

(b) RS Zones

**Table 131-04D  
Development Regulations for RS Zones**

Development Regulations [See Section 131.0430 for Development Regulations of Residential Zones]	Zone Designator	Zones						
		RS-						
	1st & 2nd >>	1-	1-	1-	1-	1-	1-	1-
	3rd >>	1	2	3	4	5	6	7
	4th >>	1	1	1	1	1	1	1
<b>Max permitted density (DU per lot)</b>		1	1	1	1	1	1	1
<b>Min lot area (sf)</b>		40,000	20,000 <sup>(7)</sup>	15,000	10,000	8,000	6,000	5,000

**Footnotes for Table 131-04D**

- <sup>1</sup> For *lots* where at least one-half of the front 50 feet of the *lot* depth has a minimum slope gradient of 25 percent, the *setback* closest to the *street frontage* may be reduced to a minimum 6 feet.
- <sup>2</sup> For *lots* greater than 50 feet in width, the required side *setbacks* may be reallocated where the combined dimension of each side *setback* would meet or exceed the combined total required in Table 131-04D, in which case side *setbacks* shall not be reduced to less than 4 feet, and *street* side *setbacks* shall not be reduced to less than 10 feet. Once a side *setback* is reallocated and established at a dimension less than the percentage indicated in Table 131-04D, all additions to the *primary structure* thereafter shall maintain the established side *setback*.
- <sup>3</sup> See Section 131.0443(a)(2).
- <sup>4</sup> See Section 131.0444(b).
- <sup>5</sup> See Section 131.0446(a).
- <sup>6</sup> See Section 131.0443(a)(3).
- <sup>7</sup> In the Encanto and Southeastern San Diego Community Planning areas, the *lot* size shall be a minimum of 5,000 square feet, and all *development* regulations of the RS-1-7 zone shall apply to subdivisions.
- <sup>8</sup> On *lots* less than 10,000 square feet, a *single-dwelling unit* shall be limited to a maximum of six *bedrooms*.

# Affirmatively Furthering *Fair Housing* (AFFH) and Its Roots in Constitutional DUE PROCESS

- In plain-language, **Due Process** simply means “doing things correctly.” This incorporates **BOTH**



- **Fair Procedure** like notice and time
- AND **non-discriminatory treatment** (Equal Protection) without regard to race, ethnicity, or national origin.
- **What is AFFH?** It is a federal requirement under the Fair Housing Act requiring cities, towns, counties, parishes, etc, to **proactively** eliminate housing discrimination and **promote inclusive housing**.
- **Core Principle of AFFH:** By mandating fair and consistent practices, **AFFH** upholds **Due Process** supporting equitable access to housing while **preventing and reversing** segregation.

# The Historical Foundations of AFFH

## (How We Got Here)

- **Creation and Federal Recognition:** AFFH was formalized with the Fair Housing Act of 1968, requiring jurisdictions to take active steps to dismantle housing discrimination.
- **Historical Context 1:** **Redlining**, *restrictive covenants*, and other policies had legally excluded African-Americans, Mexican-Americans, and other minorities from equitable housing opportunities.
- **Historical Context 2:** Social and political movements in the 1960s, spurred by civil rights activists, generated substantial pressure for anti-discrimination laws. The resulting legislation targeted entrenched discrimination that had led to segregated, under-resourced communities nationwide.



# California's General and Community Plan Requirements

- **State Law on Planning:** In 1971, California mandated that municipalities create General Plans (comprehensive guidelines) and **Community Plans (specific neighborhood plans)**.
- **Reasons for the Law:** *White flight, spurred by 1960s civil rights gains, left inner cities under-resourced, exacerbating racial and economic inequities.* Community Plans aimed to address these disparities by promoting balanced development.
- **CEQA and Community Plans:** CEQA (California Environmental Quality Act) requires environmental reviews in Community Plans to ensure developments meet both environmental standards and community needs, typically assessing air quality, traffic, and access to green space.

# Municipal Code and Zoning: Supporting Community Plans

- **Purpose of Municipal Code:** Municipal codes, including zoning regulations, **support** Community Plans by setting land use guidelines, including **lot sizes, building regulations, and infrastructure needs**.
- **Facilitating Community Plans:** Zoning regulations enforce Community Plan guidelines, ensuring neighborhoods develop in line with **specific community priorities and environmental protections outlined in CEQA**.

