinance states:

Tourism has increased dramatically during the COVID-19 pandemic in the mountain and desert regions of the County, **resulting in a surge of new short-term residential rental listings and extraordinary short-term occupancy rates** in unincorporated areas of these regions. The increase in short-term residential rentals has further increased the housing shortage for long-term occupancy demands in the mountain and desert regions of the County. **Further, with the high increase in short-term occupancy rates, the County has received a record high number of complaints associated with the behavior of short-term residential rental guests, ranging from such things as noise, parties, events, over-occupancy and parking issues.** Limited public resources are severely taxed by the proliferation of illegal short-term residential rental units, which **impacts the health and safety** of the surrounding communities where that illicit activity occurs. Conditions have worsened so quickly for these communities that immediate action is urgently needed.³ (Emphasis added.)

A County staff presentation observes that “[s]econd homes and cabins in mountain and desert communities that used to be vacant much of the time are now occupied by a steady stream of short-term renters **who negatively impact local communities.**”⁴ (Emphasis added.) Even the text of the Proposed STR Ordinance acknowledges environmental impacts of STRs by purporting to regulate them; for instance, it tacitly acknowledges increased traffic impacts by including parking standards, noise impacts by regulating “loud and disturbing noise” (section 84.28.070(j)), fireplaces and attendant wildfire risk (section 84.28.070(k)), and impacts on wildlife associated with animal proof trash containers (section 84.28.070(k)(4)(1)).

Nonetheless, the County concluded that the Proposed STR Ordinance is “not subject to review” under CEQA because it would not result in a direct or reasonably foreseeable indirect physical change in the environment.⁵ The County provides no support for this claim. The County further asserts the ordinance would “minimize and reduce” environmental impacts, but does not support this assertion.⁶

³ San Bernardino County Urgency Ordinance No. 4408 (June 23, 2021), available at <https://sanbernardino.legistar.com/View.ashx?M=F&ID=9524356&GUID=A9ADBF85-AD2B-4A7A-B9EC-D11B074C9113>.

⁴ San Bernardino County, PowerPoint Presentation (June 22, 2021), available at <https://sanbernardino.legistar.com/View.ashx?M=F&ID=9506371&GUID=DC2AC824-53C5-4BBF-9EA7-081DA06CCB4F>.

⁵ Urgency Ordinance No. 4408 (June 23, 2021), available at <https://sanbernardino.legistar.com/View.ashx?M=F&ID=9524356&GUID=A9ADBF85-AD2B-4A7A-B9EC-D11B074C9113>

⁶ Report/Recommendation to the Board of Supervisors of the County of San Bernardino and Record of Action (June 22, 2021), available at <https://sanbernardino.legistar.com/View.ashx?M=F&ID=9548575&GUID=27A7903F-7B08-4A19-8A1D-15FB8288BDF5>.

The County instead claims that the Proposed STR Ordinance is simply an update to an existing ordinance and thus does not add any new environmental impacts and would instead decrease environmental effects.⁷ Yet, by its own terms, the Proposed STR Ordinance *expands* the universe of properties that may be converted into de facto hotels and/or commercial establishments by stating that the ordinance applies to condominiums and accessory dwelling units. More specifically, the new section 84.28.030(c) defines “dwelling unit” to include “any building” that contains living facilities, including, but not limited to “single family dwelling units, condominiums, accessory dwelling units, guesthouses, or any other accessory residential structure considered a dwelling unit.”⁸ A County staff report also states that the Proposed STR Ordinance is being amended “to provide clarification that a condominium unit is eligible for an STR permit.....”⁹

The Proposed STR Ordinance further has the potential to result in an increase in the number of illegal rentals as well as violations of existing health, safety, and noise standards by *reducing* the enforceability of the existing ordinance. The Proposed STR Ordinance removes section 84.28.080(a)(3), which previously allowed for remedies and enforcement provided in other portions of the County code or other laws. Under these revisions, community members who are bearing the brunt of environmental impacts caused by STRs will have fewer avenues to ensure even enforcement of existing standards.

The Proposed STR Ordinance also waters down enforceability by removing an existing provision allowing for suspension of an operating permit for multiple properties (See section 84.28.100(d).) In addition, the Proposed STR Ordinance waters down existing standards regarding animal proof trash containers (section 84.28.070(k)(4)(1)).

The Proposed STR Ordinance is a project under CEQA and has the potential to cause direct and indirect environmental effects. As such, a proper CEQA review is required.

C. An Increase in the Number of Short-Term Rentals Has the Potential to Cause Significant Environmental Effects.

As noted above, the County’s own reports document a litany of serious environmental impacts caused by the construction and/or operation of STRs, including increased traffic, noise, habitat destruction, groundwater and water quality impacts, and disturbance of community members as well as wildlife. As the County is aware, these and other environmental impacts have been raised to the County in comments and testimony on the Proposed STR Ordinance, Draft Housing Element, and other administrative processes.¹⁰ This evidence qualifies as “substantial evidence” that the Proposed STR Ordinance has the potential to cause a significant

⁷ See San Bernardino County Staff Report at p. 3 claiming the “common sense” exception applies and the ordinance would “decrease environmental effects associated with STRs.....” (Available at <http://www.sbcounty.gov/uploads/LUS/PC/LUSPCStaffReportAmendmentSTRs.pdf>)

⁸ Heidi Duron, *Interoffice Memo re Development Code Amend Various Regulations to Chapter 84.28 Related to Short-Term Residential Rentals* (March 3, 2022), available at http://www.sbcounty.gov/uploads/LUS/PC/Memo_PC_STR3322.pdf

⁹ San Bernardino County Land Use Services Department, *Planning Commission Staff Report* (February 3, 2022), available at <http://www.sbcounty.gov/uploads/LUS/PC/LUSPCStaffReportAmendmentSTRs.pdf>

¹⁰ *Id.*

effect on the environment. (See Pub. Res. Code §§ 21080(e) and 21082.2 [substantial evidence may include facts, reasonable assumptions predicated on facts, and expert opinions supported by facts].) There is additional evidence that the increased operation and construction of STRs will harm the environment, as documented below.

1. The Proposed STR Ordinance and STRs Have the Potential to Increase Wildfire Risk.

Fire is a natural and necessary ecological process for many different ecosystems within the region; however, increased human-caused ignitions and the expansion of flammable non-native grasses have led to increased fire activity in the area, which is harmful to numerous biological resources and people.

According to a report from Governor Gavin Newsom's Office, construction of more homes in the wildland-urban interface is one of the main factors that "magnify the wildfire threat and place substantially more people and property at risk than ever before" (Governor Newsom's Strike Force 2019). Syphard et al. (2019) found that housing and human infrastructure in fire-prone wildlands are the main drivers of fire ignitions and structure loss. This is not new information; scientists have been reporting it for many years in scientific, peer-reviewed journals, and firefighters have observed it.

As outlined in the Center's recent report, *Built to Burn*¹¹, increasing development in high fire-risk wildlands is putting more people in harm's way and contributing to a dramatic increase in costs associated with fire suppression and damages. Next 10 and UC Berkeley's recent report, *Rebuilding for a Resilient Recovery: Planning in California's Wildland Urban Interface*¹², likewise found that state and local land use policies are increasing the economic and human cost of wildfire by encouraging rebuilding in the high risk-wildland urban interface instead of focusing development away from fire-prone areas. Sprawl developments with low/intermediate densities extending into habitats that are prone to fire have led to more frequent wildfires caused by human ignitions, like power lines, arson, improperly disposed cigarette butts, debris burning, fireworks, campfires, or sparks from cars or equipment (Keeley et al. 1999; Keeley and Fotheringham 2003; Syphard et al. 2007; Syphard et al. 2012; Bistinas et al. 2013; Balch et al. 2017; Keeley and Syphard 2018; Radeloff et al. 2018; Syphard et al. 2019). Human-caused fires account for 95-97% of all fires in Southern California's Mediterranean habitats (Syphard et al. 2007; Balch et al. 2017). In some Southern California counties, Keeley and Syphard (2018) found that human ignitions were responsible for 98-100% of fires between 1919-2016. Leapfrog developments in high fire-prone areas have the highest predicted fire risk (Syphard et al. 2013), and multiple studies indicate that developments with low/intermediate-density clusters surrounded by fire-dependent vegetation (*i.e.*, grasslands, chaparral, scrub) in areas with a

¹¹ Tiffany Yap, et al, *Built to Burn: California's Wildlands Developments Are Playing With Fire* (Feb. 2021), available at <https://www.biologicaldiversity.org/programs/urban/pdfs/Built-to-Burn-California-Wildfire-Report-Center-Biological-Diversity.pdf>.

¹² Next 10 and UC Berkeley, *Rebuilding for a Resilient Recovery: Planning in California's Wildland Urban Interface* (June 2021), available at <https://www.next10.org/sites/default/files/2021-06/Next10-Rebuilding-Resilient-Final.pdf>.

history of fires have the highest chances of burning (Syphard et al. 2012; Bistinas et al. 2013; Syphard et al. 2013; Syphard et al. 2019).

The Proposed STR Ordinance has the potential to result in the construction of houses operated as hotels, infrastructure, and roads in high fire-prone areas that have burned in the past and will inevitably burn again. The County must properly analyze and disclose the evidence demonstrating that such development in high fire-prone wildlands may increase wildfire risk, disclose how STRs have the potential to contribute to wildfire risk, and consider alternatives and mitigation measures.

Power lines and electrical equipment are a significant source of human-caused ignitions (Keeley and Syphard 2018). The 2017 Thomas Fire, 2017 Tubbs Fire, 2018 Camp Fire, and 2018 Woolsey Fire were found to have been caused by electrical transmission lines and electrical equipment, and the 2019 Kincade Fire is suspected to have been caused by power lines as well. Placing STRs in high fire-prone areas would only increase the potential likelihood of these ignition sources, as has been documented in multiple scientific studies (Keeley et al. 1999; Keeley and Fotheringham 2003; Syphard et al. 2007; Syphard et al. 2012; Bistinas et al. 2013; Balch et al. 2017; Keeley and Syphard 2018; Radeloff et al. 2018; Syphard et al. 2019).

Although public utilities companies (*i.e.*, PG&E and Southern California Edison) are altering operations in the form of Public Safety Power Shutoffs and blackouts during extreme weather conditions (Callahan et al. 2019; Krishnakumar et al. 2019; Fry et al. 2019a), wildfires can still spark and spread quickly towards homes, as evidenced by the wildfires in Moraga (Hernández et al. 2019) and Saddleridge/Sylmar (Fry et al. 2019b). And the power outages themselves disproportionately burden our most vulnerable communities, including the elderly, poor, and disabled (Chabria and Luna 2019), and can cause traffic jams and collisions (CBS San Francisco 2019). Michael Wara, Director of the Climate and Energy Policy Program and a senior research scholar at the Stanford Woods Institute for the Environment, estimated that PG&E's power outage in Northern and Central California could have an economic impact of \$2.5 billion in losses, with most of the burden on businesses (Callahan et al. 2019).

We understand that currently the County does not even have regulations or policies in place to ensure that guests at existing STRs will be alerted in the event of a wildfire near an existing STR. Scott Tuttle—a San Bernardino County Fire Department Chief—remarked at a Homestead Valley Communities Council meeting on May 16, 2022 that there is no automatic alert system available to guests at STRs. This means that in the event of a fast-moving wildfire, guests of STRs may have little or no notice to evacuate, and thus may fail to evacuate at the appropriate time. A failure to evacuate at the appropriate time would likely unnecessarily endanger first responders and firefighters.

