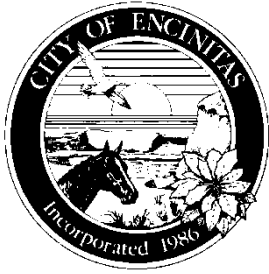


APPENDIX A-2
NOP and Comments



CITY OF ENCINITAS

PLANNING AND BUILDING DEPARTMENT

Notice of Scoping Meeting and Preparation of a Draft Environmental Impact Report

Date: April 10, 2015

To: State Clearinghouse, Responsible Agencies, Trustee Agencies, Organizations, and Interested Persons

Lead Agency: City of Encinitas, Planning and Building Department
505 S. Vulcan Avenue
Encinitas, California 92024
Contact: Michael Strong, Project Manager
Phone: 760-633-2101
E-Mail: mstrong@encinitasca.gov

Project Title: At Home in Encinitas (General Plan Housing Element Update 2013-2021)

Project Location: City-Wide; Refer to Figures 1–3 for Housing Strategy Maps under consideration

Project Applicant: City of Encinitas

Case Number: 15-071

SCOPING MEETING: On Thursday, April 23, 2015 starting at 5:00 P.M., the City of Encinitas Planning and Building Department will conduct a public scoping open house to solicit input and comments from public agencies and the general public on the proposed Draft Environmental Impact Report (EIR) for the Housing Element Update.

This meeting will be held at the Poinsettia Room, located at Encinitas City Hall, 505 S. Vulcan Avenue, Encinitas, CA 92024. The meeting will run from 5:00 P.M. to 7:00 P.M.

This meeting will be an open house format, and interested parties may drop in to review the proposed project exhibits and submit written comments on the scope of the Draft EIR during the meeting. Representatives from the Planning and Building Department and the EIR consultant will be available to address questions regarding the EIR process. Information is also available at www.AtHomeinEncinitas.info.

If you have any questions regarding this scoping meeting, please contact Michael Strong, Project Manager, at mstrong@encinitasca.gov or (760) 633-2101.

NOTICE OF PREPARATION (NOP): In accordance with the California Environmental Quality Act (CEQA), this is to notify public agencies and the general public that the City of Encinitas, as the Lead Agency, will prepare an EIR for the Housing Element Update, also referred to as '*At Home in Encinitas*' (proposed project). The City is interested in the input and/or comments of public agencies as to the scope and content of the environmental information that will be studied in connection with the proposed project. Public agencies may need to use the EIR prepared by the City when considering applicable permits or other approvals for the proposed project. The general public is also encouraged to provide input on the scope of the EIR.

NOP Comment Period: Due to the time limits mandated by state law, your response must be sent at the earliest possible date but *not later than 6:00 P.M. on Monday, May 11, 2015*. Please send your response to the Encinitas Planning and Building Department, c/o Michael Strong, at the above address.

Project Description: The project is *At Home in Encinitas*, the City's General Plan Housing Element Update for the housing cycle 2013–2021. The State of California mandates that all cities and counties prepare a Housing Element as part of the comprehensive General Plan. The 2013–2021 Housing Element represents the City's effort in fulfilling the requirements under the State Housing Element law. The San Diego Association of Governments (SANDAG) Board of Directors adopted the final Regional Housing Needs Assessment (RHNA) Plan for this Housing Element cycle on October 28, 2011. The RHNA identified a housing deficit of 1,283 low and very low income housing units in the City of Encinitas, which also includes a carryover of prior housing cycle units. These are attached and multi-family housing units.

The project includes an update to the 1992 Housing Element, including revised goals and policies, along with new and continuing implementation programs to ensure consistency with current State housing law. The update also integrates updated socioeconomic data, as well as other population and household characteristics to support the development of the Housing Element.

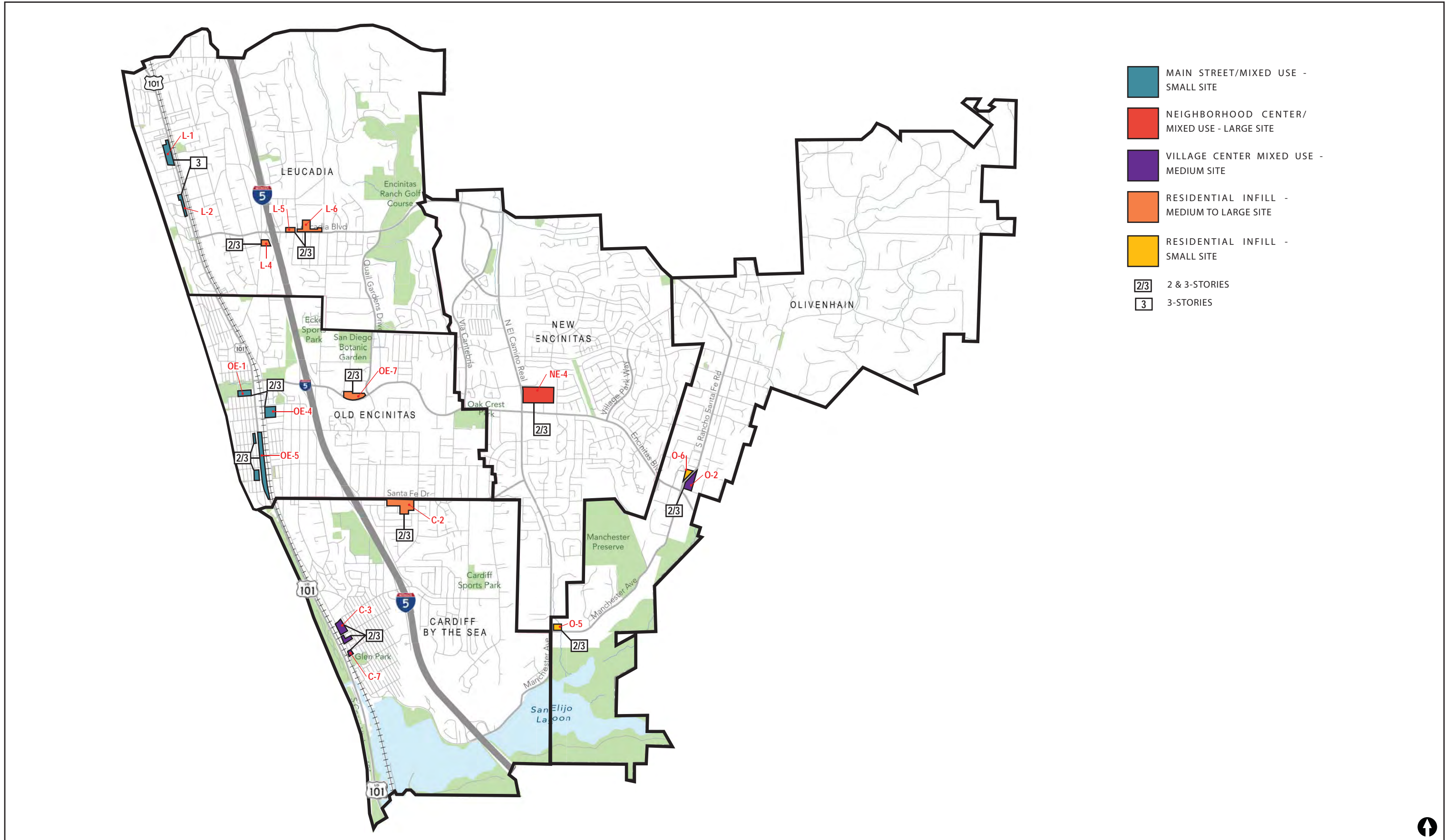
To meet these future housing needs, the City has identified several potential sites to accommodate new housing within each community. These viable housing sites comprise three concept housing strategy maps, which were recommended by City Council for analysis in the EIR (refer to Figures 1–3). Each strategy includes a description of land uses, type of development, and basic site design that could be attained. Every site is also associated with a specific 'neighborhood prototype' (refer to Figures 4–8) to demonstrate how new types of development could integrate new housing into existing communities. The three-dimensional modeling shows how these neighborhoods can be developed using two- and three-story housing types, or exclusively three-story housing types, in very select locations. Each of the three strategy maps and their associated neighborhood prototypes will be studied in detail in the EIR. Once a preferred plan is adopted by the City Council (estimated in summer of 2016), the Housing Element Update would be subject to approval by the voters of the City in November 2016.

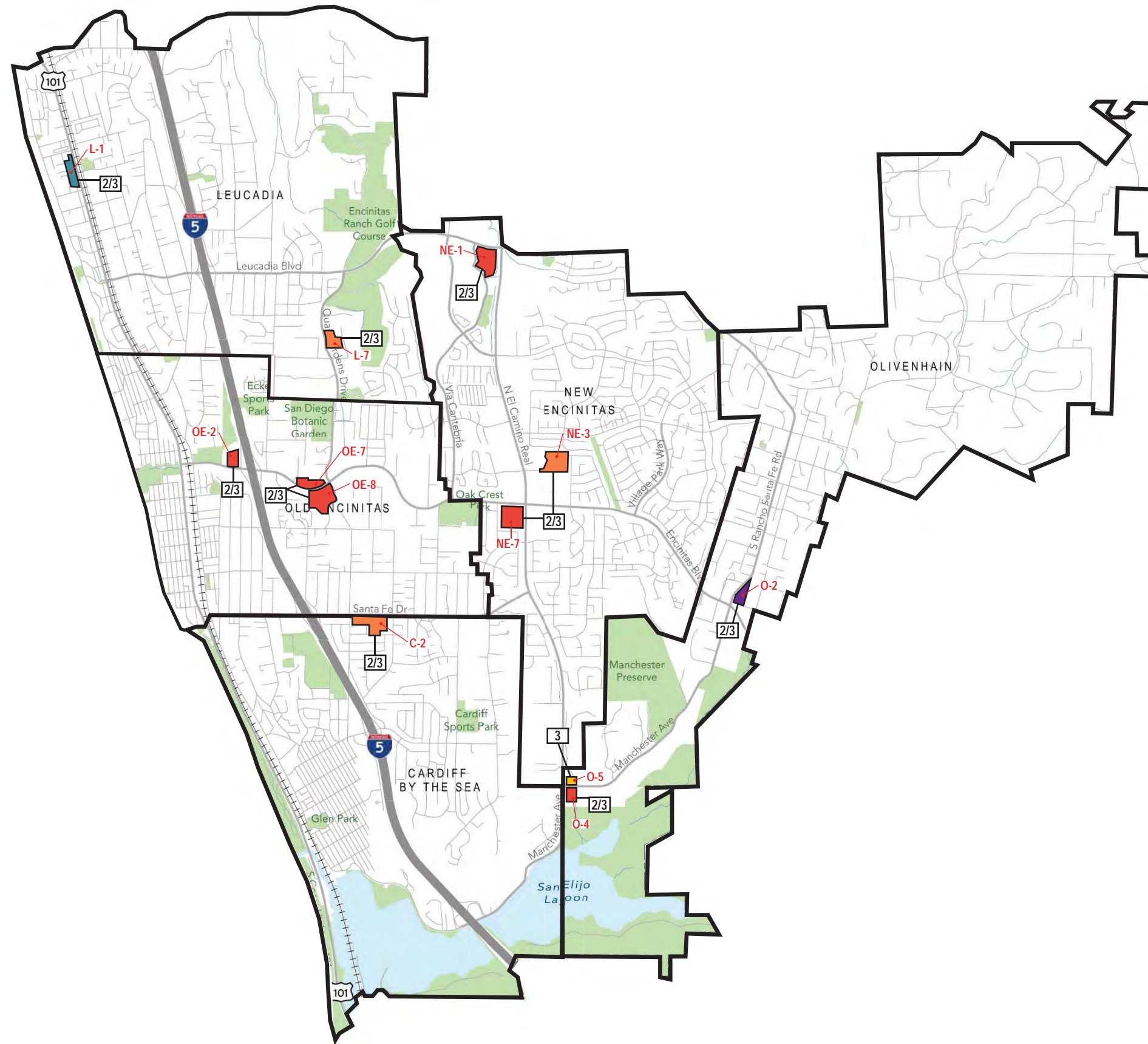
In conjunction with the Housing Element Update, the City will adopt an implementation program that includes a General Plan Land Use Plan Amendment; Re-zoning of sites; Zoning Code Amendments; Subdivision Code Amendments; Design Guidelines with amendments to the Design Review Code; Amendments to the North 101 Corridor Specific Plan, Downtown Encinitas Specific Plan, and Cardiff Specific Plan; a Local Coastal Program Amendment; and the adoption of other programs necessary to implement the Housing Element, as set forth in the implementation program. Collectively, these actions would serve as a blueprint to accommodate future housing and provide housing-related services within the City. If necessary, targeted

amendments to other elements of the General Plan will be made to ensure lawful preparation of the Housing Element Update.

Environmental Impact Report: The EIR prepared for the proposed project will analyze the project-specific impacts pertaining to all of the environmental issue areas identified in Appendix G of the CEQA Guidelines, as amended with significance thresholds specific to this project. The EIR analysis will focus on aesthetics and visual quality, biological resources, cultural resources, geology and soils, greenhouse gases, hydrology and water quality, hazardous materials, land use, population and housing, noise, public services and recreation, transportation and traffic, and utilities and services systems. Other required sections of CEQA will be addressed including cumulative impacts and project alternatives.