## Historical Parallels: **AFFH**, **Brown v. Board**, and Resistance to Desegregation

- **Intent of AFFH and Brown v. Board:** Both AFFH and Brown v. Board aimed to dismantle mechanisms of discrimination—AFFH in housing and Brown in education.
- **Patterns of Resistance:** After Brown v. Board, Southern and Southwestern states resisted integration of African-American students in the South and Mexican-American students in the Southwest, including Southern California by enacting “freedom of choice” plans, pupil placement laws, and private school tuition grants, **all designed to preserve segregation under new terms/schemes.**
- **California’s Community Plans as Response:** The state’s Community Plan mandate was an effort to counter the effects of white flight and segregation and ensure that underserved areas received equitable resources and development. This mandate addressed similar resistance seen in desegregation efforts in housing.

# Zoning as a Tool of Racial Discrimination

- **Historical Use of Zoning:** Zoning laws have historically been used to enforce racial boundaries by imposing restrictive measures in nonwhite neighborhoods or by granting leniency in affluent, predominantly white areas.  
“community standards” or
- **Pretexts for Discrimination:** New zoning policies and municipal codes have frequently served as pretext for racial and economic exclusion, sidestepping legal requirements designed to promote fairness.  
“development regulations”
- **Footnote 7’s Role:** Footnote 7 in the San Diego Municipal Code reduces lot sizes of otherwise rural lots only in predominantly nonwhite areas (Chollas Valley/Encanto & Southeastern), with the apparent continuing tradition of exclusion by reinforcing racial and economic divides under the guise of development regulation.



# Footnote 7: Effective Rezoning and Violations of Due Process and Equal Protection

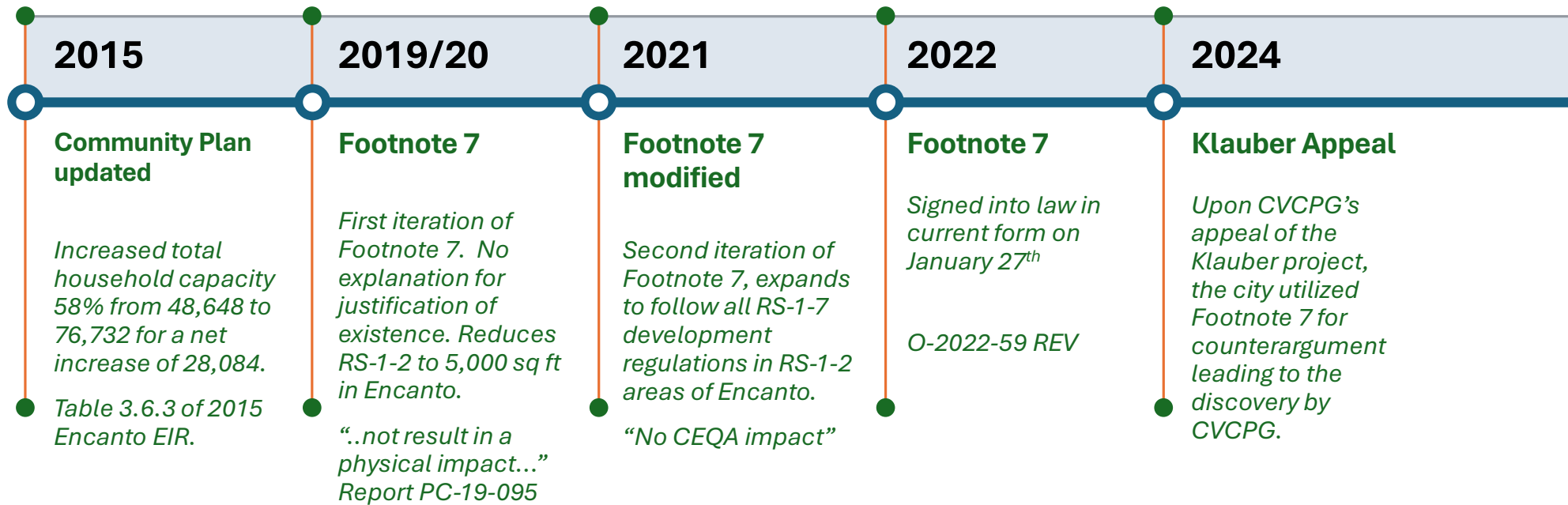
- **Function of Footnote 7:** Footnote 7 effectively rezoned parts of Encanto and Chollas Valley from RS-1-2 (20,000 sq. ft. lots) to RS-1-7 (5,000 sq. ft. lots) without following the city's own rezoning process. This shift mirrors lot sizes in City Heights, drastically increasing density in these areas and setting up the elimination of precious green space.
- **Circumventing the Rezoning Process:** By introducing Footnote 7 as an addition to existing zoning without proper notification, the city bypassed mandated rezoning steps, including notifying the Community Planning Group (CPG) and conducting a CEQA review with public comment opportunities.
- **Lack of Transparency:** This “secret rezoning” was only revealed through an appeal on a project on Klauber for which the city countered with Footnote 7 having made no reference to it on the Notice of Right to Appeal. If not for the appeal on the Klauber project, this footnote would almost certainly have remained unknown to our community.