Even with proper evacuation plans in place (which is unclear here), a public safety or evacuation plan may not be enough to safeguard people, homes, and STRs from fires. Having warning systems and evacuation routes in place is important for fire preparedness and fire safety, but these are not guaranteed to function when a fire occurs. And wildfires may ignite with little or no notice, and, as mentioned previously, in severe weather conditions, wind-driven fires can spread quickly—they can cover 10,000 hectares in one to two days as embers are blown ahead of

the fires and towards adjacent fuels (e.g., flammable vegetation, structures) (Syphard et al. 2011). This occurred in the Camp Fire in Butte County, which spread at a rate of 80 hectares a minute (about one football field per second) at its fastest, and in its first 14 hours burned over 8,000 hectares (Sabalow et al. 2018). In these types of emergencies warning systems can be slow and ineffective at reaching all residents in harm's way, and planned evacuation routes may not be sufficient. These issues were observed during the Camp Fire, which led to at least 85 deaths and 13,000 burned homes (Sabalow et al. 2018), as well as in the Tubbs Fire in Sonoma County and Thomas Fire in Santa Barbara County and Ventura County, which led to more than 40 deaths and almost \$12 billion in property damage (Lundstrom et al. 2017; St. John 2017). Again, the lack of County oversight on this issue has the potential to lead to STR guests being unable to evacuate in a timely manner, endangering first responders who would likely need to assist in ensuring proper evacuation.

2. The Proposed STR Ordinance and STRs Have the Potential to Increase Traffic and Undermine California's Climate Goals.

As noted in numerous comment letters and the County's own reports, STRs are resulting in an increase in traffic and consequently in vehicle miles travelled ("VMT"). Moreover, as has been brought to the County's attention by community members, there have been significant traffic increases on previously private and unimproved roads. STR guests often travel via automobile from outside the region, generating significant VMT. In addition, the lack of affordable housing requires people who are employed in the mountain or desert communities to endure multi-hour commutes to get to their jobs, and/or has resulted the displacement of existing residents with lower-income residents particularly impacted. These commutes—which result in severe personal hardship—also increase traffic and VMT, undermining the state's climate goals. The County must fully analyze and disclose the traffic, VMT, and greenhouse gas ("GHG") impacts of the Proposed STR Ordinance and of the operation of STRs.

The County's failure to do this is a critical omission, given the central importance of reducing VMT in achieving the state's climate goals. As the California Supreme Court has observed: "the Scoping Plan . . . assumes continued growth and depends on *increased efficiency* and conservation in land use and transportation from all Californians." (*Center for Biological Diversity v. Department of Fish & Wildlife* (2015) 62 Cal.4th 204, 220.) More recently, the Fourth District Court of Appeal strongly affirmed the importance of reducing VMT in order to meet the state's GHG reduction targets, as described in the California Air Resources Board ("CARB") Scoping Plan. The Court explained:

[T]he 2017 CARB Scoping Plan . . . is the state's blueprint for meeting GHG emission reduction targets. (*Center for Biological Diversity, supra*, 62 Cal.4th at p. 220.) The Scoping Plan recognizes that in the past, "development patterns have led to sprawling suburban neighborhoods, a vast highway system, growth in automobile ownership, and under-prioritization of infrastructure for public transit and active transportation." The Scoping Plan states, "VMT reductions are necessary to achieve the 2030 target and must be part of any strategy evaluated in this Plan." [] The Scoping Plan emphasizes that "California must reduce demand for driving" and "lower-VMT future development patterns are essential to achieving public health, equity, economic, and conservation goals."

“Local land use decisions play a particularly critical role in reducing GHG emissions associated with the transportation sector

“While the State can do more to accelerate and incentivize these local decisions, local actions that reduce VMT are also necessary to meet transportation sector-specific goals and achieve the 2030 target under [Sen. Bill No. 32.] Through developing the Scoping Plan, CARB staff is more convinced than ever that, in addition to achieving GHG reductions from cleaner fuels and vehicles, California must also reduce VMT.”

VMT reduction is an integral part of California’s strategy to reach 2030 and 2050 GHG emission reduction targets.

(Golden Door Properties, LLC v. County of San Diego (2020) 50 Cal.App.5th 467, 543-44.)

The 11th annual California Green Innovation Index, which tracks the state’s annual progress in reducing GHG emissions found in 2019 that

[G]iven that transportation is by far the largest-emitting sector—and with most of the emissions coming from on-road light-duty passenger vehicles—the current upward trajectory of VMT and surface transportation GHG emissions [in California] cannot continue if the state is to meet its climate goals.

(Perry et al. 2019 at p. 31)¹³ As the Office of Planning and Research’s (“OPR”) Technical Advisory On Evaluating Transportation Impacts In CEQA states, meeting statewide targets for GHG reductions “will require substantial reductions in existing VMT per capita to curb greenhouse gases.” (Office of Planning and Research 2018, p. 9); see also (California Air Resources Board 2017, p. 75) [Scoping Plan stating that “VMT reductions are necessary to achieve the 2030 [GHG emissions] target.”].) To that end, OPR suggests that new land use projects achieve a 15% reduction of per capita VMT as compared to existing development. (OPR 2018 at p. 12 [“[A]chieving 15 percent lower per capita (residential) or per employee (office) VMT than existing development is both generally achievable and is supported by evidence that connects this level of reduction to the State’s emissions goals.”].

It is not clear that the County has conducted any analysis on how STRs or the Proposed STR Ordinance have the potential to increase traffic or VMT, and whether they undermine the state’s climate goals. The Proposed STR Ordinance should be withdrawn and the County should implement a pause on new STR permits until the County undergoes a public process studying these issues, as required by CEQA.

¹³ As of 2011, The transportation sector was the largest single contributor to California GHG emissions, accounting for 37% of all emissions; passenger vehicles accounted for almost three quarters of this total. (Bedsworth et al. 2011)

3. The Proposed STR Ordinance and STRs Have the Potential to Generate Increased Air Pollution and Public Health Impacts.

By increasing traffic and VMT, the Proposed STR Ordinance and associated STRs have the potential to generate increased air pollution and associated public health impacts. Air quality is a significant environmental and public health concern as unhealthy, polluted air contributes to many diseases and mortality rates. In the U.S., government estimates indicate that between 10-12 percent of total health costs can be attributed to air pollution. (Ventura County 2003) Many plants and trees, including agricultural crops, are injured by air pollutants. This damage ranges from decreases in productivity, a weakened ability to survive drought and pests, to direct mortality. (Ventura County 2003) Wildlife is also impacted by air pollution as the plants and trees that comprise their habitats are weakened or killed. Aquatic species and habitats are impacted by air pollution through the formation of acid rain that raises the pH level in oceans, rivers and lakes. (Environmental Protections Agency 2020) Greenhouse gases, such as the air pollutant carbon dioxide which is released by fossil fuel combustion, contribute directly to human-induced climate change. (Environmental Protections Agency 2020) In this feedback loop, poor air quality that contributed to climate change will in turn worsen the impacts of climate change and attendant air pollution problems. (BAAQMD 2016)

Some of the nation's most polluted counties are in Southern California with San Bernardino County continually topping the list. Air pollution and its impacts are felt most heavily by young children, the elderly, pregnant women and people with existing heart and lung disease. People living in poverty are also more susceptible to air pollution as they are less able to relocate to less polluted areas, and their homes and places of work are more likely to be located near sources of pollution, such as freeways or ports, as these areas are more affordable. (BAAQMD 2016) Pollution sources include transportation, industry and manufacturing, construction, the importation and movement of goods, and energy development. Transportation presents one of the most significant sources of pollution in urban areas, where large segments of the population are constantly exposed to roads and traffic. (BAAQMD 2016)

Although there are many different types of air pollution, Ozone, Fine Particulate Matter and Toxic Air Contaminants are of greatest concern in urban areas, particularly in Southern California. These three air pollutants have been linked to an increased incidence and risk of cancer, birth defects, low birth weights and premature death, in addition to a variety of cardiac and lung diseases such as asthma, COPD, stroke and heart attack. (Holmes-gen and Barrett 2016; Laurent et al. 2016) Ozone, also commonly referred to as smog, is created by the atmospheric mixing of gases resulting from fossil fuel combustion and other volatile organic compounds and sunlight. Although it is invisible, ozone poses one of the greatest health risks, prompting the EPA to strengthen its National Ambient Air Quality Standard for Ozone in 2015. (Holmes-gen and Barrett 2016) Fine Particulate Matter is generally found in urban areas as a result of vehicle exhaust emissions, and these microscopic particles are what contribute to visible air pollution. These tiny particles are dangerous because they are small enough to escape our body's natural defenses and enter the blood stream. Fugitive dust is a term used for fine particulate matter that results from disturbance by human activity such as construction and road-building operations. (VCAQR 2003) Fine Particulate Matter can also result from ash caused by forest fires, which will continue to impact those living in the urban-wildland interface and increasingly beyond as climate change exacerbates the risk of forest fires. (BAAQMD 2016) Toxic Air Contaminants

are released from vehicle fuels, especially diesel, which accounts for over 50% of the cancer risk from TACs. (BAAQMB 2016)

Increased traffic associated with the Proposed STR Ordinance and STRs have the potential to increase air pollution and public health impacts. And as mentioned above, community members have already informed the County that there have been significant increases in dust—which impairs air quality—generated by substantial traffic increases on unimproved roads due to the construction and/or operation of STRs. Local property owners who may have a road easement running through their property designed for one residence now have many times the amount of traffic due to the operation of STRs along the same unimproved road. A lack of adequate traffic planning and adequate traffic lights, stop signs, and turn lanes has also led to unsafe conditions and increases in traffic. San Bernardino County data on air pollution shows that the median air quality index is higher than any other county in the region.¹⁴ The County has an obligation under CEQA to analyze how the Proposed STR Ordinance and STRs may generate increased traffic, air pollution and associated public health impacts.

4. The Proposed STR Ordinance and STRs Have the Potential to Harm Biological Resources.

There is ample evidence already before the County that the conversion of so much existing housing into STRs—as well as the construction and proliferation of so many more additional STRs—has the potential to significantly impact biological resources. Impacts include the destruction of wildlife habitat for species listed or provisionally listed under the state and federal endangered species acts such as the Mojave desert tortoise and western Joshua tree. CEQA requires a “mandatory finding of significance” if there is substantial evidence in the record that a project or program may cause a “wildlife population to drop below self-sustaining levels; threaten to eliminate a plant or animal community; substantially reduce the number or restrict the range of an endangered, rare or threatened species” (Guidelines § 15065a)(1).) This means that “a project is deemed to have a significant impact on the environment as a matter of law if it reduces the habitat of a species, or reduces the number or range of an endangered, rare, or threatened species.....” (*Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 792 fn. 12 [citing *Defend the Bay v. City of Irvine* (2004) 119 Cal.App.4th 1261, 1273–1274].) CEQA also requires consideration of cumulative impacts; while constructing or operating one individual STR may not have a significant impact on biological resources or other environmental values, the construction and operation of hundreds or thousands of STRs could easily have severe and permanent impacts.

Strong evidence exists that further development and associated roads, utilities, and human activity will lead to habitat loss and fragmentation, which harms native wildlife, plants, and people. As barriers to wildlife movement, poorly-planned development and roads can affect an animal’s behavior, movement patterns, reproductive success, and physiological state, which can lead to significant impacts on individual wildlife, populations, communities, landscapes, and ecosystem function (Mitsch and Wilson 1996; Trombulak and Frissell 2000; van der Ree et al. 2011; Brehme et al. 2013; Haddad et al. 2015; Marsh and Jaeger 2015; Ceia-Hasse et al. 2018). For example, habitat fragmentation from roads and development has been shown to cause

¹⁴ See San Bernardino County, *Air Quality*, available at <https://indicators.sbcounty.gov/environment/air-quality/>.

mortalities and harmful genetic isolation in mountain lions in southern California (Ernest et al. 2014; Riley et al. 2014; Vickers et al. 2015), increase local extinction risk in amphibians and reptiles (Cushman 2006; Brehme et al. 2018), cause high levels of avoidance behavior and mortality in birds and insects (Benítez-López et al. 2010; Loss et al. 2014; Kantola et al. 2019), and alter pollinator behavior and degrade habitats (Trombulak and Frissell 2000; Goverde et al. 2002; Aguilar et al. 2008). Habitat fragmentation also severely impacts plant communities. An 18-year study found that reconnected landscapes had nearly 14% more plant species compared to fragmented habitats, and that number is likely to continue to rise as time passes (Damschen et al. 2019). The authors conclude that efforts to preserve and enhance connectivity will pay off over the long-term (Damschen et al. 2019). In addition, connectivity between high quality habitat areas in heterogeneous landscapes is important to allow for range shifts and species migrations as climate changes (Heller and Zavaleta 2009; Cushman et al. 2013; Krosby et al. 2018). Loss of wildlife connectivity and habitat decreases biodiversity and degrades ecosystems.