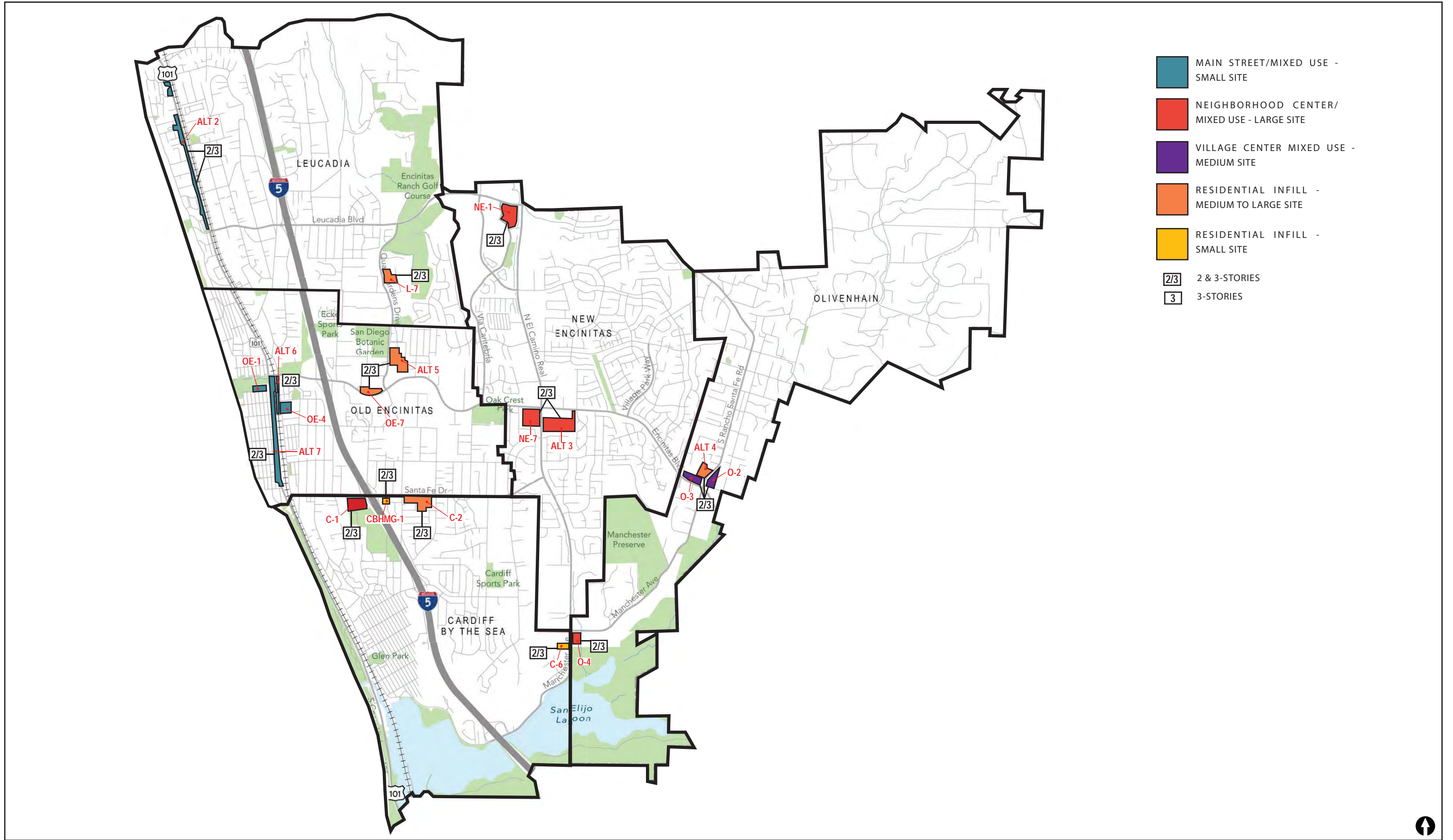
Attachments: Figure 1: Ready-made Mixed Use Places Housing Strategy Map
Figure 2: Build-Your-Own Housing Strategy Map
Figure 3: Ready-Made: Mixed Use Places as Modified on Feb. 5, 2015
Figure 4: Neighborhood Prototype: Neighborhood Center /
Mixed Use – Large Site
Figure 5: Neighborhood Prototype: Residential Infill – Medium to Large Site
Figure 6: Neighborhood Prototype: Village Center / Mixed Use – Medium Site
Figure 7: Neighborhood Prototype: Residential Infill – Small Site
Figure 8: Neighborhood Prototype: Main Street / Mixed Use – Small Site





- MAIN STREET/MIXED USE - SMALL SITE
- NEIGHBORHOOD CENTER/MIXED USE - LARGE SITE
- VILLAGE CENTER MIXED USE - MEDIUM SITE
- RESIDENTIAL INFILL - MEDIUM TO LARGE SITE
- RESIDENTIAL INFILL - SMALL SITE
- 2/3 2 & 3-STORIES
- 3 3-STORIES



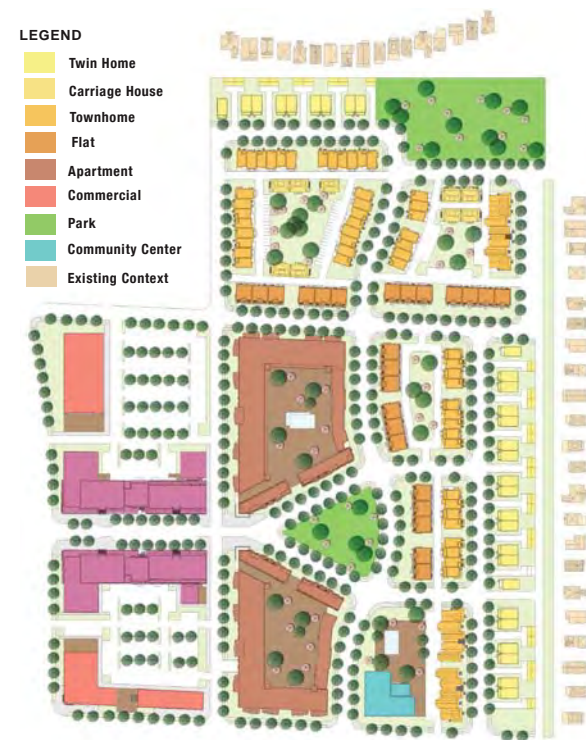


NEIGHBORHOOD CENTER / MIXED USE- LARGE SITE

OVERVIEW: The Neighborhood Center prototype envisions an older strip shopping center redeveloping into smaller blocks, which creates a more walkable, human scale and provides more parking on the street. A new, central street running east-west to the arterial, is designed as a "main street," with buildings located at the sidewalk edge. Ground floor uses along "main

street" would include neighborhood serving commercial retail and restaurant space. In each scenario, this street leads to a park, which serves this new development as well as the abutting neighborhood.

OPTION 1: 2-3 STORY DEVELOPMENT



PROGRAM
 95,000 SF Commercial
 505 Dwelling Units
 5 Acres Parks and Plazas
 10,000 SF Community Center

DESCRIPTION

- Vertical and horizontal mix of uses.
- One and two-story commercial buildings located on arterials, with new "main street" including 2-story stacked uses.
- Parking is mainly provided via internal surface parking lots, except for a couple apartment blocks adjacent to the mixed use "main street" and park which incorporate underground parking.
- Two-story townhomes and twin homes provide a transition to existing single family neighborhoods.

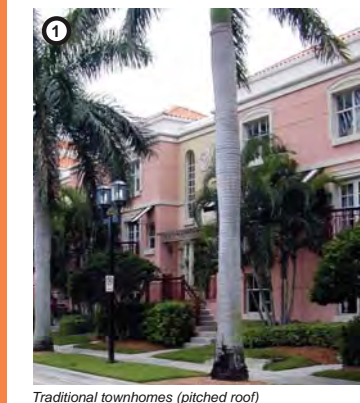
OPTION 2: 3 STORY DEVELOPMENT



PROGRAM
 65,000 SF Commercial
 780 Dwelling Units
 7 Acres Parks and Plazas

DESCRIPTION

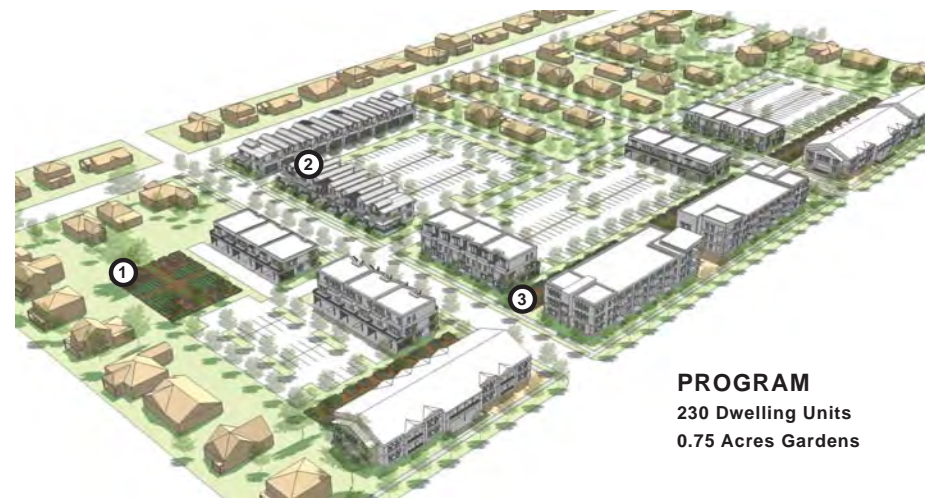
- Vertical mix of uses along a "main street" and arterials.
- Parking is provided in structured or podium parking to support the higher densities.
- Three-story townhomes, flats, and carriage houses provide a transition to existing single family neighborhoods that abut this development.



RESIDENTIAL INFILL - MEDIUM TO LARGE SITE

OVERVIEW: This scenario incorporates multifamily prototypes of larger scale with single family attached prototypes as the site transitions into the existing single family context. This scenario pays homage to the agricultural heritage of Encinitas by providing community gardens or "steward farms" integrated into the housing development. Community gardens could serve this development as well as the surrounding neighborhoods. Each scenario includes reintroduction of the street grid to improve connectivity and to allow for more walkable blocks. A variety of housing prototypes allow for diversity in unit size and income.

OPTION 1: 2-3 STORY DEVELOPMENT



PROGRAM
230 Dwelling Units
0.75 Acres Gardens

DESCRIPTION

- 3-story apartment buildings define the edge of the site along an arterial street.
- Two and three-story story flats are located along new neighborhood streets that connect into the existing neighborhood.
- Two-story townhomes face an existing residential street with surrounding single family homes.
- Apartments are site-parked in surface lots internal to the blocks while flats and townhomes each include integrated "tuck-under" or enclosed garages.
- Gardens are included along the backs of the apartment buildings and behind the flats, adjacent to the single family context.

LEGEND
Townhome Flats Apartments Existing Context



Gardens integrated with housing

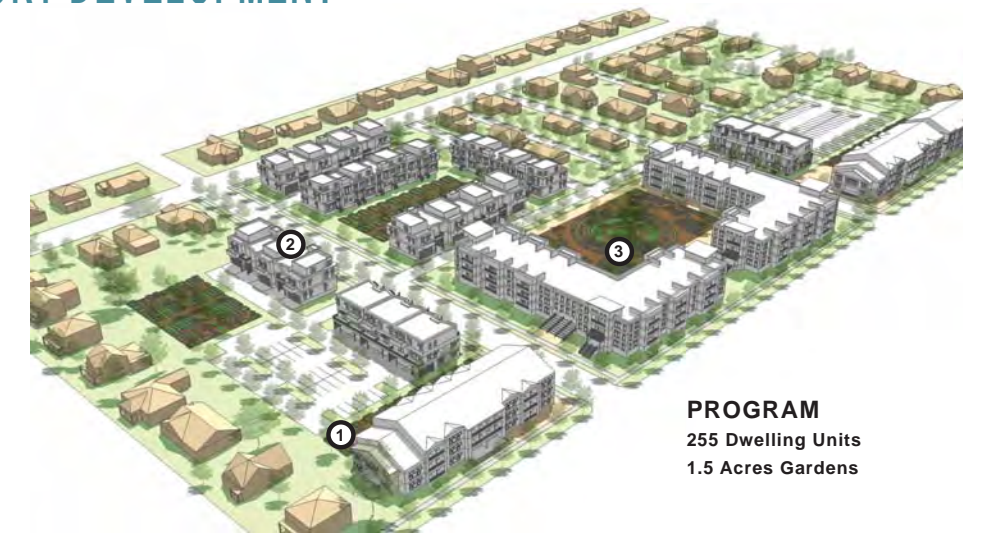


Two-story townhomes



Garden entrance

OPTION 2: 3 STORY DEVELOPMENT



PROGRAM
255 Dwelling Units
1.5 Acres Gardens

DESCRIPTION

- 3-story apartment buildings define the edge of the site along an arterial street.
- Three-story story flats are located along new neighborhood streets that connect into the existing neighborhood.
- Three-story townhomes face an existing residential street and surround a new community garden.
- Apartments are site-parked or podium-parked while flats and townhomes each include integrated "tuck-under" or enclosed garages.
- Gardens are integrated into the development, creating community gathering spaces that also serve as gardens.

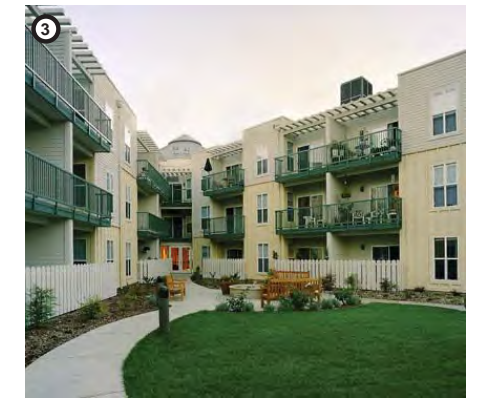
LEGEND
Townhome Flats Apartments Existing Context



3-story apartments facing gardens



Apartments facing street



Courtyard gardens

VILLAGE CENTER / MIXED USE - MEDIUM SITE

OVERVIEW: This scenario could occur in an area that already includes a mix of uses, but could benefit from including more housing to help activate the area. The redevelopment of this prototype would incorporate smaller blocks, making the area more pedestrian friendly. It would also complement the surrounding context with similar architectural styles and massing.

OPTION 1: 2-3 STORY DEVELOPMENT



PROGRAM
11,000 SF Commercial
175 Dwelling Units

DESCRIPTION

- 2-story mixed use “liner” buildings frame the main intersection into the “center” and help support the larger existing commercial development behind them.
- 3-story flats along the main street complement the area with new residential types.
- A 3-story apartment cluster with underground parking is located at the edge of the “center.”
- 2-story residential prototypes such as flats, townhomes and carriage houses are used as transitions into the existing “center” and surrounding neighborhood.