# **Present-Day Discrimination in Chollas Valley/Encanto and Southeastern San Diego (2024)**

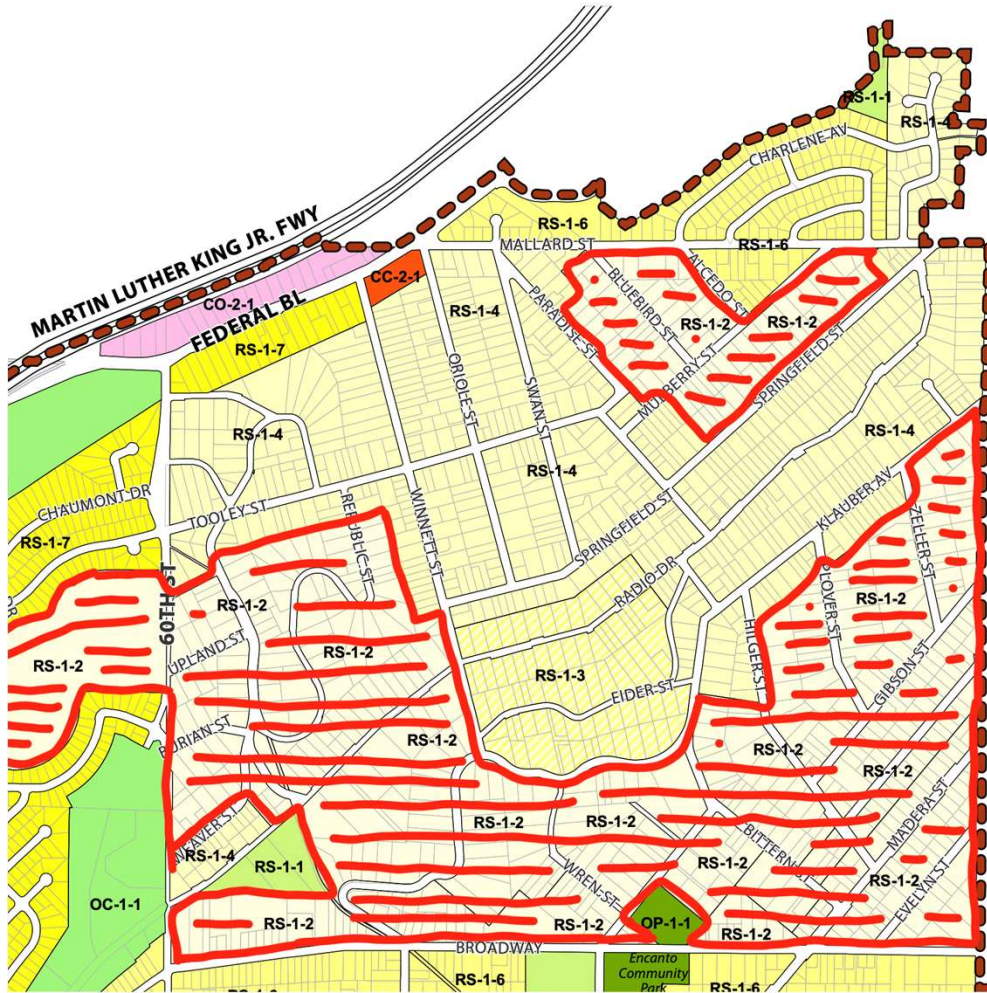
- **Lack of Transparency and Accountability:** CVCPG has faced delays and lack of reply in obtaining responses to written inquiries about appellants and applicants as well as the correct naming of CEQA law on the Notice of Hearing. The city has egregiously violated the 60-day deadline for appeal hearings, even canceling hearings on an appeal filed by Chollas Valley/Encanto in seeming disregard of California's Open Meeting Act.
- **Continuation of Historical Tactics:** Actions taken against the Chollas Valley and Southeastern San Diego communities mirror the historical resistance following Brown v. Board and the Fair Housing Act.
- **Conclusion:** Footnote 7 and other recent maneuvers highlight the need to address discriminatory zoning & development practices actively. **Removal of and resistance to Footnote 7** is in line with the duty to uphold Due Process and Equal Protection and is essential for fair and equitable community development.