Edge effects of development in and adjacent to open space will likely impact key, wide-ranging predators, such as mountain lions and bobcats (Crooks 2002; Riley et al. 2006; Delaney et al. 2010; Lee et al. 2012; Smith et al. 2015; Vickers et al. 2015; Smith et al. 2017; Wang et al. 2017), as well as smaller species with poor dispersal abilities, such as song birds, small mammals, and herpetofauna (Cushman 2006; Slabbekoorn and Ripmeester 2008; Benítez-López et al. 2010; Kociolek et al. 2011). Limiting movement and dispersal can affect species' ability to find food, shelter, mates, and refugia after disturbances like fires or floods. Individuals can die off, populations can become isolated, sensitive species can become locally extinct, and important ecological processes like plant pollination and nutrient cycling can be lost. Negative edge effects from human activity, such as traffic, lighting, noise, domestic pets, pollutants, invasive weeds, and increased fire frequency, have been found to be biologically significant up to 300 meters (~1000 feet) away from anthropogenic features in terrestrial systems (Environmental Law Institute 2003)

In addition, riparian ecosystems have long been recognized as biodiversity hotspots performing important ecological functions in a transition zone between freshwater systems and upland habitats. Many species that rely on these aquatic habitats also rely on the adjacent upland habitats (e.g., riparian areas along streams, and grassland habitat adjacent to wetlands). In fact, 60% of amphibian species, 16% of reptiles, 34% of birds and 12% of mammals in the Pacific Coast ecoregion depend on riparian-stream systems for survival (Kelsey and West 1998). Many other species, including mountain lions and bobcats, often use riparian areas and natural ridgelines as migration corridors or foraging habitat (Dickson et al, 2005; Hilty & Merenlender, 2004; Jennings & Lewison, 2013; Jennings & Zeller, 2017). Additionally, fish rely on healthy upland areas to influence suitable spawning habitat (Lohse et al. 2008), and agricultural encroachment on these habitats and over-aggressive removal of riparian areas have been identified as a major driver of declines in freshwater and anadromous fish (e.g., Stillwater Sciences 2002; Lohse et al. 2008; Moyle et al. 2011).

It is estimated that 90-95% of historic riparian habitat in the state has been lost (Bowler 1989; Riparian Habitat Joint Venture 2009). Using 2002 land cover data from CalFire, the Riparian Habitat Joint Venture estimated that riparian vegetation makes up less than 0.5% of California's total land area at about 360,000 acres (Riparian Habitat Joint Venture 2004). This is

alarming because riparian habitats perform a number of biological and physical functions that benefit wildlife, plants, and humans, and loss of what little is left will have severe, harmful impacts on special-status species, overall biodiversity, and ecosystem function. California cannot afford to lose more riparian corridors.

The County must analyze how the construction and operation of STRs have the potential to impact the resources discussed above. For instance, the construction and operation of STRs can cause “edge effects” and degrade the quality of adjacent wildlife habitat. Late night parties—which many residents have documented routinely occur in STRs—can also disturb nocturnal wildlife, and the improper disposal of trash can interfere with the natural behavior of wildlife. In addition, increased traffic on existing roads the development of new roads degrades and severs wildlife corridors, as documented in the studies cited above.

The County has an obligation to protect species that are listed or provisionally listed under the California Endangered Species Act (“CESA”), including the Mojave desert tortoise and western Joshua tree. Under CESA, the County may not approve projects or programs that could jeopardize the continued existence of listed or provisionally listed species or result in destruction of essential habitat (Cal. Fish & Game Code § 2053(a) and the County must require that appropriate mitigation measures be implemented for projects that could destroy habitat (Cal. Fish & Game Code § 2054). The County has not shown that it has properly considered these requirements in advancing the Proposed STR Ordinance or allowing the operation of STRs.

Indeed, the Proposed STR Ordinance as well as the construction and operation of STRs have the potential to harm the western Joshua tree. The County is located within the range of the western Joshua tree South population (YUBR South). The geographic area in which YUBR South is situated is comprised of 3.7 million acres, with just over 50% in private ownership, 48% federally owned, and just under 2% state, county and local owned (Sirchia et al. 2018). The Sirchia (2018) estimates that 3,255,088 acres of this area was suitable for Joshua trees based on soils and other habitat factors. However, Joshua trees actually occupy only a fraction of this area, as they have a patchy and disjunct distribution, and large areas of former habitat have been lost to development or agricultural conversion.

Increasing development, climate change, increasing drought and wildfires, invasive species that adversely affect fire dynamics, and other threats have led to ongoing reductions in western Joshua trees and western Joshua tree habitat range wide.¹⁵ Protecting western Joshua trees and their habitat from continued destruction and habitat loss is therefore of utmost importance to the persistence of the species in California. However, within the County, western Joshua tree habitat is shrinking at an alarming rate due to increasing development. Western Joshua trees are being destroyed to make way for more STRs, often without proper permitting or authorization. While pre-construction inspection procedures were previously required, they were halted in 2016 even though they are still required by codes. Other plants are legally protected that are routinely ignored. In addition to potentially violating CESA and other laws, such activities qualify as a significant impact under CEQA and requires appropriate environmental analysis and mitigation.

¹⁵ See <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=175218&inline>

D. The County Must Prepare a Supplemental EIR for the General Plan and Housing Element.

CEQA requires that a subsequent or supplemental EIR be prepared when either (1) substantial changes occur with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report or (2) new information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available. (Pub. Res. Code § 21166.)

Here, the EIR for the General Plan and Housing Element was finalized in August 2020 and certified in October 2020 (with many incorporated studies occurring years before then), less than six months after the commencement of the COVID-19 pandemic. Since then, there have been dramatic and unexpected increases in tourism and the operation and/or construction of STRs in the mountain and desert regions of the County. As noted above, the County has acknowledged this increase in its own staff reports.¹⁶ Another report by the County states:

The recent increase in permitting and occupancy of STRs in mountain and desert communities during the COVID-19 pandemic has given rise to increasing complaints from full-time residents of these communities. The complaints are not limited to occasional nuisance noise or inconvenience to residents. **The proliferation of STRs has impacted the ability of local residents and workers to find housing.** The increased number of STR units, combined with the increased popularity of private home rentals has fundamentally impacted multiple neighborhoods to the point that residents feel overwhelmed.¹⁷ (Emphasis added.)

Likewise, letters from County residents have documented a dramatic increase in STRs over the last two years and associated impacts on communities and the environment. The May 2022 Housing Element Technical Report states that in Yucca Valley:

There are not many long-term rentals anymore; they have mostly been converted to short-term. Existing long-term rentals are priced high. People take properties off market and convert to short-term rentals. A weekend stay in a short-term rental costs as much as people in the area would pay for a month of housing.¹⁸

The Technical Report further states, “In mountain area and High Desert area, there is an influx of vacation home rentals flooding the market. **Long term rentals are gone.** Need to limit the number of short-term rentals.” (*Id.* at 1-22; emphasis added.)

¹⁶ Ordinance 4408; <https://sanbernardino.legistar.com/View.ashx?M=F&ID=9524356&GUID=A9ADB85-AD2B-4A7A-B9EC-D11B074C9113>

¹⁷ Report of Board of Supervisors; <https://sanbernardino.legistar.com/View.ashx?M=F&ID=9548575&GUID=27A7903F-7B08-4A19-8A1D-15FB8288BDF5>

¹⁸ San Bernardino Countywide Plan, Housing Element Technical Report (May 2022), available at http://www.sbcounty.gov/Uploads/LUS/HousingPlans/HousingElement_CWP_TechReport_Draft_2022_May_track_edchanges.pdf

Other sources confirm there has been a dramatic increase in the construction and/or operation of STRs. For instance, records on the installation of water meters from the Joshua Basin Water District (“Water District”) provide a rough estimate on the amount of new construction or major remodels in the region. Water District records show that between 2011 and 2019, there were only 76 new water meters or upgrades installed. Then in 2020, there were 63 total new meters (38 new meter purchases and 25 meter upgrades); in 2021, there were 129 total new meters (93 new meter purchases and 36 meter upgrades); and as of March 2022, there had already been 37 total new meters (33 meter purchases and 4 meter upgrades) in 2022. This means that the Water District averaged a mere 10 new meters from 2011 to 2019, but now averages approximately 100 new meters per a year, **a 900% increase**. Even with this massive increase, the Water District had to redistrict this year due to a 13% loss (2016 to 2020) in population, and this does not account for the great amount of displacement that occurred during 2021 and into 2022.

Likewise, as County records demonstrate, there has been a massive increase in the amount of STR permits in the mountain and desert regions of the County (roughly 4,800 new STR permits, and about 25-30 new STR permit application per a day), resulting in the loss of more than 20% of existing housing in the Morongo Basin to STRs, and even larger losses in the mountains.

This increase in the construction and operation of STRs was not foreseen or analyzed in the General Plan. The General Plan’s EIR projects that between 2016 and 2040, there would be an increase in 238 housing units and a growth of 827 persons in the Joshua Tree Community Planning Area (“CPA”), and only 52 housing units and 177 persons in the Morongo Valley CPA.¹⁹ The above figures suggest that these projections in the General Plan are a very significant underestimates. Indeed, the above figures confirm an unprecedented amount of construction of “houses” operated as STRs, while at the same time a decline in the number of actual homes available to long-term residents. This new information regarding the explosion in STRs could not have been known at the time the EIR was certified for the General Plan.

Moreover, as documented in this letter and in numerous letters to the County by community members, the construction and operation of new STRs has significant environmental effects. This new information qualifies as “substantial changes” regarding the circumstances under which the project (the General Plan) was undertaken, which require major revisions in the EIR. Such major revisions would include a discussion of the environmental impacts of STRs, including on traffic, air quality, GHGs, noise, biological resources, water quality, wastewater, and cumulative impacts. In addition, the County should study how the conversion of existing housing into STRs is leading to development in other areas, causing more environmental impacts.

¹⁹ See San Bernardino County General Plan EIR at 3-15, available at <https://countywideplan.com/resources/document-download/>.

E. The Proposed STR Ordinance is Inconsistent with the General Plan.

Every land use decision made by the County must be consistent with the policies in the County's General Plan. (See *Pfeiffer v. City of Sunnyvale City Council* (2011) 200 Cal.App.4th 1552, 1562-1563.) A project is consistent with the General Plan "if it will further the plan's objectives and policies and not obstruct their attainment." (*Ideal Boat & Camper Storage v. County of Alameda* (2012) 208 Cal.App.4th 301, 311.) While cities and counties enjoy some deference in determining whether their actions are consistent with their general plans, overall consistency with general plan policies is not sufficient to excuse a project's inconsistency with plan standards that are specific and mandatory. (See *Families Unafraid to Uphold Rural etc. County v. Board of Supervisors* (1998) 62 Cal.App.4th 1332, 1341-1342; 1 Kostka & Zischke, Practice Under the Cal. Env. Quality Act (2d ed. 2015) § 12.33[.]) In addition to the substantive requirement in the Government Code that land use decisions be consistent with the General Plan, CEQA imposes a separate requirement that an EIR disclose any inconsistencies between an applicable land use plan (e.g., general plan) and a project, ordinance, or program.