OPTION 2: 3 STORY DEVELOPMENT



PROGRAM
11,000 SF Commercial
255 Dwelling Units

DESCRIPTION

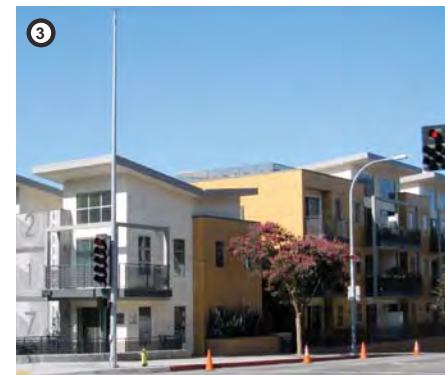
- 3-story mixed use “liner” buildings frame the main intersection into the “center” and help support the larger existing commercial development behind them.
- 3-story flats along the main street complement the area with new residential types.
- A 3-story apartment cluster with underground parking is located at the edge of the “center.”
- 3-story residential prototypes such as flats, townhomes and carriage houses are used as transitions into the existing “center” and surrounding neighborhood.



Transition from 2 to 3-story townhomes



2-story carriage house



Two and three-story flats



3-story flats with lley-accessed parking in garages



Traditional “village” feel



3-story mixed use with varied facade

RESIDENTIAL INFILL - SMALL SITE

OVERVIEW: The Residential Infill-Small Site neighborhood prototype is provided as an option for incorporating infill multifamily and attached single family housing into an existing single family neighborhood. In most cases, these infill sites will be rather small, and close to surrounding single family homes. Therefore, considering the context is especially important. This prototype

would likely occur at the intersection of two neighborhood streets, but could also occur along a neighborhood or arterial street.

OPTION 1: 2-3 STORY DEVELOPMENT



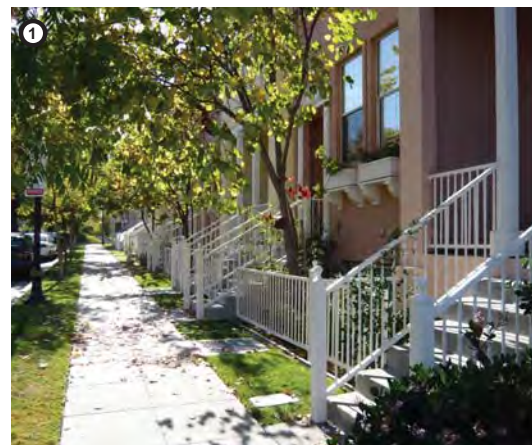
LEGEND
 Townhome Flats Existing Context



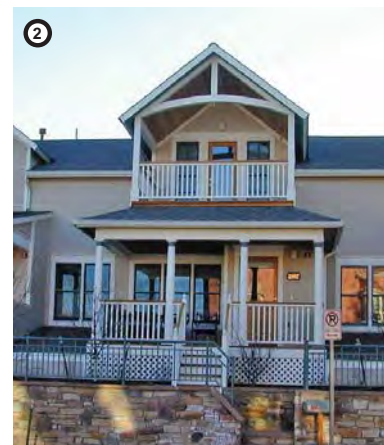
PROGRAM
 26 Dwelling Units

DESCRIPTION

- 3-story flats face primary street.
- 2-story townhomes face secondary street.
- Parking is provided in individual ground floor garages or "tuck under" parking areas.
- Buildings are set back from the street edge to respond to the surrounding context.



Front stoops and porches



Connections to the outdoors



Cottage architecture

OPTION 2: 3 STORY DEVELOPMENT



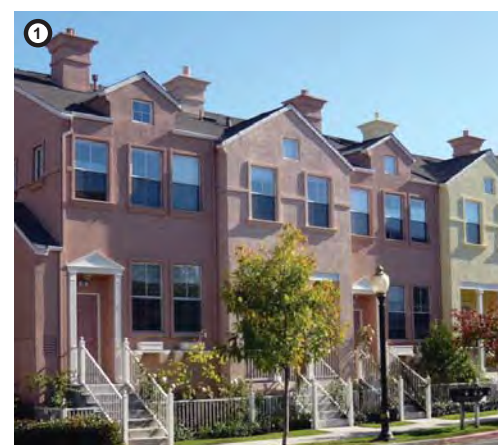
LEGEND
 Flats Existing Context



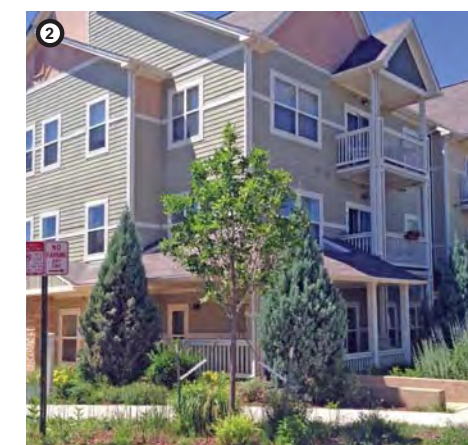
PROGRAM
 36 Dwelling Units

DESCRIPTION

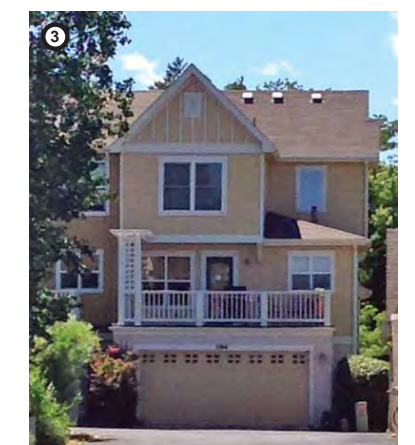
- 3-story flats facing primary and secondary streets.
- Parking is provided in "tuck-under" or garage spaces with additional surface parking provided on-site.
- A central green space provides a park-like setting for residents to enjoy while transitioning to surrounding single



Townhomes greet the sidewalk



Variation in facade

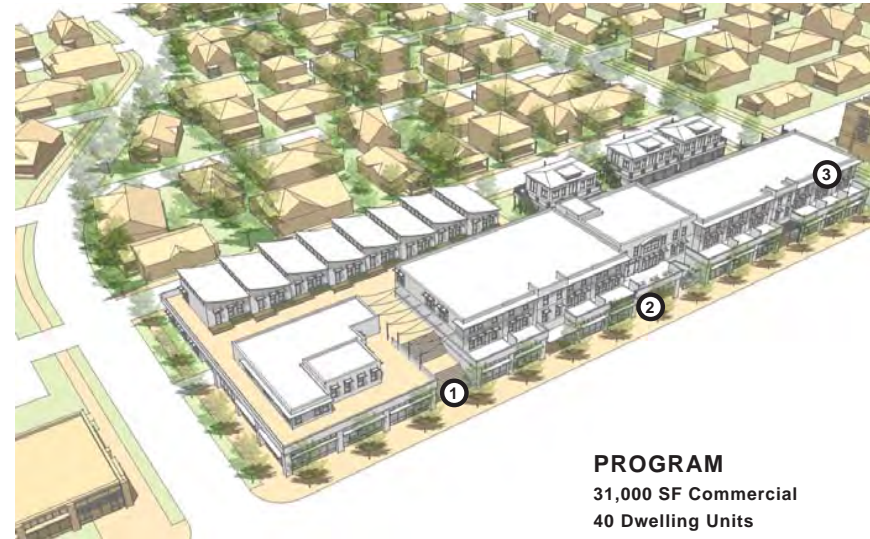


Garage parking

MAIN STREET / MIXED USE - SMALL SITE

OVERVIEW: This neighborhood prototype envisions redevelopment along Highway 101 or other local “main street.” New development is “mixed use,” including retail or restaurants on the ground floor with housing above. In each option, the building is located at the sidewalk edge to define the street and create a lively sidewalk experience.

OPTION 1: 2-3 STORY DEVELOPMENT

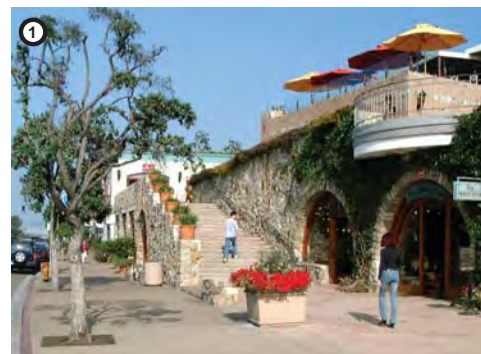


PROGRAM
31,000 SF Commercial
40 Dwelling Units

DESCRIPTION

- A large mixed use building with ground floor commercial and two upper floors of residential along most of the facade.
- A second-level plaza offers access to a restaurant and unique townhomes with stairs leading up from the sidewalk.
- Carriage houses are provided opposite the alley for transitioning into the existing single and multifamily context.
- Parking is provided underground and on the ground floor, accessed from the alley, and on the ground floor of carriage houses.

LEGEND
Mixed Use Carriage House Townhome Existing Context



Second-level plaza with steps from sidewalk

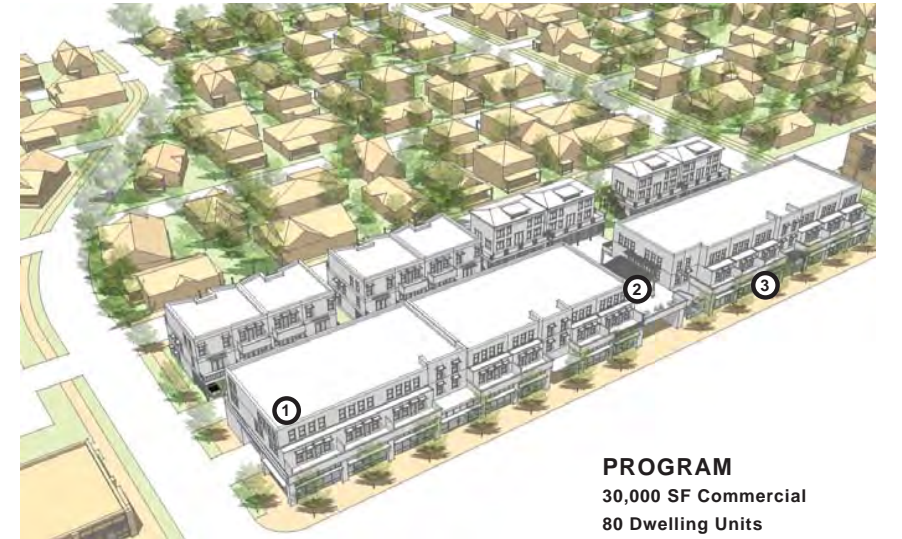


Outdoor café seating



Traditional context mixed use

OPTION 2: 3 STORY DEVELOPMENT



PROGRAM
30,000 SF Commercial
80 Dwelling Units

DESCRIPTION

- A large mixed use building with ground floor commercial uses and two upper floors of residential is provided along “main street.”
- A second-level plaza is provided for residential units and also provides a break in the facade at the street level.
- An alley behind the mixed use building provides access carriage houses and flats to provide a transition to the existing single and multi-family neighborhood with “tuck-under” parking.
- Parking for the mixed use building is provided underground with some spaces provided in the alley.

LEGEND
Mixed Use Carriage House Flats Existing Context



Industrial context mixed use



Downtown context mixed use



Lively sidewalk environment

DEPARTMENT OF TRANSPORTATION

DISTRICT 11

PLANNING DIVISION

4050 TAYLOR STREET, M.S. 240

SAN DIEGO, CA 92110

PHONE (619) 688-6960

FAX (619) 688-4299

TTY 711

*Serious drought.
Help save water!*

May 6, 2015

11-SD-5

PM VAR

Encinitas Housing Element Update

NOP / SCH 2015041044

Mr. Mike Strong
City of Encinitas
505 S. Vulcan Avenue
Encinitas, CA 92024

Dear Mr. Strong:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for At Home In Encinitas, the General Plan Housing Element Update for 2013-2021 for the City of Encinitas (City). The mission of Caltrans is to provide a safe, sustainable, integrated and efficient transportation system to enhance California's economy and livability. The Local Development-Intergovernmental Review (LD-IGR) Program reviews land use projects and plans to ensure consistency with our mission and state planning priorities of infill, conservation, and efficient development. To ensure a safe, efficient, and reliable transportation system, we encourage early consultation and coordination with local jurisdictions and project proponents on all development projects that utilize the multi-modal transportation network. Caltrans would like to submit the following comments:

The potential housing sites identified in the three concept housing strategy maps (Figures 1 through 3) includes three sites with parcels adjacent to Caltrans right-of-way (R/W) for Interstate 5 (I-5): "L-4", "OE-2", and "C-1".

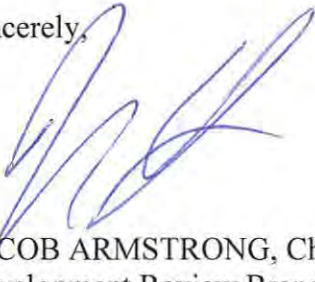
Preserving needed R/W along highway/freeway corridors that is consistent with regional transportation plans enables Caltrans to more efficiently meet the transportation needs of the region and the State. For San Diego County, the San Diego Association of Governments (SANDAG) 2050 Regional Transportation Plan (RTP) is the blueprint for a regional transportation system serving existing and projected residents and workers over the next 40 years. Please note that the 2050 RTP's Revenue Constrained Highway Network includes the I-5 North Coast Corridor (NCC) Project, for which Caltrans has prepared a Final Environmental Impact Report / Environmental Impact Statement (EIR/EIS) for the highway component of the larger NCC Program of transit, highway, community, and environmental enhancements planned along 27 miles between Sorrento Valley in San Diego and Oceanside. The Final EIR/EIS affirmed the Express Lanes Only option (8+4 Buffer Alternative) as the Caltrans Locally Preferred Alternative for the project, with Bus Rapid Transit (BRT) potentially using the Express Lanes. Again, it is important in the implementation of future regional transportation

Mr. Mike Strong
May 6, 2015
Page 2

improvements that R/W needs are consistent with proposed changes in land use plans. More information on the project, including the Final EIR/EIS, is available at the following web address: <http://www.keepsandiegomoving.com/I-5-Corridor/>.