Here, it is not clear that the Proposed STR Ordinance is consistent with the General Plan and its policies. For instance, Policies LU-2.1, LU-2.2, and LU-2.3 require compatibility of new development with existing and planned uses and with the natural environment. There is substantial evidence that the operation of so many residential homes as de facto hotels—as is currently occurring and is authorized by County policies including the Proposed STR Ordinance—is grossly incompatible with existing uses. The County has heard from many residents that have witnessed their previously residential neighborhoods transition into de facto commercial zones due to the widespread conversion of existing housing into STRs. In addition, as discussed above, the construction and operations of so many STRs is causing significant harm to the natural environment, wildlife, and plants.

Moreover, much of the lands on which the County is allowing the operation and construction of STRs is zoned as single family residential or other residential zoning. The County has not explained how allowing for the conversion and operation of homes as de facto hotels is consistent with residential zoning. As such, the Proposed STR Ordinance is inconsistent with the General Plan, including Policy LU-2.4, which requires land use map consistency. Policy LU-2.7 also sets a goal of having a jobs/housing balance and reducing VMT. The current policies and those included in the Proposed STR Ordinance are creating a jobs/housing imbalance by displacing long-term residents and they either leave the area and deprive local businesses of potential workers, or forcing them into long commutes from more affordable areas far from their jobs. Likewise, the Countywide Vision on Housing provides that "we should protect against blight in our communities that might occur when existing housingis purchased as rental investment property." There is significant evidence that existing housing is being purchased as STR investments, and undermining the ability of residents to obtain affordable housing, as well as degrading the sense of community, safety, and well-being for existing residents who moved into a residential zone with a reasonable expectation of living in a residential neighborhood. This is in opposition to the Housing Elements' goals of preserving existing housing.

We also understand that the County has opened lands zoned as “Resource Conservation” to STR development without environmental review or analysis to ensure consistency with existing policies. Resource Conservation lands are ecologically unique, generally very isolated, and often surrounded by federal lands. Opening these lands to STR development has the potential to result in unpermitted and unmanaged activities on federal lands, including commercial activities such as horseback riding, offroad vehicle use, illegal trail building, and advertised but unpermitted access to federal lands. Such impacts place an additional burden on agencies with already limited resources such as the Bureau of Land Management. The County has not shown that such changes are consistent with the General Plan or CEQA, and must conduct a thorough environmental review of the impacts of such changes in policy.

The General Plan also provides in Policy LU-2.13 that “[w]e enforce appropriate operation standards, maintenance standards, and permitting procedures for the establishment and maintenance of short-term private home rentals in the unincorporated areas.” There is substantial evidence before the County submitted by community members that such standards are not being adequately enforced by the County. As such, the County is not complying with this policy.

The County has also made no effort to consider the impacts of the Proposed STR Ordinance or STRs on conservation plans or adjacent public lands, such as Joshua Tree National Park, Sand to Snow National Monument, conservancy preserves, as well as on Tribal lands. The County must ensure consistency with applicable land use and conservation plans and resources, and should coordinate with appropriate state, federal, and Tribal agencies in doing so.

The County’s actions and omissions concerning STRs—including the Proposed STR Ordinance—are not consistent with the General Plan. As such, the County is violating the State Planning and Zoning Law.

F. The Draft Housing Element Update Does Not Comply with State Housing Law.

The Housing Element is a critical component of the County’s General Plan, and must include certain elements in order to be in compliance with state law. The purpose of the Housing Element is to ensure that cities and counties recognize their responsibilities in contributing to the attainment of state housing goals, including housing affordable to low and moderate income households. (See *San Franciscans for Livable Neighborhoods v. City and County of San Francisco* (2018) 26 Cal.App.5th 596, 609 [*“San Franciscans”*], citing Gov. Code, §§ 65581, subd. (a), 65580, subd. (c).) The Housing Element must include “[a]n assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs,” including an inventory of land suitable for residential development, as well as a program “to implement the policies and achieve the goals and objectives of the housing element.” (Gov. Code, § 65583, subds. (a), (c); see *San Franciscans*, 26 Cal.App.5th at 609-610.) Moreover, the Housing Element must identify actions that will be taken to make sites available to accommodate the local government’s share of the regional housing needs, and zone adequate numbers of sites to accommodate the regional housing burden. (*Id.* at 610.)

Unfortunately, it is not clear that the County’s Draft Housing Element (“Draft Housing Element”) meets these standards and requirements. The Draft Housing Element appears to count

STRs towards meeting the regional housing needs assessment (“RHNA”), when in fact STRs do nothing to meet regional housing needs—they generally provide short-term lodging for tourists, much like hotels. Instead, the Draft Housing Element promises that as part of some future program (“Program 4”), the County will evaluate the impacts of STRs and “ensure that no short-term rentals are counted toward the County’s RHNA allocation.” (Draft Housing Element at 3-23.) The County has an obligation *now* under both state housing law and CEQA to evaluate the impacts of STRs, and ensure that it does not count STRs towards its RHNA. The County must also ensure that STRs or policies surrounding STRs do not result in the conversion of too many existing homes into STRs, and thereby undermine the County’s housing goals or ability to meet its RHNA.

The Draft Housing Element elsewhere acknowledges that STRs have the effect of *removing* actual housing from the market and rendering actual housing less affordable: “The prevalence of short-term rental housing, particularly in tourism areas, may constrict the availability of rental housing and increases rental prices even after County amendments in 2019. This can create an issue where lower income residents and employees lack access to affordable housing.” (Table 2-33.) This statement is correct, and underscores the need for a legally adequate housing element that only considers actual long-term housing as housing, not STRs, which are lodging. Unfortunately, the Draft Housing Element appears to fail in this regard.

Moreover, as discussed above, current and proposed STR regulations are essentially a proactive policy encouraging neighborhood clearance by investors, which is contributing to the displacement and removal of vulnerable populations from their housing so the housing can be converted into profit making ventures. The Board has had opportunities to place a pause or caps on new STRs given the widespread evidence of impacts and displacement, but appears to have decided outside of public view not to discuss such a moratorium or caps. This has led to essentially an “underground policy” leading to more significant impacts on the communities affected.

The Draft Housing Element does offer to conduct a “study” “to determine the current and projected impact of short-term rentals on the housing supply throughout the unincorporated county and on the motel/hotel businesses in the Mountain and Desert regions” (Table 2-33.) We agree that further study is needed, but such study should be conducted *concurrently* with the Housing Element process in order to inform and guide the policies within the housing element. The Housing Element’s obligation to inventory adequate sites for housing would also be better served with more localized knowledge on the Community Plan scale as opposed to the diluted Countywide scale, as recommended in previous County planning documents like the prior Housing Element.

In the meantime, the further conversion of housing to STRs and attendant *loss* of such housing to existing residents is unacceptable, and is also inconsistent with the General Plan, CEQA, and State Housing Law. Notably, the surrounding cities of Yucca Valley, and 29 Palms have both set limits of 10% STRs of single family residences and 500 STR permits, respectively, in order to preserve their housing, while allowing extra income opportunities for their residents.

G. Conclusion

Clearly much work remains to be done to ensure that STRs are permitted and regulated in a manner that does not harm existing communities or the environment. We urge the imposition of a temporary “pause” in the issuance of new STR permits to allow study and consideration so that policies can be adopted and regulations enacted that balance the needs of the community and environment with the interests of STR owners.

Please do not hesitate to reach out to us using the email addresses below if you would like to discuss these issues with us.

Sincerely,



J.P. Rose
Senior Attorney
Center for Biological Diversity
jrose@biologicaldiversity.org



Steve Bardwell
President
Morongo Basin Conservation Association
info@mbconservation.org

CC:

housing@doj.ca.gov

housingelements@hcd.ca.gov

Melinda.Coy@hcd.ca.gov

BoardMeetingComments@cob.sbcounty.gov

Dawn.Rowe@bos.sbcounty.gov

Erik.DeKok@opr.ca.gov

Sydney.Bennet@hcd.ca.gov

reid.miller@hcd.ca.gov

APR@hcd.ca.gov

References

- Aguilar R, Quesada M, Ashworth L, Herrerias-Diego Y, Lobo J (2008) Genetic consequences of habitat fragmentation in plant populations: Susceptible signals in plant traits and methodological approaches. *Mol Ecol* 17:5177–5188
- BAAQMD (2016) Planning Healthy Places
- Balch JK, Bradley BA, Abatzoglou JT, Nagy RC, Fusco EJ, Mahood AL (2017) Human-started wildfires expand the fire niche across the United States. *Proc Natl Acad Sci* 114:2946–2951
- Bedsworth L, Hanak E, Stryjewski E (2011) Views from the Street Linking Transportation and Land Use
- Benítez-López A, Alkemade R, Verweij PA (2010) The impacts of roads and other infrastructure on mammal and bird populations: A meta-analysis. *Biol Conserv* 143:1307–1316
- Bistinas I, Oom D, Sá ACL, Harrison SP, Prentice IC, Pereira JMC (2013) Relationships between human population density and burned area at continental and global scales. *PLoS One* 8:1–12
- Bowler PA (1989) Riparian woodland: An endangered habitat in southern California. *Proc 15th Annu Symp South Calif Bot* 3:80–97
- Brehme CS, Hathaway SA, Fisher RN (2018) An objective road risk assessment method for multiple species: ranking 166 reptiles and amphibians in California. *Landsc Ecol* 33:911–935
- Brehme CS, Tracey JA, Clenaghan LRMC, Fisher RN (2013) Permeability of roads to movement of scrubland lizards and small mammals. *Conserv Biol* 27:710–720
- California Air Resources Board (2017) 2017 Scoping Plan (California)
- Callahan M, Rossmann R, Schmitt W (2019) Winds pick up as PG&E shutoff enters second day. *Press Democr.*
- CBS San Francisco (2019) Power Outage Results In Multiple Crashes , Injuries At Santa Rosa Intersections. *CBS San Fr.*
- Ceia-Hasse A, Navarro LM, Borda-de-Água L, Pereira HM (2018) Population persistence in landscapes fragmented by roads: Disentangling isolation, mortality, and the effect of dispersal. *Ecol Modell* 375:45–53
- Chabria A, Luna T (2019) PG&E power outages bring darkness , stress and debt to California's poor and elderly. *Los Angeles Times*
- Crooks KR (2002) Relative sensitivities of mammalian carnivores to habitat fragmentation. *Conserv Biol* 16:488–502
- Cushman SA (2006) Effects of habitat loss and fragmentation on amphibians: A review and prospectus. *Biol Conserv* 128:231–240
- Cushman SA, McRae B, Adriaensen F, Beier P, Shirley M, Zeller K (2013) Biological corridors and connectivity. In: Macdonald DW, Willis KJ (eds) *Key Topics in Conservation Biology* 2, First Edit. John Wiley & Sons, Ltd., pp 384–403
- Damschen EI, Brudvig LA, Burt MA, Jr RJF, Haddad NM, Levey DJ, Orrock JL, Resasco J, Tewksbury JJ (2019) Ongoing accumulation of plant diversity through habitat connectivity in an 18-year experiment. *Science* (80-) 365:1478–1480
- Delaney KS, Riley SPD, Fisher RN (2010) A rapid, strong, and convergent genetic response to urban habitat fragmentation in four divergent and widespread vertebrates. *PLoS One* 5:e12767
- Dickson BG, Jennes JS, Beier P (2005) Influence of Vegetation, Topography, and Roads on

- Cougar Movement in Southern California. *J Wildl Manage* 69:264–276
- Environmental Law Institute (2003) Conservation thresholds for land use planners
- Environmental Protections Agency US (2020) Causes of Climate Change. National Academies Press
- Ernest HB, Vickers TW, Morrison SA, Buchalski MR, Boyce WM (2014) Fractured genetic connectivity threatens a Southern California puma (*Puma concolor*) population. *PLoS One* 9:
- Fry H, Dolan M, Luna T, Serna J (2019a) Gov. Newsom slams PG&E over ‘unacceptable’ power outages and failure to fix systems. *Los Angeles Times*
- Fry H, Miller L, Ormseth M, Serna J (2019b) Saddleridge fire explodes to 4 , 700 acres , burns 25 homes in San Fernando Valley. *Los Angeles Times*
- Goverde M, Schweizer K, Baur B, Erhardt A (2002) Small-scale habitat fragmentation effects on pollinator behaviour: Experimental evidence from the bumblebee *Bombus veteranus* on calcareous grasslands. *Biol Conserv* 104:293–299
- Governor Newsom’s Strike Force (2019) Wildfires and Climate Change: California’s Energy Future
- Haddad NM, Brudvig LA, Clobert J, Davies KF, Gonzalez A, Holt RD, Lovejoy TE, Sexton JO, Austin MP, Collins CD, Cook WM, Damschen EI, Ewers RM, Foster BL, Jenkins CN, King AJ, Laurance WF, Levey DJ, Margules CR, Melbourne BA, Nicholls AO, Orrock JL, Song D, Townshend JR (2015) Habitat fragmentation and its lasting impact on Earth’s ecosystems. *Sci Adv* 1:1–9
- Heller NE, Zavaleta ES (2009) Biodiversity management in the face of climate change: A review of 22 years of recommendations. *Biol Conserv* 142:14–32
- Hernández L, Gafni M, Bauman A (2019) Moraga blaze 100% contained. *San Fr. Chron.*
- Hilty JA, Merenlender AM (2004) Use of Riparian Corridors and Vineyards by Mammalian Predators in Northern California. *Conserv Biol* 18:126–135
- Holmes-gen B, Barrett W (2016) Clean Air Future Health and Climate Benefits of Zero Emission Vehicles
- Jennings M, Lewison R (2013) Planning for Connectivity Under Climate Change: Using Bobcat Movement To Assess Landscape Connectivity Across San Diego County’s Open Space
- Jennings M, Zeller K (2017) Comprehensive Multi-species Connectivity Assessment and Planning for the Highway 67 Region of San Diego County, California
- Kantola T, Tracy JL, Baum KA, Quinn MA, Coulson RN (2019) Spatial risk assessment of eastern monarch butterfly road mortality during autumn migration within the southern corridor. *Biol Conserv* 231:150–160
- Keeley JE, Fotheringham CJ (2003) Impact of Past Present and Future Fire Regimes on North American Mediterranean Shrublands. In: *Fire and climatic change in temperate ecosystems of the Western Americas*. pp 218–262
- Keeley JE, Fotheringham CJ, Morais M (1999) Reexamining fire suppression impacts on brushland fire regimes. *Science* (80-) 284:1829–1832
- Keeley JE, Syphard AD (2018) Historical patterns of wildfire ignition sources in California ecosystems. *Int J Wildl Fire* 27:781
- Kociolek AV, Clevenger AP, St. Clair CC, Proppe DS (2011) Effects of Road Networks on Bird Populations. *Conserv Biol* 25:241–249
- Krishnakumar P, Welsh B, Murphy R (2019) Where SoCal Edison may shut o power in California. *Los Angeles Times*

- Krosby M, Theobald DM, Norheim R, Mcrae BH (2018) Identifying riparian climate corridors to inform climate adaptation planning. *PLoS One* 13:e0205156
- Laurent O, Hu J, Li L, Kleeman MJ, Bartell SM, Cockburn M, Escobedo L, Wu J (2016) Low birth weight and air pollution in California: Which sources and components drive the risk? *Environ Int* 92–93:471–477 . <https://doi.org/10.1016/j.envint.2016.04.034>
- Lee JS, Ruell EW, Boydston EE, Lyren LM, Alonso RS, Troyer JL, Crooks KR, Vandewoude S (2012) Gene flow and pathogen transmission among bobcats (*Lynx rufus*) in a fragmented urban landscape. *Mol Ecol* 21:1617–1631
- Lohse KA, Newburn DA, Opperman JJ, Merenlender AM (2008) Forecasting relative impacts of land use on anadromous fish habitat to guide conservation planning. *Ecol Appl* 18:467–482
- Loss SR, Will T, Marra PP (2014) Estimation of bird-vehicle collision mortality on U.S. roads. *J Wildl Manage* 78:763–771
- Lundstrom M, Kasler D, Lillis R (2017) “It’s just luck - kismet.” Why some people lived and others died in California fires. *Sacramento Bee*
- Marsh DM, Jaeger JAG (2015) Direct effects of roads on small animal populations. In: *Roads and ecological infrastructure: Concepts and applications for small animals*. pp 42–56
- Mitsch WJ, Wilson RF (1996) Improving the success of wetland creation and restoration with know-how, time, and self-design. *Ecol Appl* 6:16–17
- Moyle PB, Katz JVE, Quiñones RM (2011) Rapid decline of California’s native inland fishes: A status assessment. *Biol Conserv* 144:2414–2423
- Office of Planning and Research (2018) *Technical Advisory On Evaluating Transportation Impacts In CEQA*
- Perry FN, Kredell C, Perry ME, Leonard S, Fowler A, Chong H, Fernandez J (2019) Missing the Mark: Examining the Shortcomings of California’s Housing Goals
- Radeloff VC, Helmers DP, Kramer HA, Mockrin MH, Alexandre PM, Bar-Massada A, Butsic V, Hawbaker TJ, Martinuzzi S, Syphard AD, Stewart SI (2018) Rapid growth of the US wildland-urban interface raises wildfire risk. *Proc Natl Acad Sci* 115:3314–3319
- Riley SPD, Pollinger JP, Sauvajot RM, York EC, Bromley C, Fuller TK, Wayne RK (2006) A southern California freeway is a physical and social barrier to gene flow in carnivores. *Mol Ecol* 15:1733–1741
- Riley SPD, Serieys LEK, Pollinger JP, Sikich JA, Dalbeck L, Wayne RK, Ernest HB (2014) Individual behaviors dominate the dynamics of an urban mountain lion population isolated by roads. *Curr Biol* 24:1989–1994
- Riparian Habitat Joint Venture (2009) *California Riparian Habitat Restoration Handbook*
- Riparian Habitat Joint Venture (2004) *The Riparian Bird Conservation Plan: A strategy for reversing the decline of riparian associated birds in California*
- Sabalow R, Lillis R, Kasler D, Yoon-Hendricks A, Reese P (2018) ‘This fire was outrunning us’: Surviving the Camp Fire took bravery, stamina and luck. *Sacramento Bee*
- Sirchia F, Hoffmann S, Wilkening J (2018) *Joshua Tree Species Status Assessment*
- Slabbekoorn H, Ripmeester EAP (2008) Birdsong and anthropogenic noise: implications and applications for conservation. *Mol Ecol* 17:72–83
- Smith JA, Suraci JP, Clinchy M, Crawford A, Roberts D, Zanette LY, Wilmers CC (2017) Fear of the human ‘super predator’ reduces feeding time in large carnivores. *Proc R Soc B Biol Sci* 284:20170433
- Smith JA, Wang Y, Wilmers CC (2015) Top carnivores increase their kill rates on prey as a response to human-induced fear. *Proc R Soc B Biol Sci* 282:

- St. John P (2017) Alarming failures left many in path of California wildfires vulnerable and without warning. LA Times
- Stillwater Sciences (2002) Napa River Basin Limiting Factors Analysis
- Syphard AD, Keeley JE, Brennan TJ (2011) Comparing the role of fuel breaks across southern California national forests. *For Ecol Manage* 261:2038–2048
- Syphard AD, Keeley JE, Massada AB, Brennan TJ, Radeloff VC (2012) Housing arrangement and location determine the likelihood of housing loss due to wildfire. *PLoS One* 7:e33954
- Syphard AD, Massada AB, Butsic V, Keeley JE (2013) Land use planning and wildfire : Development policies influence future probability of housing loss. *PLoS One* 8:e71708
- Syphard AD, Radeloff VC, Keeley JE, Hawbaker TJ, Clayton MK, Stewart SI, Hammer RB, Syphard AD, Radeloff VC, Keeley JE, Hawbaker TJ, Stewart SI, Hammer RB (2007) Human influence on California fire regimes. *Ecol Soc Am* 17:1388–1402
- Syphard AD, Rustigian-romsos H, Mann M, Conlisk E, Moritz MA, Ackerly D (2019) The relative influence of climate and housing development on current and projected future fire patterns and structure loss across three California landscapes. *Glob Environ Chang* 56:41–55
- Trombulak SC, Frissell CA (2000) Review of ecological effects of roads on terrestrial and aquatic communities. *Conserv Biol* 14:18–30
- van der Ree R, Jaeger JAG, van der Grift EA, Clevenger AP (2011) Effects of roads and traffic on wildlife populations and landscape function: Road ecology is moving toward larger scales. *Ecol Soc* 16:48
- Ventura County (2003) VENTURA COUNTY AIR QUALITY ASSESSMENT GUIDELINES
- Vickers TW, Sanchez JN, Johnson CK, Morrison SA, Botta R, Smith T, Cohen BS, Huber PR, Ernest HB, Boyce WM (2015) Survival and mortality of pumas (*Puma concolor*) in a fragmented, urbanizing landscape. *PLoS One* 10:1–18
- Wang Y, Smith JA, Wilmers CC (2017) Residential development alters behavior, movement, and energetics in a top carnivore. *PlosOne* 1–17



County of San Bernardino
Land Use Services
State Department of Housing and Community Development
Via email

6/6/2022

Dear Reader,

Due to the short window of opportunity for public comment (only two weeks), there may be more to follow.

There remains an inconsistency between the San Bernardino County (County) Housing Element Policies and the Short-Term Rental (STR) policies as they are currently written and implemented, including the lack of meaningful action in the currently proposed revisions.

We recommend the following process to allow the approval of the Housing Element, and to work toward resolution of this inconsistency.

Place a “Pause” on the approval of new permits and renewal of existing permits, for a substantial period of time (in the 4 to 6 month range) during the upcoming June 14th Board of Supervisors meeting. We feel that those currently permitted or in the application process should be able to continue to operate as per the status quo during this pause but will renew under any new adopted policy conditions.

We feel the Supervisors should at the June 14th meeting, also adopt the currently proposed STR policy revisions of:

- 1) One-year annual STR permit renewals.
- 2) Disallow the transfer of the STR permit when the property is sold. The new owner starts off with a new application under the new policies once adopted.

Why the Pause

- This Pause would “stop the bleed” of our housing loss and hopefully prevent further displacement and calm the circumstances so that better decisions can be reached.
- The Pause will allow the County to process the many STR applications currently received, as well as enforce against the many illegal STRS. The illegals should not be allowed to apply for permit during this Pause.
- This Pause time will allow an ad-hoc committee of concerned and informed community stakeholders to deep dive into the situation, and study what the current conditions are in housing and in the STRs currently permitted, and craft policies to bring a balance of housing and opportunity for our community.
- We feel there should be a Mountain Committee and a Desert Committee to reflect the differing communities.

- First step is acknowledging the problem.

We have witnessed from the County a lack of acknowledgement of any housing issues or displacement caused by so many - more than 23% of homes in Joshua Tree and Morongo Basin communities and even more in the Mountain unincorporated communities - being converted into Short-Term Rental (STR) lodgings.

Simple math shows to take away that many homes, and a large percentage of population who were renting are displaced. There are countless witnesses, letters to editors, social media posts, to attest to this crisis. One that should have been stopped during the June 22, 2021 Board of Supervisors Meeting.

Multiple public comments by community members over these last three or four years have been clear about the widespread affects including displacement of renters, loss of opportunity for locals to buy a home in their own community, or to rent in their own community, loss of housing for the workforce affecting local businesses, the schools, the Marines, and even the National Park.

This loss is confirmed by the significant drop (hundreds) in school enrollment and long term population (more than 13% in Joshua Tree as of 2020), that signifies that a community is now on the cycle of decline. Yes, there are other factors at play, but that does not affect the Board's responsibility to adjust policy to stop this crisis that driven by the investor fueled STR market.