Caltrans appreciates the continued coordination with City staff on this plan. If you have any questions, please contact Connery Cepeda, Community Planning Liaison, at (619) 688-6003 or connery.cepeda@dot.ca.gov.

Sincerely,



JACOB ARMSTRONG, Chief
Development Review Branch

c: Scott Morgan, State Clearinghouse
Susan Baldwin, SANDAG



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
South Coast Region
3883 Ruffin Road
San Diego, CA 92123
(858) 467-4201
www.wildlife.ca.gov

EDMUND G. BROWN JR., Governor
CHARLTON H. BONHAM, Director



May 12, 2015

Mr. Mike Strong
City of Encinitas
505 S. Vulcan Avenue
Encinitas, CA 92024
mstrong@encinitasca.gov

Subject: Comments on the Notice of Preparation of a Draft Environmental Impact Report for the At Home in Encinitas (General Plan Housing Element) Project, City of Encinitas, County of San Diego (SCH# 2015041044)

Dear Mr. Strong:

The California Department of Fish and Wildlife (Department) has reviewed the above-referenced Notice of Preparation (NOP) for the At Home in Encinitas Draft Environmental Impact Report (DEIR). The following statements and comments have been prepared pursuant to the Department's authority as Trustee Agency with jurisdiction over natural resources affected by the project (California Environmental Quality Act, [CEQA] Guidelines § 15386) and pursuant to our authority as a Responsible Agency under CEQA Guidelines section 15381 over those aspects of the proposed project that come under the purview of the California Endangered Species Act (Fish and Game Code § 2050 *et seq.*) and Fish and Game Code section 1600 *et seq.* The Department also administers the Natural Community Conservation Planning (NCCP) program. The City of Encinitas (City) participates in the NCCP program through its draft Multiple Habitat Conservation Program (MHCP) Subarea Plan.

The proposed project involves the City's General Plan Housing Element Update for the housing cycle 2013–2021. A regional San Diego County Housing Needs Assessment Plan identified a housing deficit of 1,283 low income housing units in the City. In order to meet these future housing needs, the City has identified several potential sites to accommodate new housing. The City will also adopt an implementation program that includes "a General Plan Land Use Plan Amendment; Re-zoning of sites; Zoning Code Amendments; Subdivision Code Amendments; Design Guidelines with amendments to the Design Review Code; Amendments to the North 101 Corridor Specific Plan, Downtown Encinitas Specific Plan, and Cardiff Specific Plan; a Local Coastal Program Amendment; and the adoption of other programs necessary to implement the Housing Element." Together, these actions would serve as a blueprint to accommodate future housing and provide housing-related services within the City.

The Department offers the following comments and recommendations to assist the City in avoiding or minimizing potential project impacts on biological resources.

General Comments

1. The Department has responsibility for wetland and riparian habitats. It is the policy of the Department to strongly discourage development in wetlands or conversion of wetlands to uplands. We oppose any development or conversion which would result in a reduction of

wetland acreage or wetland habitat values, unless, at a minimum, project mitigation assures there will be “no net loss” of either wetland habitat values or acreage. Development and conversion include but are not limited to conversion to subsurface drains, placement of fill or building of structures within the wetland, and channelization or removal of materials from the streambed. All wetlands and watercourses, whether ephemeral, intermittent, or perennial, should be retained and provided with substantial setbacks which preserve the riparian and aquatic values and maintain their value to on-site and off-site wildlife populations. Mitigation measures to compensate for impacts to mature riparian corridors must be included in the DEIR and must compensate for the loss of function and value of a wildlife corridor.

- a) The project area supports aquatic, riparian, and wetland habitats; therefore, a jurisdictional delineation of the creeks and their associated riparian habitats should be included in the DEIR. The delineation should be conducted pursuant to the U. S. Fish and Wildlife Service wetland definition adopted by the Department.¹ Please note that some wetland and riparian habitats subject to the Department’s authority may extend beyond the jurisdictional limits of the U.S. Army Corps of Engineers.
 - b) The Department also has regulatory authority over activities in streams and/or lakes that will divert or obstruct the natural flow, or change the bed, channel, or bank (which may include associated riparian resources) of a river or stream, or use material from a streambed. For any such activities, the project applicant (or “entity”) must provide written notification to the Department pursuant to section 1600 *et seq.* of the Fish and Game Code. Based on this notification and other information, the Department determines whether a Lake and Streambed Alteration Agreement (LSA) with the applicant is required prior to conducting the proposed activities. The Department’s issuance of a LSA for a project that is subject to CEQA will require CEQA compliance actions by the Department as a Responsible Agency. The Department as a Responsible Agency under CEQA may consider the local jurisdiction’s (lead agency) Negative Declaration or Environmental Impact Report for the project. To minimize additional requirements by the Department pursuant to section 1600 *et seq.* and/or under CEQA, the document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring and reporting commitments for issuance of the LSA.²
2. The Department considers adverse impacts to a species protected by the California Endangered Species Act (CESA), for the purposes of CEQA, to be significant without mitigation. As to CESA, take of any endangered, threatened, or candidate species that results from the project is prohibited, except as authorized by state law (Fish and Game Code, §§ 2080, 2085). Consequently, if the Project, Project construction, or any Project-

¹ Cowardin, Lewis M., et al. 1979. Classification of Wetlands and Deepwater Habitats of the United States. U.S. Department of the Interior, Fish and Wildlife Service.

² A notification package for a LSA may be obtained by accessing the Department’s web site at www.wildlife.ca.gov/habcon/1600.

related activity during the life of the Project will result in take of a species designated as endangered or threatened, or a candidate for listing under CESA, the Department recommends that the project proponent seek appropriate take authorization under CESA prior to implementing the project. Appropriate authorization from the Department may include an incidental take permit (ITP) or a consistency determination in certain circumstances, among other options (Fish and Game Code §§ 2080.1, 2081, subs. (b),(c)). Early consultation is encouraged, as significant modification to a project and mitigation measures may be required in order to obtain a CESA Permit. Revisions to the Fish and Game Code, effective January 1998, may require that the Department issue a separate CEQA document for the issuance of an ITP unless the project CEQA document addresses all project impacts to CESA-listed species and specifies a mitigation monitoring and reporting program that will meet the requirements of an ITP. For these reasons, biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for a CESA ITP.

3. To enable the Department to adequately review and comment on the proposed project from the standpoint of the protection of plants, fish and wildlife, we recommend the following information be included in the DEIR.
 - a) A complete discussion of the purpose and need for, and description of, the proposed project, including all staging areas and access routes to the construction and staging areas.
 - b) A range of feasible alternatives to ensure that alternatives to the proposed project are fully considered and evaluated; the alternatives should avoid or otherwise minimize impacts to sensitive biological resources particularly wetlands. Specific alternative locations should be evaluated in areas with lower resource sensitivity where appropriate.

Biological Resources within the Project's Area of Potential Effect

4. To provide a complete assessment of the flora and fauna within and adjacent to the project area, with particular emphasis upon identifying endangered, threatened, sensitive, and locally unique species and sensitive habitats, the DEIR should include the following information.
 - a) Per CEQA Guidelines, section 15125(c), information on the regional setting that is critical to an assessment of environmental impacts, with special emphasis placed on resources that are rare or unique to the region.
 - b) A thorough, recent floristic-based assessment of special status plants and natural communities, following the Department's Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities (see <http://www.dfg.ca.gov/habcon/plant/>). The Department recommends that floristic, alliance- and/or association-based mapping and vegetation impact assessments be conducted at the project site and neighboring vicinity. The Manual of California Vegetation, second edition, should also be used to inform this mapping and assessment

(Sawyer et al. 2008²). Adjoining habitat areas should be included in this assessment where site activities could lead to direct or indirect impacts offsite. Habitat mapping at the alliance level will help establish baseline vegetation conditions.

- c) A current inventory of the biological resources associated with each habitat type on site and within the area of potential effect. The Department's California Natural Diversity Data Base in Sacramento should be contacted at www.wildlife.ca.gov/biogeodata/ to obtain current information on any previously reported sensitive species and habitat, including Significant Natural Areas identified under Chapter 12 of the Fish and Game Code.
- d) An inventory of rare, threatened, endangered and other sensitive species on site and within the area of potential effect. Species to be addressed should include all those which meet the CEQA definition (see CEQA Guidelines, § 15380). This should include sensitive fish, wildlife, reptile, and amphibian species. Seasonal variations in use of the project area should also be addressed. Focused species-specific surveys, conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, are required. Acceptable species-specific survey procedures should be developed in consultation with the Department and the U.S. Fish and Wildlife Service.

Analyses of the Potential Project-Related Impacts on the Biological Resources

- 5. To provide a thorough discussion of direct, indirect, and cumulative impacts expected to adversely affect biological resources, with specific measures to offset such impacts, the following should be addressed in the DEIR.
 - a) A discussion of potential adverse impacts from lighting, noise, human activity, exotic species, and drainage should also be included. The latter subject should address: project-related changes on drainage patterns on and downstream of the project site; the volume, velocity, and frequency of existing and post-project surface flows; polluted runoff; soil erosion and/or sedimentation in streams and water bodies; and post-project fate of runoff from the project site. The discussions should also address the proximity of the extraction activities to the water table, whether dewatering would be necessary, and the potential resulting impacts on the habitat, if any, supported by the groundwater. Mitigation measures proposed to alleviate such impacts should be included.
 - b) Discussions regarding indirect project impacts on biological resources, including resources in nearby public lands, open space, adjacent natural habitats, riparian ecosystems, and any designated and/or proposed or existing reserve lands (e.g., preserve lands associated with the MHCP). Impacts on, and maintenance of, wildlife corridor/movement areas, including access to undisturbed habitats in adjacent areas, should be fully evaluated in the DEIR.

² Sawyer, J. O., T. Keeler-Wolf and J.M. Evens. 2009. A Manual of California Vegetation, Second Edition. California Native Plant Society Press, Sacramento.

- c) The zoning of areas for development projects or other uses that are nearby or adjacent to natural areas may inadvertently contribute to wildlife-human interactions. A discussion of possible conflicts and mitigation measures to reduce these conflicts should be included in the environmental document.
- d) A cumulative effects analysis should be developed as described under CEQA Guidelines, section 15130. General and specific plans, as well as past, present, and anticipated future projects, should be analyzed relative to their impacts on similar plant communities and wildlife habitats.

Mitigation for the Project-related Biological Impacts

- 6. The DEIR should include measures to fully avoid and otherwise protect Rare Natural Alliances from project-related impacts. The Department considers these communities as threatened habitats having both regional and local significance.
- 7. The DEIR should include mitigation measures for adverse project-related impacts to sensitive plants, animals, and habitats. Mitigation measures should emphasize avoidance and reduction of project impacts. For unavoidable impacts, on-site habitat restoration or enhancement should be discussed in detail. If on-site mitigation is not feasible or would not be biologically viable and therefore not adequately mitigate the loss of biological functions and values, off-site mitigation through habitat creation and/or acquisition and preservation in perpetuity should be addressed.
- 8. For proposed preservation and/or restoration, the DEIR should include measures to perpetually protect the targeted habitat values from direct and indirect negative impacts. The objective should be to offset the project-induced qualitative and quantitative losses of wildlife habitat values. Issues that should be addressed include restrictions on access, proposed land dedications, monitoring and management programs, control of illegal dumping, water pollution, increased human intrusion, etc.
- 9. In order to avoid impacts to nesting birds, the DEIR should require that clearing of vegetation, and when biologically warranted construction, occur outside of the peak avian breeding season which generally runs from February 1 through September 1 (as early as January 1 for some raptors). If project construction is necessary during the bird breeding season a qualified biologist with experience in conducting bird breeding surveys should conduct weekly bird surveys for nesting birds, within three days prior to the work in the area, and ensure no nesting birds in the project area would be impacted by the project. If an active nest is identified, a buffer shall be established between the construction activities and the nest so that nesting activities are not interrupted. The buffer should be a minimum width of 300 feet (500 feet for raptors), be delineated by temporary fencing, and remain in effect as long as construction is occurring or until the nest is no longer active. No project construction shall occur within the fenced nest zone until the young have fledged, are no longer being fed by the parents, have left the nest, and will no longer be impacted by the project. Reductions in the nest buffer distance may be appropriate depending on the avian species involved, ambient levels of human activity, screening vegetation, or possibly other factors.

Mr. Mike Strong
City of Encinitas
May 12, 2015
Page 6 of 6

10. The Department generally does not support the use of relocation, salvage, and/or transplantation as mitigation for impacts to rare, threatened, or endangered species. Studies have shown that these efforts are experimental in nature and largely unsuccessful.
11. Plans for restoration and revegetation should be prepared by persons with expertise in southern California ecosystems and native plant revegetation techniques. Each plan should include, at a minimum: (a) the location of the mitigation site; (b) the plant species to be used, container sizes, and seeding rates; (c) a schematic depicting the mitigation area; (d) planting schedule; (e) a description of the irrigation methodology; (f) measures to control exotic vegetation on site; (g) specific success criteria; (h) a detailed monitoring program; (i) contingency measures should the success criteria not be met; and (j) identification of the party responsible for meeting the success criteria and providing for conservation of the mitigation site in perpetuity.

We appreciate the opportunity to comment on the referenced NOP. Questions regarding this letter and further coordination on these issues should be directed to Bryand Duke at (858) 637-5511 or Bryand.Duke@wildlife.ca.gov.

Sincerely,



Gail K. Sevrens
Environmental Program Manager
South Coast Region

ec: Janet Stuckrath (Janet_Stuckrath@fws.gov)
Scott Morgan (State.clearinghouse@opr.ca.gov)

From: Jibsail inc dba Graydon Enterprises [mailto:s.graydon@outlook.com]

Sent: Thursday, May 07, 2015 9:15 AM

To: athome

Cc: editor@coastnewsgroup.com

Subject: At Home proposals EIR

To Whom it may concern

The proposed

Scoping Meeting and Preparation of a Draft Environmental Impact Report

Falls short of preserving the quality of life that long term residents and families have enjoyed for decades in our long established neighborhoods. The "General Plan Ad Hoc Committee Land Use Plan Recommendations" dated February 25, 1988 (on file in the city) has been totally disregarded as has most recently voted on and approved Prop A ("No three story building(s) along 101 cost HWY"). It is purtenant today and applicable because it is the intent of our long established City wide residents and current majority city residents who originally fought to preserve and protect our communities personalities for its future enjoyment. This is why we fought so hard to become incorporated!

The families and residents that are most affected by these "proposed" changes have been given little consideration and it seems that more attention and leeway is being given to incoming investors, LLC's, partnerships and businesses, at the affected residents (neighborhoods) and their family's expense. The Coastal residential communities are adversely affected by means of just recently established (5years) businesses "Morphing" with in our coastal residential communities. Establishing "UNFRIENDLY" residential business types in long established residential neighborhoods, is but one example. Total lack of consideration for residents and their families "quality of life" enjoyed for decades are slowly being taken away by allowing " these non friendly residential businesses", to become established within these residential neighborhoods (Morphing), for starters.

The increase of high volume (relies on residential neighborhoods for over flow needs of their customers), high traffic type and party type of business is not conducive to an established residential pedestrian community. This greatly affects residents long established "quality of life" and "peaceful enjoyment of their homes" and neighborhoods. Allowing property types to be built when there needs are not met on their own property boundries imposes on neighboring residents to supply these needs. Business and investors should not get more consideration in functionally and desirable "established residential neighborhoods" than the residents and families that have made these neighborhoods their homes for decades. The residents and their family's give higher financial support to the city then these incoming and proposed businesses. So why not give these residents and family's most consideration of protecting their long enjoyed "quality of Life".

The Ad Hoc Committee land use plan dated February 25, 1988 for the City of Encinitas as well as Prop A should be strongly considered when going ahead with necessary and needed

city wide growth. Taking away long established residential neighborhoods quality of life by amending or circumvention on voted on prop(s) (such as prop A) of low densities among our "Long established" coastal residential neighborhoods is short sided. Constant use of "Minor Use permits" "Coastal development permits" etc.. that empowers city staff and circumvents the neighborhoods residents wishes by redefining its personalities by "Demoing" its homes, is just wrong. Demolition of our long desirable established homes, property and history that makes us who we are is not the same as developing and growing into the future. The infrastructure and transportation system should and must first of all support its long established neighborhoods needs first and foremost. This does not and should not mean destroying it by redefining its neighborhoods based on procived financial gain by the city, private investors and businesses wants and needs.

City wide growth can and should be established without affecting its current residents and families currently enjoyed "quality of life" and "peaceful enjoyment" of their homes. Furture growth would have the restraints of development based on the infrastructure and traffic circulation design, use and need(s) of its "current" residents not future needs. This focus helps serve and protect its long established residents from being displaced. Currently the proposals allows Businesses, partnerships, LLC's and profiteers the taking away of these established neighborhoods "quality of life" as well as their peaceful enjoyment of their homes and long established neighborhoods (morphing & demo).

INCREASES in Noise, business smells (restaurants cooking), taking away established landscaping (making room for much larger properties types), long established properties being destroyed (taking of area personality), increase Traffic, increase in local public services needs (without any additional financial responsibility from businesses), allowing the redesigning of long established neighborhood properties intended use (morphing from residential friendly type of businesses to non friendly type of businesses), demanding long established residential neighborhoods the responsibility of supporting the needs of incoming business etc... is all at the expense of these long established neighborhoods, local residents and families "quality of life".

The proposed changes are allowing a complete transition from a very desirable established residential neighborhood with lots of local history to a Business district for investors, partnerships, LLC's and profiteers at the expense of its neighboring residents and their families way of life, quality of life and peaceful enjoyment of their long established homes. Its these residents collectively that have, are and am contributing more to the City financially than any current or proposed business, partnership, LLC's or profiteers every will in these areas. So why not lean more towards protecting, preserving and establishing their needs first? This can easily be accomplished by just reading "The Ad Hoc Committee Land use plan dated February 25th 1988" in the City records, much supported Prop A and implementing it into these current proposal(s). Taking away is not the same as adding! Yes, our original reason for being established as a city is important today. Don't take our way of life and enjoyment of our homes just for financial gain or profits for businesses and for self procived monintary city needs. Lets Protect, Serve, Preserve and Grow for future generations to enjoy has we have and are currently doing.

Scott Carter
Europa Street
Leucadia

From: Jibsail inc dba Graydon Enterprises [<mailto:s.graydon@outlook.com>]
Sent: Monday, April 27, 2015 10:20 AM
To: Michael Strong
Cc: Larry Watt; Glenn Sabine; Planning; Council Members
Subject: Scoping Meeting and Preparation of a Draft Environmental Impact Report

To Whom it may concern

The proposed

Scoping Meeting and Preparation of a Draft Environmental Impact Report

Falls short of preserving the quality of life that long term residents and families have enjoyed for decades in our long established neighborhoods. The "General Plan Ad Hoc Committee Land Use Plan Recommendations" dated February 25, 1988 (on file) has been totally disregarded as has most recently voted on and approved Prop A ("No three story building(s) along 101 cost HWY").

The families and residents that are most affected by these "proposed" changes have been given little consideration and it seems that more attention and leeway is being given to incoming investors, LLC's, partnerships and businesses, at the affected residents and their family's expense. The Coastal residential communities are adversely affected by means of just recently (5years) businesses "Morphing" with in our coastal residential communities. Total lack of consideration for residents and their families "quality of life" enjoyed for decades are slowly being taken away by allowing "non friendly residential businesses", to become established within these residential neighborhoods (Morphing). The increase of high volume (relies on residential neighborhoods for over flow needs of their customers), high traffic type and party type of business is not conducive to an established residential pedestrian community. This greatly affects residents long established "quality of life" and "peaceful enjoyment of their homes" and neighborhoods. Business and investors should not get more consideration in established residential neighborhoods than the residents and families that have made these neighborhoods their homes for decades. The residents and their family's give higher financial support to the city then these incoming and proposed businesses. So why not give these residents and family's most consideration of protecting their long enjoyed "quality of Life".

The Ad Hoc Committee land use plan dated February 25, 1988 for the City of Encinitas as well as Prop A should be strongly considered when going ahead with necessary and needed city wide growth. Taking away long established residential neighborhoods quality of life by amending or circumvention on voted on prop(s) of low densities among our established residential neighborhoods is short sided. The infrastructure and transportation system should and must first of all support its long established neighborhoods needs first and foremost. This helps serve and protect its residents.

Businesses, partnerships, LLC's and profiteers are taking away these established neighborhoods "quality of life" and their peaceful enjoyment of their homes and neighborhoods". Noise, business smells (restaurants cooking), taking away landscaping, long established properties being destroyed, increase Traffic, increase in local public services needs, redesigning of property intended use (morphing), etc... is all at the expense of its local residents. The proposed changes are allowing a complete transition from a residential neighborhood to a Business district for investors, partnerships, LLC's and profiteers at the expense of its residents and their families. Its these residents collectively that have, are and am contributing more to the City financially than any current or proposed business, partnership, LLC's or profiteers every will. So why not lean more towards protecting, preserving and establishing their needs first?

Scott Carter
Europa Street
Leucadia

From: Nancy Nelson [mailto:nelson92024@yahoo.com]
Sent: Wednesday, April 29, 2015 12:14 PM
To: Michael Strong
Subject: Housing Plan Update

Dear Mr. Strong,

I am happy to see the housing plan updates. It is nice to be informed and kept up to date on the progress you are making. As a citizen of Encinitas, I am very pleased with our town council and the efforts being made to keep us involved. We do have the final say with our votes, so I appreciate getting a plan on the ballot that will pass. I live on Rodney Avenue in Old Villanitas. We have lived here for almost 30 years and have seen our neighborhood evolve from older neighbors (growing up our kids were the only ones on the block we live on) to a neighborhood full of new families with kids of all ages. I love to hear them playing tag and hide and seek in the afternoons. They are all a noisy fun bunch! Our families love the neighborhood and are concerned that one plan in particular would adversely affect us. When looking at the maps Area NE-3 is directly adjacent to our neighborhood. Shields Avenue runs east-west at the top of our streets and is now a dead end. Will Shields remain a dead end if NE-3 is approved or will it be opened to that area? If it is open to NE-3 it will allow and encourage through traffic from El Camino Real and the now private road where the housing will be. Our neighborhood roads are not wide enough for increased traffic and I fear more traffic would dramatically affect our quality of life and put our little ones in danger.

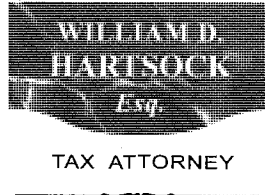
So my questions to you are, if NE-3 is an adopted part of the housing plan update, will Shields Avenue be opened to that area? Also is traffic consideration part of the Environment Impact Report? And are the families (housing) adjacent to these areas, part of the EIR? I don't know if this is the proper forum for these questions. If not, please advise me on how to get the answers.

Thank you.

Sincerely,

Nancy Nelson
273 Rodney Avenue
Encinitas, CA
[REDACTED]

Certified Tax Law Specialist
State Bar of California
Attorney at Law
Master at Law -Taxation (LL.M.)



Admitted to Practice Before:
U. S. Tax Court
U. S. District Court - Southern
Dist. of California
Ninth Circuit Court of Appeals
U.S. Supreme Court

Leucadia Site L-7 Scoping Letter

July 8, 2015

Jeff Murphy, Director
Planning and Building Department
City of Encinitas
505 South Vulcan Avenue
Encinitas, CA 92024

Certified Mail
No. 7014 2120 0001 8084 1768
Return Receipt Requested

Re: Scoping Comments on Preparation of Draft EIR for the At Home in Encinitas Program (General Plan Housing Element Update 2013-2021); and Environmental Impacts of Including Leucadia Site L-7 (APN 2570111700).

Dear Mr. Murphy, Director:

This letter consists of scoping comments prepared pursuant to the California Environmental Quality Act ("CEQA") (*See* Public Resources Code § 21000 et seq.) and the CEQA State Guidelines (14 California Code of Regulations § 15000 et seq.) on the draft Environmental Impact Report ("the DEIR") for the proposed "At Home in Encinitas" program (General Plan Housing Element Update 2013-2021)("the program") These comments focus on proposed Leucadia Site L-7 ("Site L-7") located at 634 Quail Gardens Drive, west of and immediately adjacent to the Old Quail Gardens Lane neighborhood. My wife, my family & I live in the neighborhood.

The purpose of these scoping comments is to encourage thorough analysis and full disclosure of the environmental impacts of including Site L-7 in the program so that the City of Encinitas will remove it from the program before adoption of the Final EIR. The direct, indirect and cumulative impacts to the Quail Gardens Neighborhood and eastern Leucadia of including Site L-7 are significant, unmitigable and irreversible under CEQA. Rezoning Site L-7, *to urbanize the last undeveloped rural parcel in the Old Quail Gardens neighborhood*, would be incompatible with Encinitas General Plan and Local Coastal Plan ("the EGP" or "the Encinitas GP") and would be contrary to the policies of the California Coastal Act (the "Act")(*See* Public Resources Code § 30200 et seq.) and of the Housing Element Law itself (*See* Government Code § 65580 et seq.)

12636 High Bluff Dr.
Suite 110
San Diego, CA 92130
(858) 481-4844
Fax (858) 481-5077
hartsock@taxlawfirm.net

The good news is rezoning Site L-7 is not necessary to meet the low-income housing program objectives and its removal from the draft program will neither hinder the furtherance of City planning policies nor be contrary to state coastal protection statutes.

A. The City Should Accept These Scoping Comments as a Matter of Sound CEQA Policy.

The City should accept these comments even though they are being submitted past the scoping comments deadline. Under CEQA, the City may deem these comments as late (*See CEQA State Guidelines 14 CCR §§ 15082(b)(2).*) but it also may still accept them if the request to accept them is well-justified. (*See CEQA State Guidelines 14 CCR § 15103.*) This request is well-justified for several reasons.

First, they provide substantive comments that matter deeply to myself, my family and the surrounding Old Quail Gardens neighborhood, whose rural way of life is directly threatened by the rezoning of Site L-7. Second, accepting these comments now will not delay completion of the DEIR, which is not due to be released for public comment until January 2016, according to page 8 of the *At Home in Encinitas, Project Process*. Third, these comments will ensure thorough and detailed environmental analysis of rezoning Site L-7 as required by CEQA. Fourth, these comments contain neighborhood-based information on the potential environmental effects of rezoning Site L-7. They actually augment my testimony provided at the March 11, 2015, Joint Study Session of the City Council and Planning Commission, a month before the scoping comment period.

The City must at least “consider” all information submitted during the EIR process anyway (*See CEQA § 21080.4(a), CEQA State Guidelines 14 CCR §§ 15082(b), 15096(b)(2).*) but it is authorized to “consult” with anyone it believes is concerned with environmental effects of a project. (*See CEQA State Guidelines 14 CCR §15083.*) My family, my neighbors & I am very concerned about the environmental impacts of placing an urban-scale, infill housing project adjacent to my neighborhood. As matter of good CEQA policy, accepting this letter now affords the City an opportunity early in the CEQA process to resolve the serious concerns of the Old Quail Gardens neighborhood, whose residents aim to remove Site L-7 from further consideration before the DEIR is certified and before the program is placed on the November 2016 ballot as is set forth in the *At Home in Encinitas, Project Process*, p.8.

In short, this letter is genuine, provides constructive comments, and is clearly well-justified given the magnitude of potential environmental impacts

of upzoning *the last RR-1 parcel in the Old Quail Gardens neighborhood and removing crucial design review criteria that protect continued agricultural land uses in Encinitas*. Therefore, I respectfully request this Leucadia Site L-7 Scoping Letter be accepted by the City.