The State Housing and Community Development (HCD) requested in their 2/7/22 letter to the County of San Bernardino (SB County) for more clarity on certain points:

Page 2:

Displacement: While the element analyzed displacement risk relative to disproportionate housing needs (e.g., overcrowded and cost burdened households), it should also consider other factors that may contribute to increased displacement concerns. For example, the County has received numerous public comments stating that short-term rentals have caused displacement in specific community plan areas. The element could include an analysis evaluating whether short term rentals is a contributing factor to displacement pressures.

We cannot find this analysis requested by the State in the County's Housing Element May Draft. The County has yet to acknowledge the displacement and dispersion of the many long-time community members that our Desert and Mountain have experienced over these last few years. The effects of the STRs started showing up in decreased rental supply and inflated prices back in 2018, and these effects were communicated to the County prior to the adoption of the STR Ordinance in Fall of 2019. These effects were communicated multiple times to the County and again prior to the June 22, 2021 Supervisors Meeting, when they had an opportunity to install a 'pause' but chose without the benefit of public comment to set a policy of no limits. This caused hundreds more residents to be impacted in very consequential and detrimental ways. Multiple public speakers requested such a pause at the June 22, 2021 meeting and again at the more recent Planning Commission meetings of 2/2 and 3/2/22. MBCA has shared information that shows what a toll this current unrestrained STR policy has taken on so many individual and families' lives including the video produced to raise awareness of these impacts. <https://www.youtube.com/watch?v=dpB3ieNEPB0&t=5s>

This loss, encouraged by County policy choices, is in complete opposition to the goals and policies of the Housing Element.

Page 2:

Local Knowledge and Data: The element should complement federal, state, and regional data with local data and knowledge where appropriate to capture emerging trends and issues, including utilizing knowledge from local and regional advocates, public comments, and service providers.

This necessary storehouse of local and historical information to preserve institutional memory, is why we advocated so strongly to preserve our Community Plans. The County has a revolving door of Supervisors, Planning Commissioners, and Planning and Land Use Staff – just since the repeal of the Community Plans in fall of 2020, there are already two or three new Planning Commissioners, as well as Supervisors, and dozens of planning staff, as well as a loss of at least 13% of our population in Joshua Tree – so many have had to leave that the Water District has had to redistrict.

Page 7:

Other Local Ordinances: The element must analyze any locally adopted ordinances that directly impacts the cost and supply or residential development (e.g., inclusionary requirements, short term rentals, growth controls).

There was no analysis of the current or proposed revisions to the STR Ordinance in the County revisions. This is why a pause on new permits is needed. An ad hoc committee of concerned and dedicated citizens must be formed to study the current circumstances. There are many examples from other communities’ work in policy revisions that can be reviewed.

Page 10:

Establish the number of housing units, by income level, that can be constructed, rehabilitated, and conserved over a five-year time frame. (Gov. Code, § 65583, subd. (b)(1 & 2).)

While the element includes quantified objectives for some income groups, it must also include objectives for the number of units that will be conserved/preserved for moderate and above moderate and the number of units that will be rehabilitated for extremely low, very low, moderate and above moderate. Conservation objectives may include the variety of strategies employed by the County to promote tenant stability, code enforcement and repair programs that conserve the housing stock, and the preservation of units at-risk of conversion to market rate.

If housing preservation is so important to goals of the Housing Element, why is it okay to allow 23% of the housing stock in Joshua Tree to be converted into short term rental lodgings that are owned by outside investors, not members of the community? When community members own and operate “Mom and Pop” scale extra-income business, it helps to support the local community, as the profits stay within the community and provide employment for cleaners, and home repairs. But when so much of the money leaves, and the home is owned by an absentee owner, it is a net negative for the community. We have lost a good percentage of our workforce, lost students at our schools, and few that have been raised here will be able to afford to live here to care for their aging parents and raise children. These policies have started a cycle of decline as witnessed by Big Bear having to close down an elementary school.

Page 11:

E. Public Participation

Local governments shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the Housing Element, and the element shall describe this effort. (Gov. Code, § 65583, subd.(c)(9).)

HCD understands the County made the full draft available to the public concurrent with HCD submittal. By not providing an opportunity for the public to review and comment on a draft of the element in advance of submission, the County has not yet complied with statutory mandates to make a diligent effort to encourage the public participation in the development of the element and it reduces HCD’s ability to consider public

comments in its review. The availability of the document to the public and opportunity for public comment prior to submittal to HCD is essential to the public process and HCD's review. The County must proactively make future revisions available to the public, including any commenters, prior to submitting any revisions to HCD and diligently consider and address comments, including making revisions to the document where appropriate. HCD's future review will consider the extent to which the revised element documents how the County solicited, considered, and addressed public comments in the element. The County's consideration of public comments must not be limited by HCD's findings in this review letter.

We were very disappointed in how the County submitted the Housing Element Draft without initial public comment, and then did not reveal the fact that the County had submitted the Draft during the 2/2/22 Planning Commission and did not reveal that the State had returned its 2/7/22 comments during the 3/3/22 Planning Commission meeting. This was counterproductive to the trust we citizens are supposed to have in our County, and counterproductive in solving the housing crisis in the unincorporated communities. Refusing to hear public comments on limits, caps, or a moratorium during the 6/22/2021 Board of Supervisors Meeting, as well as at the 2/2 and 3/3/22 Planning Commission meetings has eroded our trust in the County.

page 11:

F. Consistency with General Plan

The Housing Element shall describe the means by which consistency will be achieved with other general plan elements and community goals. (Gov. Code, § 65583, subd. (c)(7).)

The element must describe how consistency was achieved and how it will be maintained during the planning period. For example, to maintain internal consistency, the element could include a program to conduct an internal consistency review of the general plan as part of the annual general plan implementation report required by Government Code section 65400. The annual report can also assist future updates of the housing element.

This review for consistency has not happened in any real or meaningful way that the public is aware of.

There is a clear inconsistency between the Housing Element and the Short-Term Rental Policies that are part of the Development Code. Please see next section for a list of these inconsistent policies.

We have seen the very serious impacts on our communities with so many STRs, allowed by the STR policy, over these last three years. Over 20% of our housing stock has been converted to lodgings for tourists. While the ability of locals to earn extra income by either owning, operating, cleaning, repairing, or building an STR has much value, the issue is the land grab, and investor take that has so damaged our communities. All levels of our community have been adversely impacted:

- Those cast out of long term rentals, displaced so the owners could sell the property to take advantage of the investor-fueled market, caused in great part by the STR policy.
- Local business owners have felt the secondary affects, as the housing crisis affected so many of their workers directly and affected their pool of potential workers – shrinking the supply as many had to leave.
- Schools have been affected greatly. The Supervisors have been made aware of how enrollment is dropping due to so many people having to leave (along with other factors like some choosing to homeschool due to covid). The Supervisors have been made aware of how the lack of housing have impacted the School District in that they have a hard time hiring new teachers and staff who have a hard time finding housing.
- Young adults that grew up here have been shut out of the market.
- Senior that thought they had secure rentals, were displaced.
- Families that had rentals had to relocate, or move out into RVs in the desert, or hide out in abandoned buildings.

The following are some of the Policies of the Housing Element that the STR Policies are out of consistency with. This inconsistency is primarily due to the displacement of long-term residents either directly or indirectly from the over-saturation of STRs in our communities, and the conversion of so many homes into STR lodgings:

The Housing Element

An adequate supply of quality and affordable housing is fundamental to the economic and social well-being of the county. State law also requires that the cities and counties identify and analyze existing and projected housing needs and prepare a series of goals, policies, and quantified objectives, financial resources, and programs to further the development, improvement, and preservation of housing.

Purpose The Housing Element:

- Conserves and improving conditions in existing housing and neighborhoods, including affordable housing.
- Promotes a range of housing opportunities for all individual and households consistent with fair and equal housing opportunity.
- New housing development should be focused in areas where there is potable water, wastewater treatment, roadways, and public services.
- Affordable, moderately priced, and higher density housing should be placed in areas served by public transportation.
- Preserving, maintaining, improving, and creating distinct neighborhoods and communities protects property values and provides a desirable place to live.
- Affordable, quality housing helps attract and retain a qualified workforce and supports a prosperous local economy.

Goals & Policies

Goal H-1 Housing Production and Supply

A broad range of housing types in sufficient quantity, location, and affordability levels that meet the lifestyle needs of current and future residents, including those with special needs.

Policy H71.1 Appropriate range of housing. We encourage the production and location of a range of housing types, densities, and affordability levels in a manner that recognizes the unique characteristics, issues, and opportunities for each community.

Policy H71.2 Concurrent infrastructure. We support the integrated planning and provision of appropriate infrastructure (including water, sewer, and roadways) concurrent with and as a condition of residential development to create more livable communities.

Goal H73 Housing and Neighborhood Quality

Neighborhoods that protect the health, safety, and welfare of the community, and enhance public and private efforts in maintaining, reinvesting in, and upgrading the existing housing stock.

Policy H73.1 Public services, amenities, and safety. We support the provision of adequate and fiscally sustainable public services, infrastructure, open space, nonmotorized transportation routes, and public safety for neighborhoods in the unincorporated area.

Policy H73.6 Neighborhood improvements. We support comprehensive neighborhood efforts to address housing conditions, property maintenance, infrastructure repair, public safety, landscaping, and other issues affecting the livability of neighborhoods.

There is a clear inconsistency between what our communities have experienced as compared to these goals and policies of the Housing Element.

Comments from reading the Housing Element May 2022 Draft Technical Report:

Page numbers refer to the page number of the pdf of the May draft redlined version:

http://www.sbcounty.gov/Uploads/LUS/HousingPlans/HousingElement_CWP_TechReport_Draft_2022_May_trackedchanges.pdf

Page 7

1.2 General Plan Consistency

State law requires that “the general plan and elements and parts thereof comprise an integrated, internally consistent, and compatible statement of policies.” The purpose of requiring internal consistency is to avoid policy conflict and provide a clear policy guide for the future maintenance, improvement, and development of housing within the unincorporated county.

All elements of the County Policy Plan (which serves as its “general plan”) have been reviewed for consistency in coordination with this Housing Element update, and the County will continue to maintain consistency within the entire Policy Plan.

All of the Housing Element Policies listed in the previous section are out of consistency with the Short-Term Rental Policies as they are currently written as well as the proposed revisions. There is no cap or limit proposed on permits, no density limits for neighborhoods, nor any limit on the amount businesses or individuals can own. This has turned our neighborhoods into commercial business enterprises, in complete opposition to the Policy Plan (General Plan) and the Housing Element.

There is no meaningful review of policy by the County in this Housing Element.

Listed here are the public concerns expressed during the community meetings that clearly show there is much concern over the extent of short-term rentals. Most of these community meetings were held before the Great Housing Displacement of 2021 and 2022.

Public Comments at public meetings for the Housing Element and Consolidated Plan updates.

Page 9

6% of public comments ask to control short-term rentals

8% address residential displacement

Page 10

Controlling short-term rentals to increase affordable long-term rentals.

Page 13

Big Bear Greatest Needs

Housing for seasonal resort workers. A single-room occupancy property may be an option for seasonal workers.

Pg 19

Joshua Tree Greatest Needs

Vacation rental ordinance, particularly in areas with higher levels of tourism. Airbnb and other vacation rentals raise housing costs

Pg 24

Yucca Valley Greatest Needs

- *There are not many long-term rentals anymore; they have mostly been converted to short-term.*
- *Existing long-term rentals are priced high.*
- *People take properties off market and convert to short-term rentals. A weekend stay in a short term rental costs as much as people in the area would pay for a month of housing.*

- *Families are doubling up, moving into homes together, or living in multigenerational homes.*

Stakeholder Interviews

Pg 28

In mountain area and High Desert area, there is an influx of vacation home rentals flooding the market. Long term rentals are gone. Need to limit the number of short-term rentals.