B. The DEIR Must Include An Accurate, Stable Project Description.

The DEIR must contain a project description sufficient to allow the public and decision makers to perform a complete and thorough evaluation of its potential environmental impacts. (*See State CEQA Guidelines 14 CCR § 15124.*) The project description must include all components of the project to ensure all of the project's impacts are considered (*See State CEQA Guidelines 14 CCR § 15378*) and must include future foreseeable activities that are a consequence of the project (*See City of Santee v. County of San Diego (1989) 214 Cal.App.3d 1438*).

Site L-7 consists of a 9.46-acre of undeveloped raw land located in eastern Leucadia, east of Pacific Coast Highway 101, and divided by Quail Gardens Drive. Current zoning is Rural Residential (RR-1) which allows for one dwelling unit per acre. Currently, only 7.5-acres, of the 9.46 acre parcel is being considered for program purposes. However, the remaining 1.96 acre parcel may be available for development by the city in the future. Moreover, after accounting for required setbacks, parking requirements and it being situated within four designated overlay zones – the Coastal Zone, the Special Study Zone, the Hillside Study Zone and the Cultural Zone – the buildable area of Site L-7 is likely to be much smaller perhaps under 5 acres. The DEIR must accurately determine the buildable acreage of the lot. The height limit for the subject parcel is currently 22 feet or two-stories “whichever is less,” according an on-line, City-generated zoning report. The program, if adopted, would authorize upzoning the parcel to allow a three-story, multi-family residential project with somewhere between 150-187 dwelling units in approximately 5 buildable acres. The DEIR must precisely disclose the maximum number of dwelling units that would be permitted on the 7.5 acres.

The program, in attempting to fulfill a state low-income housing mandate, that local jurisdictions remove undue regulatory burdens to the development of affordable housing, identifies sections of the Encinitas Municipal Code to be amended. One of these would weaken Encinitas Municipal Code § 23.08, entitled, the Design Review Criteria. The criteria protect “essential assets” by denying projects which support certain regulatory conclusions found at Encinitas Municipal Code § 23.08.080. Specifically, the program proposes to repeal Encinitas Municipal Code § 23.08.080.C, which reads, in relevant part:

“The project would tend to cause the surrounding neighborhood to depreciate materially in value or appearance.”

Thus, the project description must include the proposed repeal of Encinitas Municipal Code § 23.08.080.C and as a result, the DEIR must evaluate not only the potential physical environmental impacts of upzoning but also the physical and environmental impacts resulting from depreciation of land values on nearby rural land uses. The proposed repeal of Encinitas Municipal Code § 23.08.080.C is wholly incompatible with several policies of the Encinitas GP and the California Coastal Act that protect rural communities and agricultural activities in the coastal zone, as discussed below.

C. CEQA Requires the DEIR Accurately Describe the Environmental Setting, Particularly Environmental Resources That Are Rare Or Unique.

The DEIR must accurately depict the existing environment in the vicinity of Site L-7, from a local and regional perspective, emphasizing its rare and unique resources. (See CEQA State Guidelines 14 CCR § 15125(a); *San Joaquin Raptor Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App. 4th 713.) As discussed below, Site L-7 is uniquely situated as the last remaining rural area of eastern Leucadia that still supports agricultural and equestrian activities as well as a diverse biological and cultural resource. These resources must be fully accounted for to ensure an accurate baseline for measuring and evaluating whether the environmental impacts of rezoning Site L-7 would be significant. (See *Communities for a Better Environment v. South Coastal Air Quality Management District* (2010) 48 Cal.4th 310.) The following factors should be considered when describing the environmental setting with respect to Site L-7, the Old Quail Gardens neighborhood and eastern Leucadia.

1. Site L-7 Is A Rare Parcel In A Unique Rural Pocket.

Site L-7 is the last of the RR-1 lots in Encinitas east of El Camino Real and could be the last, if not among the last, RR-1 lots along the entire coastal zone within San Diego County. The DEIR should examine the rarity of this parcel from a local and regional perspective. Site L-7 is situated in a unique, thriving rural pocket in eastern Leucadia, defined by active greenhouses and nurseries, organic truck farming operations, equestrian riding stables and retirement barns, custom homes that express rural charm, enveloped by robust ecological and cultural educational facilities. It is also emerging as a regional agricultural education center for future agriculturalists.

2. Agriculture and Cultural Activities Surround Site L-7.

To the north is a large greenhouse that has been in operation since the 1920s. It is still active today and employs several agricultural workers.

To the south are 1-acre residences that actively farm chickens and organic citrus for local farmers markets. Just beyond these 1-acre farming operations is the Quail Flower Gardens nursery, at 501 Quail Gardens Drive, established in 1987, and next to it, the Encinitas Union School District Encinitas Farm Lab, a bustling agricultural school training local youth in farming and agriculture arts.

To the west, across Quail Gardens Drive, is the Leichtag Foundation, a 67-acre, organic farming operation, home to the former historical Ecke Ranch floriculture operation. The Leichtag Foundation although relatively new to Encinitas will, at full build-out, become an agricultural educational center replete with, "mixed gardens, an orchard/food forest, animal pastures and a vineyard." The Leichtag Foundation property stretches down close to, if not adjacent to, the western portion of the Site L-7 parcel. The DEIR should determine the adjacency of the program to the current and future farming operations of the Leichtag Foundation.

To the east is the 20-acre, Old Quail Gardens neighborhood, carved out of a former carnation flower growing operation called Blue Pacific. It was originally zoned agricultural (AG-1) until the City was incorporated in 1992, when it changed to rural residential (RR-1). It has retained its original rural characteristics stretching back to before incorporation. Low-density parcels range from one to five acres with mature native habitat interspersed throughout. Most parcels are engaged in modest commercial farming such as organic gardening services and truck gardens, orchards and animal operations providing citrus, avocados, eggs and other produce to local farmers markets. Three parcels, encompassing nearly one-third of the neighborhood, support equestrian activities including a five-acre horse ranch. The Old Quail Gardens neighborhood is flanked to its immediate east by a 183-acre golf course with two freshwater lakes, and further to the east by dedicated biological open space. The DEIR should describe this veritable greenbelt formed by the sequencing and effect of the adjacency of these three aforementioned land uses to Site L-7.

In the nearby vicinity are the Quail Botanical Gardens and the San Dieguito Historical Museum, which should be analyzed in the DEIR in terms of how their institutional goals and operations compliment and depend upon preserving the rural and agricultural character of eastern Leucadia.

3. The Site L-7 Landscape Supports Hillside Slopes, a Drainage Swale, Mature Eucalyptus Trees, Remnant Chaparral and Grasslands.

Site L-7 is bounded by a hillside along its eastern ledge. The site also slopes north to south with a clearly visible drainage swale originating in the northeast portion and emptying into grasslands along the flatter portion of the site in southwesterly direction. The DEIR should determine whether the drainage is hydrologically connected to any state or federal waters. A row of nearly 20 mature eucalyptus trees overhang its eastern edge from the hilltop, a smaller row stands lower across the western portion of the site. There is scattered brush vegetation, perhaps Coastal Chaparral, also within the western portion of the site. The site suggests it was part of a canyon that became Quail Gardens Drive. The DEIR should study and determine the vegetation types and communities supported by Site L-7. Maps should be included defining these landscape features.

4. Site L-7 is Biologically Diverse and Buffers the Old Quail Gardens Neighborhood.

Residents of the Old Quail Gardens neighborhood report a biologically active and diverse site. In the raptor family, red tail hawks and others nest in and hunt from the eucalyptus trees, frequently swooping down on the grassland area for prey. In the mammal family, common urban species, such as coyotes, raccoons and opossums are routinely observed while bobcats, foxes and long-tailed golden weasel are also observed on site. In the owl family, grey owls, long-eared owls and other types of owls are regularly observed on site. Reptiles such as alligator lizards and gopher snakes are routinely observed on site. Birds including the endangered California gnatcatcher, as well as tanagers and hooded orioles are routinely observed on site. California gnatcatchers are seen throughout the Old Quail Gardens neighborhood. A high concentration of the endangered Monarch butterflies are seen on site regularly, as their only food source, common milkweed, grows naturally and in abundance on site and on the surrounding properties.

Site L-7 appears to form a biologically diverse, western edge of a much larger greenbelt, totaling perhaps 250 acres, stretching from east to west, in layers, consisting of biological open space, then recreational open space and then low-density residential rural land uses. From the perspective of the Old Quail Gardens neighborhood, the site functions as a buffer between it and new suburban developments, which can be seen marching along the west ridgeline above and across Quail Gardens Drive. The site also buffers the Old Quail Gardens neighborhood from residential and tourist traffic along Quail Gardens Drive.

In short, the agricultural and natural resources within and surrounding Site L-7 must be fully accounted for in the DEIR to ensure an accurate baseline for determining if rezoning Site L-7 would result in significant, irreversible or unmitigable impact to the current small town character and rural land use of the area. This analysis should include: endangered species, migratory birds and other natural resources; traffic and circulation; and whether rezoning would have the effect of urbanizing what is surely a rare and unique rural pocket within an otherwise highly urbanized coastal zone.

The DEIR should also determine the size of the agricultural and equicultural workforce supported by the surrounding greenhouse, farms and horse properties as discussed below in relationship to state statutes protecting rural agricultural land uses in the coastal zone.

D. CEQA Requires the DEIR to Eliminate Site L-7 From The Land-Use Alternatives and From Further Consideration of the Draft Housing Element.

Per CEQA § 21100(b)(4) and State CEQA Guidelines 14 CCR § 15126.6(a)-(e), the draft EIR must present a reasonable range of program alternatives for consideration. (*See Citizens of Goleta v. Board of Supervisors* (1990) 52 Cal.3d 553; *Laurel Heights Improvement Ass'n v. Regents of California* (1988) 47 Cal.3d 376). Accordingly, on May 4, 2105, the City submitted a draft Housing Element to the State Department of Housing and Community Development ("State HCD") for review that contemplates three alternative land-use strategies. Each project alternative consists of maps and accompanying text and all three are located under Attachment A to the Housing Plan which is Appendix B to the draft Housing Element. On March 11, 2105, the City authorized three land-use alternatives for CEQA analysis.

Alternative A: Ready-Made Land Use Strategy: This alternative does not include Site L-7 at all. Site L-7 does not appear on the map. Site L-7 is not described among the viable sites. Site L-7 is not listed on the draft conceptual viable housing sites inventory for this alternative. The City's report on the Housing Plan public participation shows that the community of Leucadia favors this alternative land-use strategy. (Housing Plan: Participation Activities and Results (January 2015), pp. 21.)

Alternative B: Build-Your-Own Land Use Strategy and Alternative C: Modified Mixed-Use Places Land Use Strategy: With respect to Site L-7, Alternatives B and C are one and the same. Both include Site L-7 on their housing site maps. Both include Site L-7 in their viable sites summary. Both include Site L-7 on their draft conceptual viable housing sites inventory

lists. Both show Site L-7 outlined and colored in red-orange and categorized as “residential infill – medium to large sites” for “two & three-stories” in height.

The land-use strategy alternatives when taken together propose dozens of potential sites. Importantly, in its May 4, 2015, cover letter to the State HCD, submitting the program, the City instructed, in relevant part:

“[n]ot all sites included in this draft plan will be included in the City’s final housing strategy.”

The following comments provide guidance to prepare a DEIR that sufficiently analyzes and discloses the potential environmental impacts of including Site L-7 in the program. I also believe that the information contained herein will, in the end, provide the substantial evidence necessary to support a incontrovertible finding that Site L-7 must be removed from further consideration by the City to minimize project environmental impacts and avoid violating state planning and coastal protection laws.

E. The DEIR Must Analyze and Disclose All Significant Environmental Impacts Resulting from the Rezoning of Site L-7.

The rezoning of Site L-7 would result in a multitude of significant, irreversible and unmitigable environmental impacts. CEQA requires the DEIR to provide the public and decision makers with detailed information about the direct, indirect and long-term effects the program is likely to have on the environment. (*See* CEQA §§ 21002, 21100(b)(1); State CEQA Guidelines §§ 14 CCR 15151, 15126.2(a).) The DEIR will be the primary means to ensure the City acts to protect, rehabilitate and enhance environmental quality of the City and the state, before it adopts the program (*See* CEQA § 21001(a).).

1. Rural Character.

The DEIR must thoroughly analyze and disclose the impacts of rezoning Site L-7 on the rural character of the Old Quail Gardens neighborhood. (*See* CEQA State Guidelines 14 CCR § 15387, Appendix G, section X(b).) As stated, Site L-7 is the last of the rural residential (RR-1) lots in eastern Leucadia if not all Encinitas and the regional coastal zone areas. This neighborhood profoundly supports active agriculture and equestrian activities. Introducing urban-density housing would have significant and irreversible impacts on the rural way of life in the Old Quail Gardens neighborhood and eastern Leucadia. These impacts are likely to include the permanent loss of active greenhouses, truck farms, gardening and nursery services, and horse facilities near the site. The incompatibility of rezoning Site L-7 with rural protection and agricultural policies is discussed below in

more detail with respect to the Encinitas General Plan and the California Coastal Act.