Pg 33

A lack of housing inventory, due in part to the prevalence of short-term rentals in the county, impacts housing choices by restricting long-term rentals.

Pg 40

While the majority of unincorporated communities expressed a strong desire to retain their low density and rural nature, unincorporated residents also expressed concern about the persistent popularity of short-term rentals, both in terms of nuisance issues and the potential negative impact on the supply of affordable long-term housing for lower income residents and employees. To bolster the County’s recent modifications to limit the development of short-term rentals to the Mountain and Desert areas (see str.sbcounty.gov), public input directly influenced the creation of Program 4 to evaluate the potential impacts of short-term rentals on the supply of affordable housing and the local hotel industry.

2.1 Demographics

Pg 43

The number of people living in the unincorporated areas has fluctuated over the years and has only increased from about 298,000 in 1970 to around 300,000 in 2020. This is because new growth tends to occur in incorporated areas (which contains infrastructure, services, and amenities that support new development), and because incorporated communities often annex territory associated with proposed development projects. Much smaller amounts of growth occur in unincorporated areas that remain unincorporated. Table 2-1 displays population trends since 1950.

Table 2-1 Population Growth Trends shows that the population in the unincorporated area was:
2010 to 2020

291,584 to 300,478

Which is a growth of 8,894, a 3% growth.

2.1.3 Households

Household Growth

Pg. 47

Between 2020 and 2030, SCAG projects approximately 5,800 households to be added in unincorporated areas compared to over 80,000 more households in incorporated cities. In comparison, the 2021–2029 RHNA allocation allocates 8,832 units to the unincorporated region, which includes 6,000 new units based on projected growth of new households and about 2,800 new units based on pent-up demand from existing households.

There is one crucial number that is shown in two very different amounts. This needs to be reconciled.

Page 47

Table 2-7 Projected Household Growth, 2010-2045

2010 to 2020 Household Growth

94,085 to 98,783 = 4,698 households

Page 48 (this number also shown again)

Table 2-8 Composition of Households in 2010 and 2019

2010 to 2019

94,085 to 95,226 = 1,141 households

Household income

Pg 49

While income distribution is generally similar, unincorporated communities tend to have slightly more lower income households and incorporated communities tend to have slightly more above moderate income households. This can be attributed in part to the lower cost of living in unincorporated communities, where land and housing prices are much cheaper.

2.2 HOUSING CHARACTERISTICS

2.2.1 HOUSING STOCK GROWTH

Pg 50

Housing growth in San Bernardino County also took place largely through master-planned development—primarily in existing cities. With the exception of substantial growth in the City of Victorville, growth was focused within cities in the Valley region.

While housing production slowed between 2010 and 2020 throughout southern California, growth rates in the incorporated San Bernardino County communities continued to outpace the unincorporated communities and kept pace with the overall SCAG region. Fewer than 3,000 new units were built in the unincorporated communities between 2010 and 2020, reflecting the desires of housing developers, home buyers, and renters desire to be closer to services and amenities associated with living in a city or incorporated town. New housing units in unincorporated areas tends to be homes built by individuals or small batches of rural estates (half-acre lots or larger), with most of the units relying on onsite water wells and septic systems.

Page 50

Table 2-12 Housing Stock Growth

2010 to 2020

132,780 to 135,075 = 2,295 homes in unincorporated

Our summary of the above section:

Between 2010 and 2019/2020:

The overall population of the unincorporated is reported to have grown 8,849.

The number of households growth was either 4,698 or 1,141. (Which is correct?)

The number of housing units built was 2,295.

So that means construction either met only half the demand or it was double the demand depending which number is correct. On top of that, almost 5,000 homes were converted into STR lodgings.

The confusion of this issue, besides that inconsistent number, is that there is resident growth in the Valley and the North Desert Region, but loss of residents in the Mountain and the East Desert Regions – in the tourist-heavy unincorporated communities- due to the STR pressures.

The County must reorganize how it handles its unincorporated land use management for the unincorporated areas. We suggest the County considers breaking this management into a 4 Region System, each region with its own Planning Commission and its own Area Plan. To have a clearer

Housing Element, we suggest 4 Regional Sections to be included in the County’s Housing Element. The STR Policies also should be Regional based – one for the Mountain Region, and one for the East and North Desert Regions.

Page 51

2.2.2 Housing Unit Type

In a complete community, the availability of different housing products is important for residents. Ideally, residents of different age and income levels will have a wide choice of housing available in their community of choice. In an area as vast as San Bernardino County, where urban form ranges from rural to suburban to urban densities, a broad mix of housing is less possible. Outside of more urban areas, this diversity may not exist due to infrastructure constraints. Infrastructure is typically cost prohibitive to build until a certain density of population and housing occur, and the associated density provides significant revenues to fund infrastructure. This explains why higher density housing tends to cluster in incorporated cities and towns.

Table 2-13 Housing Unit Type in 2020

- 83% single family detached*
- 2% Single family attached*
- 10% Mobile Homes*
- Multifamily 2 to 4 units 3%*
- Multifamily 5 or more units 2%*

The differences in housing type between the unincorporated areas and the overall county reflect differences related to land and infrastructure costs. Land is cheaper in unincorporated areas, which enables an individual to purchase land (aka a parcel or housing lot) that is one-half acre or larger. Lots that are at least one-half acre in size can be developed with a single-family home that uses onsite water (a well) and wastewater systems (a septic system). However, lots that are within a certain distance of a sewer system and/or piped water system (even if larger than one-half acre) are generally required to connect to those systems and are not permitted to use onsite water or wastewater systems. The cost to connect to existing sewer or piped water systems beyond a certain distance or to build a wastewater treatment system (such as a small-batch treatment plant) that can support multiple homes can be very costly.

In the unincorporated areas, there are thousands of acres of land that could support a single family home due to the low cost of land and the ability to use onsite water and wastewater systems. In contrast, land in incorporated cities and towns is more expensive, developed at much higher densities, and almost always requires a connection to existing sewer and water systems

The issue on the above section is that now land is no longer cheap in much of the East Desert. We have noticed that values are brought up to current conditions in some locations of the Housing Element, but not in others.

Page 52

2.2.3 HOUSING TENURE AND VACANCY

Housing tenure refers to whether a unit is owned or rented. A low vacancy rate suggests that households may have difficulty finding housing within their price range; a high vacancy rate may indicate an imbalance between household characteristics and the

type of available units, an oversupply of housing units, or a large number of vacation/ seasonal units.

In 2019, San Bernardino County had a vacancy rate of 0.9% for owner-occupied homes and 1.5% of renter-occupied units. The vacancy rate in the unincorporated areas is similar at 1.4% for owner-occupied homes and 1.0% for renter-occupied units. An optimal vacancy rate is generally considered 5% to 6% for rental units and 1.5% to 2.0% for owner-occupied units. Higher vacancy rates lead to lower housing production while lower vacancy rates lead to increased rents and purchase prices. By these standards, the county as a whole and the unincorporated area are both tight housing markets, due in part to the slowdown in housing production since 2010. The rental market is particularly tight, especially when compared to the 2010 rates of 9.5% for the unincorporated areas and 8.7% for the county as a whole. It should be noted that the economic recession of 2007 to 2009 contributed substantially to the higher vacancy rates in 2010. Regardless, the lack of available and affordable ownership housing has created an increased demand for rental housing. While multifamily housing production is increasing, the development community has not built enough rental housing to allow for a healthier vacancy rate.

2010 to 2019 Vacancy rate for long-term rentals changed from 9.5% to 1.0%.
A healthy rate is described to be from 5% to 6% .

Page 52.

In the unincorporated county, a large number of housing units (between 30,000 and 40,000) are vacant but not for sale or rent.

Data listed in Table 2-14 as “other vacant” is from 2019 ACS; 2020 Census data released in August 2021 reported lower household and vacancy numbers for the unincorporated areas). Vacant housing is primarily owned by individuals for seasonal, recreational, or occasional use (including short-term rentals), with most (approximately 25,000 to 30,000) in the Mountain region. Between 20,000 and 25,000 of vacant units are in the unincorporated Mountain areas and over 7,000 are in the City of Big Bear Lake. In fact, most of the units in the unincorporated communities of Lake Arrowhead (71%), Big Bear City (58%), Running Springs (57%), and Crestline (51%) are owned by individuals for seasonal, recreational, or occasional use (including short-term rentals).

A number of unincorporated communities in the Desert region also contain a substantial amount of vacant housing, with roughly one in four units sitting vacant for at least part of the year. In Joshua Tree, for example, of the estimated 900 to 1,000 total vacant units (23% of all units in Joshua Tree), over 700 or 18% of all units are for seasonal, recreational, or occasional use. In Homestead Valley, roughly one in three units (778) sit vacant for at least part of the year, most of which (563) are for seasonal, recreational, or occasional use.

Both the Mountain and Desert regions are popular tourist destinations that draw people from around the nation. The Mountain region in particular contains several resorts with workers earning lower incomes that need seasonal or full-time housing. Based on public outreach input, some of these workers have difficulty finding housing due in part because of the prevalence of short-term rentals. Concerns expressed in the Desert region related more to noise issues associated with short-term rentals, though some residents also indicated that short-term rentals may impact the ability of some (e.g., students attending Copper Mountain College) to obtain nearby and/or affordable housing.

The public meetings for this report occurred in 2018 or 2019, before the huge conversion of housing stock to STR lodgings. If the meetings were held now, the vast majority of attendees would discuss the displacement that has occurred and is occurring, and that many are having a hard time finding and affording long term rentals as well as homes for purchase. These homes were affordable, and plenty were available a mere few years ago, prior to the STR influx.

Page 53

There are approximately 14,000 to 18,000 housing units that are vacant for other reasons (10,000 to 12,000 in incorporated areas and 4,000 to 6,000 in unincorporated areas). Roughly 14% of those in incorporated areas are in the City of San Bernardino. According to the U.S. Census, the reasons for nonseasonal vacancy are (listed in descending order): personal/family preference, in need of repair and not ready for rent or sale, in foreclosure, currently being repaired, used for personal storage, in a legal proceeding, currently preparing for rent/sale, or possibly abandoned or to be demolished/condemned. Some of these vacant units will eventually make it into the housing market for rent or sale while others will remain off the market.

There are incorrect percentages in this very important table. We have corrected in red. This is one important location to add a line item for the STRs, for clarity.

Page 54

Table 2-14 Housing Tenure and Vacancy in 2019

Percentages that were incorrect in the chart but corrected (to best of our knowledge here). The total of vacant parcels in the three locations of the chart are not equal.

	Units	Percentage
Owner Occupied	62,979	46%
Renter Occupied	32,247	23%
Vacant	42,261	31%
Total	137,487	100%
Vacant for rent	1,671	1.2%
Vacant for sale	2,311	1.7%
Vacant (other)	39,555	28.7%
total	43,537	31.6%

	units	total	seasonal/Rec
Valley Region CDPs	13,899	7%	< 1%
Mountain CDPs	23,303	59%	52%
North Desert CDPs	2,885	15%	8%
East Desert CDPs	1,478	25%	18%
Total	41,565		

Covid-19 Pandemic

Page 55

With national, state, and local assistance and eviction restrictions, tens of thousands of county residents were able to remain in their homes and landlords were able to remain financially solvent.

This was not the case for people that had paid their rent, but the owner decided to sell to take advantage of market. They were given their 60 days' notice. This happened to many people over the course of the last year and a half, and previously.

Without additional eviction restrictions and other financial assistance (at national, state, or local levels), the vacancy rate is expected to increase as well as rates of overcrowding and homelessness. The latest countywide point-in-time survey of those experiencing homelessness took place in April 2020 (just one month after the stay-at-home order was given), and the 2021 survey was cancelled due to the ongoing pandemic. Accurate estimates of homeless rates are unavailable for 2021.