2. Agricultural Resources.

The DEIR must thoroughly analyze and disclose the impacts of rezoning Site L-7 on the erosion and eventual loss of agricultural resources. (*See* CEQA State Guidelines § 14 CCR 15387, Appendix G, section II (b) and (d).) The loss of agricultural resources should be analyzed from the point of view of land depreciation and agricultural-urban interface conflicts.

a) **Land Depreciation.** The Old Quail Gardens neighborhood is infused with and defined by agriculture and equestrian practices. Urban-density, low-income housing would significantly depreciate home values there, which in turn, would limit the ability of residents supporting these activities to obtain capital financing to maintain their operations. Agricultural and equestrian operations demand regular reoccurring capital for tractors, harvesting equipment, irrigation systems, storage structures, barns, greenhouses, animal enclosures, fencing, fertilizers, hay and feedstock, seedlings, horse trailers, produce delivery trucks, veterinary expenses, insurance, and on-site waste and storm water management facilities. Thus, the protection of property values is paramount for continued economic viability for agricultural and equestrian activities. As stated, in conjunction with the rezoning of Site L-7, the program would amend Encinitas Municipal Code (“EMC”) by deleting EMC § 23.08.080.C that currently protects against depreciation of surrounding neighborhoods. Ending the consideration of the impact of low-income housing on the values of surrounding neighborhoods is certain to be a recipe for the demise and collapse of the agricultural and equestrian land uses – clearly one of “essential assets” of Encinitas.

b) **Urban-Agricultural Interface.** The development of urban-density, low-income housing on Site L-7 would lead to intense urban-agricultural interface conflicts. The future residents of Site L-7 would quickly realize to their disappointment and chagrin, that having rural agriculture and equestrian operations next door is not the beautiful experience stereotyped in storybooks and fairytales. No. Agricultural and equestrian activities are inherently smelly from the manure, horses, chickens and standing water. Agricultural and equestrian activities are inherently dirty operations involving dust from the animals and operating farm equipment. Agricultural and equestrian activities are inherently nonstop operations working all hours of the day and night. Complaints and nuisance law suits would soon be filed to stop the dust, odors, flies, bees, insects, lights, noise, produce and greenhouse truck traffic, and the pungent aerial drift that are part and parcel of plowing, amending soils (with animal manure) planting, spraying pesticides and herbicides, harvesting, trucking manure, hay, supplies, plants and

produce, hauling large equipment and farm animals, managing horse and chicken manures, especially strong during rainy weather, and the associated farm labor activities including dawn-to-dusk working hours and the concomitant use of portable toilets. The absence of right-to-farm protections for rural land uses surrounding Site L-7 would be a welcome mat for nuisance lawsuits which would spell the end of agricultural and equestrian activities in the Old Quail Gardens neighborhood and eastern Leucadia.

The DEIR must discuss the impacts of rezoning Site L-7 and repealing Encinitas Municipal Code § 28.08.080.C on the preservation of agriculture. It would be a vast mistake to treat state and local policies protecting agriculture and equestrian activities, as subordinate to those promoting low-income housing. The Housing Element Law is explicit in requiring the needs-allocation process be consistent with protecting agricultural resources. (*See* Government Code § 65584(d).) These contrasting policies should compel the City to deeply explore numerous tools and methods to protect Site L-7 for rural land-use purposes. In *Gisler v. County of Madera* (1974) 38 Cal.App.3d 303, the court upheld an ordinance protecting an 18-acre parcel zoned for agriculture within a rural residential subdivision. Site L-7 would best protect rural land uses if it was placed under an agricultural conservation easement, designated as passive parkland, designed as a future experimental station for nearby agricultural students, or promoted for private acquisition by commercial greenhouses.

3. Biological Resources.

The DEIR must thoroughly analyze and disclose the impacts of rezoning Site L-7 on biological resources. (*See* CEQA § 21001(c); CEQA State Guidelines 14 CCR § 15387, Appendix G, section IV (a)-(f).) As stated, Site L-7 supports a variety of wildlife and is part of a large greenbelt corridor. It is no wonder this site is used as raptor foraging habitat and that residents have reported observing over a dozen species of mammals, birds, reptiles and insects, including the threatened and endangered California gnatcatcher and the Monarch butterfly which are actively using the site. Even the absence of a listed species alone does not prevent the City from treating the biological impacts of the rezone as significant. (*See Sierra Club v. Gilroy City Council* (1990) 222 Cal.App.3d 30, 41.) The DEIR should conduct a reconnaissance level survey the natural resources present, and analyze the biological impacts to the site and overall functioning of the greenbelt corridor of which it appears to be a part of. Potential impacts to the rows of mature eucalyptus trees on and off-site should be evaluated. (*See Gray v. County of Madera* (2008) 167 Cal.App.4th 1099,1124; *Round Valley Alliance v. County of Inyo* (2007) 157 Cal.App.4th 1437.). Also, the site appears to be functioning as a remnant “blue line” stream which would require Clean Water Act Section 404 wetland

permitting for any residential infill project that did not reasonably avoid construction near the stream.

4. Public Services.

The DEIR must thoroughly analyze and disclose the impacts of rezoning Site L-7 on the provision of public services. (See CEQA State Guidelines § 14 CCR 15387, Appendix G, section XIV.) Site L-7 is simply too isolated. Many low-income residents will not have the means to own and maintain a car. Many will be elderly and sick. Well-serviced public transportation does not exist nor is it likely to exist anytime in the near future near the site. Site L-7 is two-miles walking to the nearest commercial services along Encinitas Boulevard. The nearest offices of the County Department of Health and Human Services, where general welfare is administered for the poor and needy, is 12-miles away in Oceanside, a 1.5 hour ride by public bus not counting the walk to the bus stop.

The Housing Element Law at Government Code § 65584.04(i)(1) requires the program to be coordinated and integrated with the 2050 Regional Transportation Plan as part of the SANDAG Sustainable Communities Strategy (See Government Code § 65080 et seq.) to reduce greenhouse gases. The DEIR must demonstrate how rezoning Site L-7 is “consistent with the development pattern included in the sustainable communities strategy” in support of greenhouse gas emission reduction. In addition, the strain of extending adequate police, fire, and social services to this rural residential area would appear to be onerous compared to more urbanized sites elsewhere in the City.

5. Circulation and Traffic.

The DEIR must thoroughly analyze and disclose the impacts of rezoning Site L-7 on circulation and traffic. (See CEQA State Guidelines § 14 CCR 15387, Appendix G, section XVI(c).) Quail Gardens Drive is already too congested, narrow and unsafe for pedestrians. It is a locally augmented road not designed for heavy traffic. The effect of the new Channel Island residential development (northwest of the site across Quail Gardens Drive) will soon increase traffic congestion even more. Traffic impacts resulting from the rezoning of Site L-7 should be vigorously studied because the impacts are likely to be considerable and are without feasible mitigation. (See *Anderson First Coalition v. City of Anderson* (2005) 130 Cal.App.4th 1173.) The DEIR should prepare a technical analysis following the California Department of Transportation, “Guide for the Preparation of Traffic Impact Studies.”

6. Growth Inducing Impacts.

The DEIR must thoroughly analyze and disclose the growth-inducing impacts of upzoning Site L-7. (See CEQA § 21100(b)(5); State CEQA

Guidelines 14 CCR § 15387, Appendix G, section XIII(a); *Napa Citizens for Honest Government v. Napa County Board of Supervisors* (2001) 91 Cal.App.4th 342, 356.) The loss of agricultural and equestrian land use would likely lead to the gradual displacement of the Old Quail Gardens neighborhood with suburban and urban intensity development. Connecting new or expanding existing sewer and water lines to the site to serve a high-density urban project, would have significant growth-inducing consequences for the low-density surrounding properties (*See City of Antioch v. City Council of the City of Pittsburg* (1986) 187 Cal.App.3d 1325.) The DEIR must thoroughly analyze this growth-inducing potential. The pressure to intensify housing densities in rural parts of eastern Leucadia is not speculative. It is reasonably foreseeable and more than likely as residents are forced by depreciation in land values and nuisance lawsuits to relocate their farming and horse operations elsewhere. It is possible to develop a reasonable forecast based on trends elsewhere where marked increases in urbanization have been followed by significant decreases in agricultural land uses. The City must not assume that the growth-inducing impacts are of little significance but must make its own judgment after open-minded analysis. (*See State CEQA Guidelines 14 CCR § 15126.2(d).*)

7. Coastal Resources

The DEIR must thoroughly analyze and disclose the environmental impacts of rezoning on coastal zone resources. (*See CEQA State Guidelines § 14 CCR 15387, Appendix G, section X (b).*) The likelihood of fundamental incompatibility of rezoning Site L-7 with respect to the Encinitas General Plan and the Local Coastal Plan is discussed below in more detail.

8. Archaeological and Cultural Resources.

The DEIR must thoroughly analyze and disclose the environmental impacts of rezoning on unique archaeological and cultural resources (*See CEQA § 21083.2; CEQA State Guidelines 14 CCR §§ 15064.5(c)-(f); CEQA Appendix G, section V.*) As stated, Site L-7 is located within the City-designated Cultural Zone and the Special Study Zone, and therefore is more likely to contain sensitive archaeological and cultural resources. (*See EGP, Fig. 1*) The DEIR should include research and a reconnaissance survey of the site to determine whether unique archaeological or cultural resources are likely to be impacted by development.

9. Social and Economic Impacts.

The DEIR must analyze the social and economic impacts of rezoning Site L-7 in conjunction with the proposal to repeal Encinitas Municipal Code § 28.08.080.C. The repeal of Encinitas Municipal Code § 28.08.080.C, ceasing consideration of the depreciating impact of rezoning of Site L-7 on land values would likely cause dislocation of the agricultural and equestrian land uses in

the Old Quail Gardens neighborhood and eastern Leucadia. Such physical environmental changes at the neighborhood and community scale are hardly “incidental” and must be thoroughly evaluated. (See CEQA State Guidelines 14 CCR §§ 15131(a), 15382; *See Citizens Association for Sensible Development of Bishop Area v. County of Inyo* (1985) 172 Cal.App.3d 151; *Hecton v. State of California* (1976) 58 Cal.App.3d 653.)

Because the program would adopt a new citywide plan and amend Encinitas GP Housing Plan Element policies, CEQA § 21100(b)(2)(B) and CEQA State Guidelines 14 CCR §§ 15126(c), 15126.2(c) and 15127 require the DEIR to analyze the extent to which the program will bring about significant and irreversible environmental changes. The likely permanent loss of rural land uses in the Old Quail Gardens neighborhood would constitute an irreversible change caused by rezoning Site L-7. The likely negative impacts on endangered species, local road congestion and the overall urbanizing effect on eastern Leucadia would constitute additional irreversible changes. So significant and irreversible, in fact, would these changes be that they should result in removing Site L-7 from the draft housing program. The DEIR must thoroughly examine these and all other likely significant and irreversible changes.

F. The EIR Must Identify All Feasible Mitigation Measures.

The DEIR must consider all feasible mitigation measure to reduce the level of environmental impacts of rezoning Site L-7 to a level below significance. (*See* CEQA § 21002.1(a); *See Concerned Citizens of South Central Los Angeles v. Los Angeles Unified School District* (1994) 24 Cal.App.4th 826.) Mitigation measures to consider should include the following:

- a. Adopt a right-to-farm ordinance that requires a right-to-farm restriction in every grant deed of every unit developed on Site L-7 under the program to protect surrounding agricultural and equestrian land uses.
- b. Overlay the Old Quail Gardens neighborhood as an area of prime agricultural importance under Encinitas Municipal Code § 30.08.010.F.
- c. Amend Encinitas Municipal Code Chapter 30.16 to increase current setbacks on Site L-7 on: the side yard from 15 feet to 110 feet; and the rear yard from 25 feet to 150 feet. Larger setbacks are necessary to mutually protect Site L-7 residents from the noise, dust, odors, flies and insects, truck traffic and chemical drifts from agricultural activities and surrounding agricultural and equestrian land uses.
- d. Require 12-foot, solid masonry walls on all four sides of the 7.5 acre development, a protective cocoon to minimize exposure of Site L-7 residents to

the noise, dust, odors, flies and insects, truck traffic and aerial drifts from agricultural and equestrian activities and thus deter Site L-7 residents from bringing nuisance law suits against farmers and ranchers.

- e. Require a fully-bonded fund to ensure that farmers can afford to temporarily relocate residents on Site L-7 during aerial spraying and application of pesticides and other agricultural chemicals, when required to do so by the County Agricultural Commission or by law. This is to protect the continued economic viability of surrounding agricultural and equestrian land uses.
- f. Revise the amendment of § 23.08.080.C, as proposed, to ensure the protection of agricultural and equestrian land uses by denying projects that would cause depreciation of rural residential property values in the Old Quail Gardens neighborhood.
- g. Preservation is also an acceptable form of mitigation under CEQA. (*See Defend the Bay v. City of Irvine* (2004) 119 Cal.App.4th 1261; *Mira Mar Mobile Community v. City of Oceanside* (2004) 119 Cal.App.4th 477.) As stated, Site L-7 would best protect rural land uses if it was placed under an agricultural conservation easement, designated as passive parkland, or designed as a future agricultural experimental station for nearby agricultural students and the local institutions committed to long-term sustainable agricultural.

G. The EIR Must Analyze the Project Without Site L-7 to Determine if Potentially Feasible Alternatives Exist That Could Accomplish the Program Objectives.

The DEIR must identify and evaluate feasible alternatives to rezoning Site L-7 that would minimize program environmental impacts but also achieve program objectives. (*See* CEQA § 21061; State CEQA Guidelines 14 CCR § 15126.6; *See Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553.)

Program Alternative A, the Ready-Made Land Use Strategy, provides viable, alternative locations for low-income housing that would fully protect the agricultural uses and small-town, rural character of the Old Quail Gardens neighborhood and eastern Leucadia from the environmental impacts of Site L-7. It is the only alternative that is sure to protect against the permanent loss of a rural community because it is the only one that *does not* propose rezoning a rural residential parcel adjacent to an established, thriving agricultural and equestrian community. It is the preferred alternative of the Old Quail Gardens neighborhood and the residents of Leucadia and it achieves the objectives of the project.

Projects that subject to CEQA must also meet the requirements of other land use laws that apply to the project.

H. The Program Would Result in Inconsistencies With Encinitas General Plan and the Local Coastal Plan.

CEQA State Guidelines 14 CCR § 15125(d) requires the DEIR to evaluate potential inconsistencies with Encinitas GP as a result of program adoption. Rezoning Site L-7 would violate CEQA. It would lead to internally inconsistencies within the Encinitas GP. (*See Leshar Communications v. City of Walnut Creek* (1990) 52 Cal.3d 531, 544) The program would be consistent with the Encinitas GP only if it is compatible with all plan objectives, policies, general land uses, and programs and will not obstruct their attainment. (*See Clover Valley Foundation v. City of Rocklin* (2011) 197 Cal.App.4th 200, 238.)

1. Core Issues in Leucadia.

The Encinitas GP outlines the core issues in Leucadia that the plan is intended to ameliorate. One issue in Leucadia is that the plan is incompatible in that this proposed multi-family development will be intruding into single family residential areas, adding higher density and without adequate buffering. (*See EGP*, p.I-4.) Another is attempting to preserve communities with custom homes that possess a rustic, informal charm. (*See EGP*, p.I-5) Still another is narrow, poorly constructed streets unable to support higher traffic volumes generated by more intensive development. (*See EGP*, p.I-6). Preserving mature trees, increasing parkland and addressing drainage problems are also identified as concerns. (*See EGP*, p.I-7). Rezoning Site L-7 would not ameliorate these core concerns. The proposed program would exacerbate them instead and therefore would be contrary to the Encinitas GP.

2. Preserving Community Character.

A core Land Use Policy of the Encinitas GP is *not to alter* the community character of Leucadia. (*See EGP*, Goal 4, p.LU-12) It is wholly unclear how developing 150-187 units in a three-story, multi-family complex on Site L-7 could not possibly alter the timeless, rural character of the Old Quail Gardens neighborhood and eastern Leucadia. It would be like mixing oil and water. As the first three-story, high-density, urban infill project of its kind in this location, situated between the Old Quail Gardens neighborhood, which is recessed and tucked slightly away from Quail Gardens Drive, it could only wreck the charming, small town, rural façade of the Old Quail Gardens neighborhood experienced by its residents and seen by the tourists passing by on Old Quail Gardens Drive.

3. Small Town Atmosphere.

A major overall goal of the Encinitas GP is to protect the small town atmosphere of the individual communities of Encinitas. (*See* EGP, Goal 4, p.LU-11) The Old Quail Gardens neighborhood and eastern Leucadia has worked hard as a community to nurture and preserve its small town atmosphere. Rezoning Site L-7 with medium density infill runs contrary to a small town preservation policy.

4. Resource Management Policy

Resource Management Policy 13 states the City will make every effort to preserve significant cultural resources. The rezoning of Site L-7 must ensure the preservation of cultural and archaeological resources.

5. Encinitas Municipal Code § 23.080.080.C.

Repealing Encinitas Municipal Code §23.080.080.C must not result in bringing the Encinitas GP and Local Coastal Plan into direct conflict with California Coastal Act policies that protect rare and unique agricultural areas in the coastal zone. Encinitas Municipal Code § 23.08.015 states that any amendment of the Design Review Guidelines § 28.08 constitutes an amendment of the Encinitas GP and the Local Coastal Program and must be certified by the California Coastal Commission, as required by Government Code § 30514. The effect of no longer denying projects that could be found to depreciate surrounding land values would surely lead to the demise of agriculture and equestrian land-uses and would therefore violate the agricultural protection policies of the California Coastal Act and the Housing Element Law itself.

The inescapable conclusion is that rezoning Site L-7 and repealing Encinitas Municipal Code §23.080.080.C would result in several inconsistencies with the Encinitas GP and the Local Coastal Plan goals and policies. The City should therefore strongly consider Alternative A: Ready-Made Land Use Strategy which would uphold the Encinitas GP. (*See Citizens of Goleta v. Board of Supervisors* (1990) 52 Cal.3d 553.)

I. Rezoning Site L-7 Would Be Inconsistent with California Coastal Act Policies.

The Encinitas General Plan must conform to the Coastal Resources Planning and Management Policies of the California Coastal Act (*See* Public Resources Code § 30512.) The Encinitas Local Coastal Program is incorporated into the Encinitas GP and implements the Act. (*See* EGP, p.I-13.) The program will amend the Encinitas Housing Element of the Encinitas GP and therefore will amend the Local Coastal Program. As such, the City will have to submit the program to the California Coastal Commission for

review and certification. (See Public Resources Code §§ 30500, 30514.) Thus, the rezoning of Site L-7 is protected by the Coastal Zone Act planning and management policies.

The DEIR must examine the consistency of rezoning Site L-7 with state coastal planning and management policies. The California Coastal Act includes specific policies addressing agricultural lands.

1. Rural Areas Near Highway 101.

The Act requires keeping rural areas near Highway 101 rural by concentrating new development in already developed areas. (See Public Resources Code §§ 30250(a), 30254.) The urbanized areas of Leucadia are predominantly west of Highway 101. Rezoning Site L-7 would cram a 150 to 187 unit multi-family, three-story complex on a parcel tightly constrained by zoning restrictions, in the middle of a rural neighborhood dominated by greenhouses, nurseries, orchards, chicken houses, horse farms and agricultural vocational schools. It would introduce urban densities never seen before in the portion of Leucadia east of Highway 101. It would result in losing the last remaining RR-1 parcel in the Old Quail Gardens neighborhood and lead to a permanent deterioration of the agricultural and equestrian land uses surrounding Site L-7.

2. Conversion of Agriculture.

The Act requires conversion of agriculture to non-agricultural uses to be compatible with continued agriculture on surrounding lands. (See Public Resources Code § 30242.) As stated, rezoning Site L-7 would result in losing the last remaining parcel zoned for agricultural uses in the Old Quail Gardens neighborhood and would erode agricultural and equestrian land uses surrounding Site L-7.

3. Economic Viability Study.

The Act requires an economic feasibility evaluation if the viability of existing agricultural uses adjoining urban uses is at issue. (Public Resources Code § 30241.5.) The viability of continued commercial agriculture in the Old Quail Gardens neighborhood and eastern Leucadia is threatened, by the rezoning of Site L-7, and therefore the DEIR must include an economic feasibility evaluation to determine if the agricultural uses will remain viable after rezoning. The economic feasibility study should factor in the collective depreciation of land values caused by the repeal of Encinitas Municipal Code § 28.08.080.E, and the impact that would have on the collective ability to invest and maintain farming and ranching operations. The economic feasibility study should also factor in the cost to comply with likely conditions placed on agricultural spraying permits (very typically imposed by county agricultural

commissioners or as the result of private nuisance lawsuits) to temporarily relocate residents of Site L-7.

4. Minimizing Adjacency Conflicts.

The Act specifies the undertaking of special directives to minimize conflicts between agriculture and urban land uses. Among these is the establishment of “clearly defined buffers.” (*See* Public Resources Code § 30241.5 (a).) Site L-7 is itself the only clearly defined buffer between the Old Quail Gardens neighborhood and suburban residential development encroaching (and clearly visible at eye level from the eastern ridge that is Old Quail Gardens Lane) westerly across Quail Gardens Drive. Rezoning Site L-7 would destroy that buffer.

The loss of this buffer gets to the crux of the issue for the Old Quail Gardens neighborhood: Our residents, mostly long-timers, have, since incorporation, for the last 25 years, bore witness to vast suburbanization and increasingly seen even denser urbanization proposed throughout other parts of Encinitas, not just through the program. It has been only through sheer unity of purpose and hard work – evoking the deepest sense agricultural and equestrian culture where neighbors trade fruit for chickens, or share the intrigue of grafting new tree crop varieties, the frustrations of training a new colt, or the joys of teaching a child to ride a horse – and against difficult odds, we have managed to maintain and hold on, proudly and unabashedly, to our rural identity. For us the rezoning Site L-7 is the last battleground, the last straw, it represents the breaking of a promise the City made that when we were incorporated, that our rural way of life would be protected. It is our strong and unanimously held view that if Site L-7 is lost the promise will be broken and that what was once a rural community not so uncommonly found on the coast once upon a time but will be lost forever. And for no good reason since the program can readily achieve its aims without Site L-7 as plainly presented in the Ready-Made Land Use Strategy called Alternative A.

J. Rezoning Site L-7 Would Violate the Housing Element Law.

The program is being prepared pursuant to the Housing Element Law. (*See* Gov’t Code § 65580 et seq.) The City has submitted the draft program to the State HCD for “substantial compliance” review. (*See* Gov’t Code § 65585(d).) While there are parts of the program that are admirable, rezoning Site L-7 places the proposed program at odds with itself and therefore should be removed.

The Housing Element Law mandates the City to identify adequate housing sites and take actions to make its “fair share” of land available for low-income housing development. (*See* Gov’t Code §§ 65583(c)(1), 65583.2(b).)

Substantial compliance with this viable housing sites mandate does not mean a mere recitation of every vacant site in the City. As the court stated in *Hoffmaster v. City of San Diego*, (1997) 55 Cal.App.4th 1098, 1111,

“Substantial compliance with the legislative mandate requires more **than merely designating every unoccupied mote** within City’s boundaries, each of which is subject to City-imposed development and separate restrictions . . . “

A closer examination of the Housing Element Law exposes another mandate – to protect existing agricultural land uses. Under Government Code § 65589.5(d)(4), the City may disapprove a low-income housing development if it finds, based on substantial evidence, the proposed project site is on land zoned for agriculture (or resource preservation) and is surrounded on at least two sides by land being used for agriculture (or resource preservation) purposes.

Site L-7 exceeds these statutory criteria for agricultural land use protection. First, Site L-7 is the last remaining RR-1 parcel in eastern Leucadia. It is undeniably zoned for agricultural and equestrian purposes. Second, Site L-7 is surrounded *on all sides* by land being used for agricultural purposes. To its immediate north is an active greenhouse, to its immediate south are active truck farms, to its immediate east is the Old Quail Gardens neighborhood, replete with truck farms and horse ranches, and to the west, across Old Quail Gardens Drive, is the Leichtag Foundation educational farm. It is not an understatement to conclude that Site L-7 is saturated by the agricultural land uses surrounding it.

Site L-7 strongly supports the statutory criteria for resource preservation land use. Site L-7 is flanked deeply to its east by lands being used for resource preservation purposes. Site L-7 sits at the western edge of a large swath of greenbelt defined by three rings of resource-protective land uses: nearest is the Old Quail Gardens neighborhood, a 20-acre, low-density rural residential neighborhood, interspersed with mature, native habitat, a 183-acre recreational open space with two freshwater lakes, and an area beyond that of designated biological open space. While Site L-7 may not be technically zoned for resource protection purposes it is currently serving a resource protection purpose as evidenced by the abundance of wildlife it supports.

Given the agricultural protection policies expressed in the Housing Element Law itself, specifically at Government Code §§ 65584(d) and 65589.5(d), the City would be remiss *not* to remove Site L-7 from the program before certification of the final EIR. Rezoning Site L-7 from agriculture to its

exact opposite would appear to violate the very law it aims to satisfy. Given the straightforward agricultural protection policies expressed in the Housing Element Law, and the strong agricultural posture of Site L-7, the City must question whether the State HCD would be able to find the proposed program is in “substantial compliance” per Government Code § 65585(d), so long as it continues to include Site L-7 in its viable low-income housing site inventory, and must question to what degree the court would give such determination deference (*See Fonseca v. City of Gilroy* (2007) 56 Cal.App.4th 1174.) considering the range of other agricultural protection policies in the Encinitas GP and the California Coastal Act.

Conclusion

The purpose of these comments is to encourage thorough analysis and full disclosure of the environmental impacts of including Site L-7 in the program, as required by CEQA so that the City will remove it entirely from the program before adoption of the Final EIR.

Removing Site L-7 will not hinder the City from meeting program objectives. The program objectives can be met by adopting Alternative A, which by excluding Site L-7 in the first place, poses the fewest environmental impacts among the alternatives under consideration. Another choice for the City is to simply remove Site L-7 from further consideration under Alternative B and Alternative C, which again, would still achieve the program objectives with fewer environmental impacts.

The City has already informed the State HCD that “not all sites” listed in the program alternatives “will be included” in the final program. Therefore removing the last RR-1 parcel in the Quail Gardens Neighborhood will not interfere with achieving substantial conformance with state law requirements.

The direct, indirect and cumulative environmental impacts to the Quail Gardens Neighborhood and eastern Leucadia of including Site L-7 justify its removal from the program. Potentially **significant environmental impacts** under CEQA include:

1. Destruction of the **small town, rural character** defining Leucadia;
2. Loss of **agricultural and equestrian resources** in eastern Leucadia;
3. Impacts to **endangered or sensitive biological resources**, and to raptors;
4. Stress on **public services**, particularly regional transportation patterns;
5. Increased **traffic congestion** on Quail Garden Drive;
6. The **growth inducing impacts** on nearby rural residential areas;
7. Loss of increasingly rare rural and agricultural **resources along the coast**;

8. Impacts to **sensitive archaeological and cultural resources**; and
9. Socioeconomic **impact of losing rural land-uses** to urbanization.

Further, the loss of small town character and rural land uses, the impact to endangered species and traffic congestion and the eventual and complete urbanization of eastern Leucadia should be treated as significant and irreversible environmental impacts.

Rezoning Site L-7 would be incompatible with Encinitas General Plan and Local Coastal Plan, in particular with polices protecting the small town atmosphere and rural community character, adequately buffering single family residential areas from multi-family developments as well as improving narrow roads, protecting mature trees, increasing park land and improving drainage.

Rezoning Site L-7 would be contrary to the policies of the California Coastal Act protecting rural areas near Highway 101 and ensuring the compatibility of new development with and continued economic viability of adjacent agricultural land uses.

For all the foregoing reasons in this scoping comment letter, the City is unlikely to garner substantial evidence to support a finding that Site L-7 is a “viable” site for low-income housing under the Housing Element Law. Instead, it will have enough substantial evidence to deem Site L-7 as “not viable” and as contrary to the agricultural preservation policies of the Encinitas General Plan and Local Coastal Plan, the California Coastal Act, and most ironically, contrary to the agricultural preservation policies of the Housing Element Law itself. Hence, the City should take action to protect the Old Quail Gardens neighborhood and rural eastern Leucadia by removing Site L-7 from the program before it certifies the program DEIR and it reaches the November 2016 ballot.

Sincerely,



William D Hartsock
Encinitas Resident

CC:

Kristin Gaspar, Mayor, City of Encinitas
Catherine S. Blakespear, Deputy Mayor, City of Encinitas
Interim City Manager, City of Encinitas
Manjeet Ranu, Deputy Director, Planning and Building, City of Encinitas
Michael Strong, Associate Planner, Dept. of Planning and Building, City of Encinitas
Glen Campora, California Department of Housing and Community Development