The Point in Time Count was in January, 2020, just prior to Covid. This is correctly shown in a few locations in the Housing Element, and incorrectly in others.

2.2.5 Housing Cost and Affordability

Page 58

Still, San Bernardino County offers some of the most affordable housing options in Southern California. The sheer size and relative abundance of groundwater (even in the county's Desert regions generates), allows an individual to build a home at a cost that is affordable to lower income households. Between 2018 and 2021, over a quarter of new single family homes built were purchased at prices that are within the maximum affordability thresholds shown in Table 2-17. Moreover, these single family homes are affordable at market prices (i.e., no subsidy). Almost another 30 percent of recently built homes were valued or sold at prices that are affordable for moderate income households.

It would have been very difficult for anyone with less than an “above moderate” income to build a house in any recent memory. Certainly, now, that is the case with increased land, labor, water meter, and material costs.

This is also the case for home purchase, and home rental. What used to rent for \$1000 or less prior to 2018, increased to \$1200/\$1300 in 2018, and would currently be closer to \$1800 a month to rent. Homes that sold for \$225,000 for many years, jumped into more \$380,000 to \$400,000 plus. Ironically, throwing all these assumptions out the window – smaller homes seem to sell for more in the \$600k range, due to where they are located. Prices are all over the place.

The point is many cost and income assumptions made in the Housing Element do not reflect the experience of “the common man or woman”.

The below does not take into account the massive change the STR market has created in the Desert. The Mountains started previously with STRs, so more impacts were known at the beginning stages of this Housing Element process in the Mountains.

Page 60

The median monthly rents in unincorporated communities are generally affordable to lower income households, even when adjusted for household size. Based on this information, nearly all existing rental housing in unincorporated communities can also be assumed to be affordable to moderate income households.

The Valley region has the greatest concentration of people, jobs, and homes, the highest demand for rentals, the greatest range of housing size, and the highest median prices overall. The most affordable rental housing is in the Desert regions, where the environment, oversupply of housing relative to jobs, and higher vacancy rate drive down rents. Rents in the Mountain region is close to prices in Valley communities, due to the limited supply of housing, with supply constrained by topography, safety hazards, and the presence of seasonal homes that are not available to those seeking year-round rental housing.

Household Overpayment and Overcrowding

Page 62

A primary goal for communities is the provision of decent housing and a suitable living environment for residents of all economic levels. Overpaying for housing can significantly burden a household. These households are likely challenged to afford other basic needs and could face eviction, foreclosure, or overcrowding to reduce the cost burden.

Page 62

Large Households

The ability of to build single family homes at a very low cost enables unincorporated residents to construct and/or acquire housing with enough room for their entire household. However, larger households may need to spend more than 30% of their income to live in a larger housing unit.

That is a fantasy.

Page 68

2.3.5 PERSONS EXPERIENCING HOMELESSNESS

The Point in Time Count did not find the many families that are doubled up, or living out in the desert in RVs, or hiding out in boarded up buildings, as they are afraid for losing their children if they are found. The County was well-informed from many different citizens and stakeholders in the communities in the Mountains as well as the Desert about these housing issues at many previous meetings.

Page 92

Disproportionate Need and Displacement Risk

Overcrowding and Overpayment

The higher rate of overcrowding is often associated with a lack of affordable and/or appropriately-sized housing.

The shortage of housing in San Bernardino County may exacerbate both overcrowding and overpayment as residents may have to “double up” due to lack of housing options or to be able to afford the housing that is available. In 2019, the vacancy rate for rental units was 3.7 percent, below the national average of 5.97 percent. These vacancy rates are typically considered low as they do not provide enough availability for residents to easily relocate due to any circumstances that may arise, such as a change in job, income, or growing family.

This above is what we are experiencing in our communities. Approximately 10% of the Morongo Unified School District students are considered homeless under the McKinney Vento definition. We have heard from teachers and school administration about many families having to double even triple up.

Page 93

Homelessness

The latest countywide point-in-time survey of those experiencing homelessness took place in April 2020 (just one month after the stay-at-home order was given)...

Persons experiencing homelessness, or at risk of becoming homeless, are typically extremely low-income and are displaced from housing due to inability to pay or other issues.

Displacement Risk

Displacement risk increases when a household is paying more for housing than their income can support, their housing condition is unstable or unsafe, and when the household is overcrowded. Each of these present's barriers to stable housing for the occupants. In San Bernardino County, renters make up only 40% of households countywide. Particularly in unincorporated San Bernardino, rates of rental housing are low, with the largest concentration of rentals seen in the Valley region near highly populated incorporated cities like the City of San Bernardino and the City of Redlands. Rates of overpayment by renters in unincorporated areas of the county are significant, with rates of over 40% or more of the population seen across much of the unincorporated county area. Areas with higher rates of overpayment by renters tend to coincide with areas that have lower median incomes. So, while there is a low percentage of population renting in unincorporated San Bernardino County, those residents who are renting may face significant rates of overpayment.

Fewer than 3,000 new units were built in the unincorporated communities between 2010 and 2020, reflecting the desires of housing developers, home buyers, and renters to be closer to services and amenities associated with living in a city or incorporated town. New housing units in unincorporated areas tends to be homes built by individuals or small batches of rural estates (half-acre lots or larger), with most of the units relying on onsite water wells and septic systems.

Page 94

Displacement pressures often result from the construction of new, higher-priced housing, enabling or encouraging the property owners of existing rental housing to increase monthly rent based on comparable market rents. Rents on new multifamily housing in unincorporated areas is lower compared to incorporated areas, and a review of housing rents around new rental housing in unincorporated areas does not indicate an increase in the rents of existing housing. As stated above, the rate of new housing construction is low in the unincorporated areas, with the majority of new housing built as ownership units. The majority of land shown on Figure 2-15 is unpopulated or underpopulated to a degree that no market pressures would exist that would create a risk of displacement. Community areas like Joshua Tree and Muscoy experience very little development pressure and are not designated (and do not contain sewer infrastructure) to support new rental housing that would put pricing pressures on existing housing stock.

The Housing Element is not current and ignores the current huge pressures on Joshua Tree, and other communities with so many STRs. This section above discusses displacement but makes no mention of STRs as a major cause.

Aside from a potential subarea of Fontana, however, the combination of few existing rental households and little new rental housing under construction, the risk of displacement to renters in San Bernardino County generally does not pose a major fair housing concern.

This is inaccurate. It certainly does, now.

But then here in this next section, the problem is discussed:

TABLE 2-33 FACTORS THAT CONTRIBUTE TO FAIR HOUSING ISSUES

Contributing Factors (High Priority)

Short Term Rental Housing: The prevalence of short-term rental housing, particularly in tourism areas, may constrict the availability of rental housing and increases rental prices even after County amendments in 2019. This can create an issue where lower income residents and employees lack access to affordable housing.

But then the solution offered here (Program 4) has a timeline that is WAY TOO far down the road, and unacceptable. Our communities need action on this immediately.

Meaningful Actions, Metrics, and Milestones

Conduct a public planning process to develop policies to limit the negative impacts of short-term, whole-home rentals on the availability of affordable long term rental housing (see also Program 4 in the Housing Strategy).

Timeline:

2022: Conduct a study to determine the current and projected impact of short-term rentals on the housing supply throughout the unincorporated county and on the motel/hotel businesses in the Mountain and Desert regions

2023: Conduct public engagement to obtain insight from property owners, employers, and employees in target areas

2024: Conclude study and initiate implementation of strategies based on the study's findings

Metrics: *Completed study and public input; new regulations on short-term rentals and incentive program to use properties for long-term rentals for local employees and lower income residents*

Page 119 map

Communities that have experienced displacement from STRs are not shown. This should be updated to reflect the displacement due to STRs, as the HCD requested in their 2/7/22 Comment Letter.

Page 130

In the Valley region, ADUs must be rented for a term longer than 30 days. The Mountain and Desert regions allow for short-term ADU rentals, with terms less than 30 days, in accordance with Chapter 84.28 of the County Development Code.

Page 196

Program 4. Short-term Rentals

The proliferation of short-term, whole-home rentals can reduce the amount of available rental housing (particularly that which is affordable) for people who work in a seasonal and permanent basis in the Mountain and Desert regions (and drive up the cost of housing in the Valley region). Short-term rentals may also have a negative impact on local hotel/motel businesses. The County permits private homes, including ADUs, to serve as short-term rentals in the Mountain and Desert regions (maximum stay of 30 days). In the Valley region, private homes or ADUs must be rented for a term longer than 30 days.

To increase the availability of long-term housing options, the County will conduct a public planning process and a study to determine if the County should establish a limit on the number of private homes or ADUs that can be developed and used as short-term rentals in the Mountain and Desert regions. The study should also evaluate the potential effectiveness of various incentives to encourage long-term rentals, particularly for local employees and lower income residents. If the study identifies a significant negative effect on the supply of affordable rental housing and/or motel/hotel industry, the County will establish incentives to encourage long-term rentals and/or limit the number of total and/or new short-term rentals that can be permitted in the Mountain and Desert regions.

Objective: Conduct a public planning process and study to determine the current and projected impact of short-term rentals on the housing supply throughout the unincorporated county and on the motel/hotel businesses in the Mountain and Desert regions. Establish and implement strategies based on the study's findings. Update and resubmit 2018 through 2021 annual progress reports (APRs) and ensure that future reports account for units (ADUs, site-built homes, or manufactured homes) that apply for a short-term rental permit and communicate this information to HCD to remove such units from being counted as long-term housing units (at any level of affordability).

Responsibility: Community Development and Housing, Land Use Services

Funding Source: General Fund

Timeframe: Initiate study in 2022 and complete public outreach and engagement in 2023, with a target completion date no later than 2024. Establish and begin implementation of recommended solutions by 2024 if the study's conclusions support the establishment of incentives and/or a limitation (by region and/or for specific unincorporated communities); update 2018-2021 APRs in 2022 and adjust future APRs annually to remove units used for short-term rentals.

Program 4 is a clear statement of the issues. We look forward to also hearing acknowledgement of this housing crisis impacted by so many STRs from our Supervisors and Planning Commissioners. The issue is the timeline for this program must be accelerated to reflect the urgency of the situation.

We appreciate the opportunity to comment.

Sincerely,

Steve Bardwell, President of MBCA
Janet Johnston, Director of MBCA



SAN GORGONIO CHAPTER

Regional Groups Serving Riverside and San Bernardino Counties: Los Serranos, Tahquitz, San Bernardino Mountains, Mojave, Moreno Valley, Big Bear

June 7, 2022

San Bernardino County Board of Supervisors
San Bernardino County Planning Commission
385 N. Arrowhead Avenue
San Bernardino, California 92415

BY EMAIL TO: COB@sbcounty.gov and PlanningCommissionComments@lus.sbcounty.gov

Re: Proposed Short-Term Rental Ordinance, San Bernardino County General Plan, and Draft Housing Element

Chair and Members of the Board of Supervisors and Planning Commission:

I am writing on behalf of the Tahquitz Group of Sierra Club, representing over 1000 members in the Coachella Valley and Morongo Basin portions of Riverside and San Bernardino County. We concur with the Morongo Basin Conservation Association and Center for Biological Diversity's request that the County:

- Pause the issuance of new short-term rental permits to allow study and consideration of the impacts of this use on communities, housing, and the environment in order to inform appropriate policies and regulations for this currently out-of-control use
- Prepare a supplemental environmental impact report to review the proposed Short-Term Rental Ordinance as required under the California Environmental Quality Act
- Adopt a Housing Element that does not impermissibly count Short-Term Rentals towards the County's housing allocation and goals
- Acknowledge and address the housing displacement and harm to unincorporated communities of allowing the operation of too many investor-owned Short-Term Rentals, and bring the policies of the proposed ordinance for same into consistency with the Housing Element and General Plan to serve the needs of the community.

Very truly yours,

Joan Taylor, Chair
Tahquitz Group