# Footnote 7 Timeline

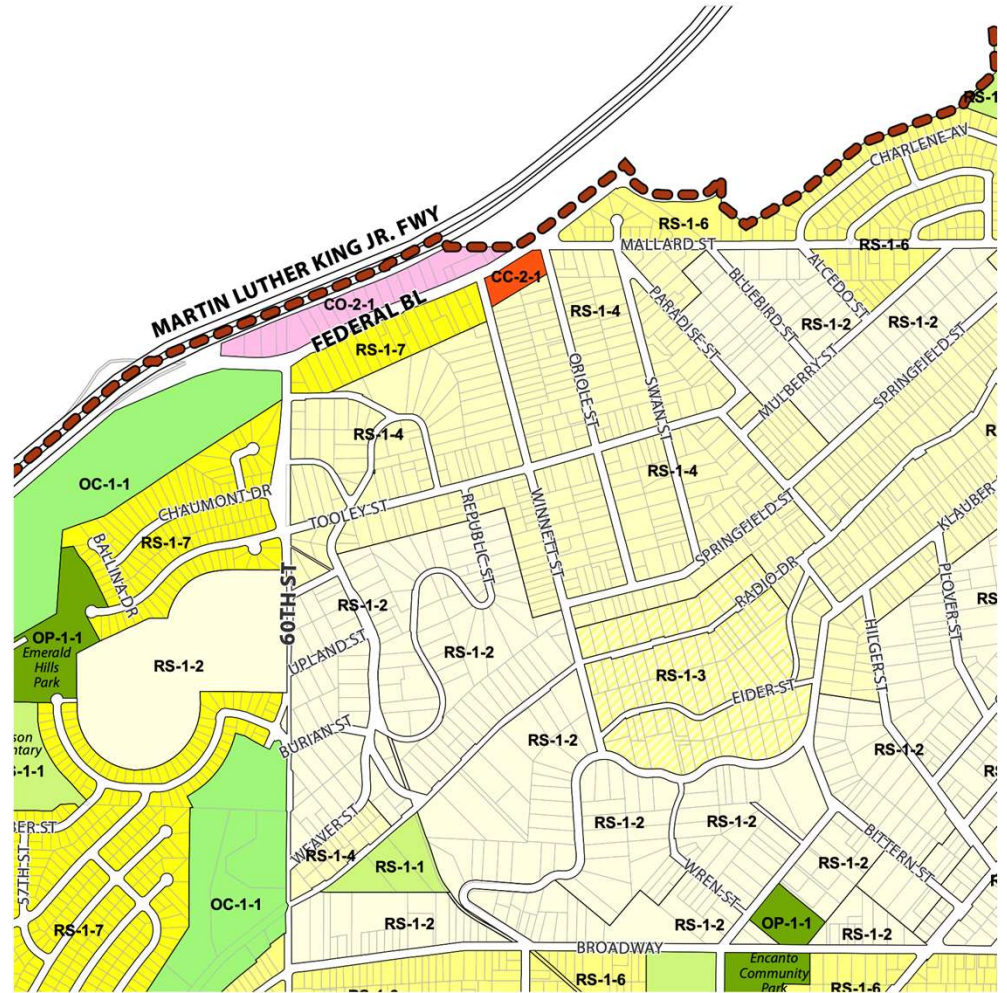
## Secret Zoning in Encanto (Chollas Valley)



Left in red: Footnote 7 affected area

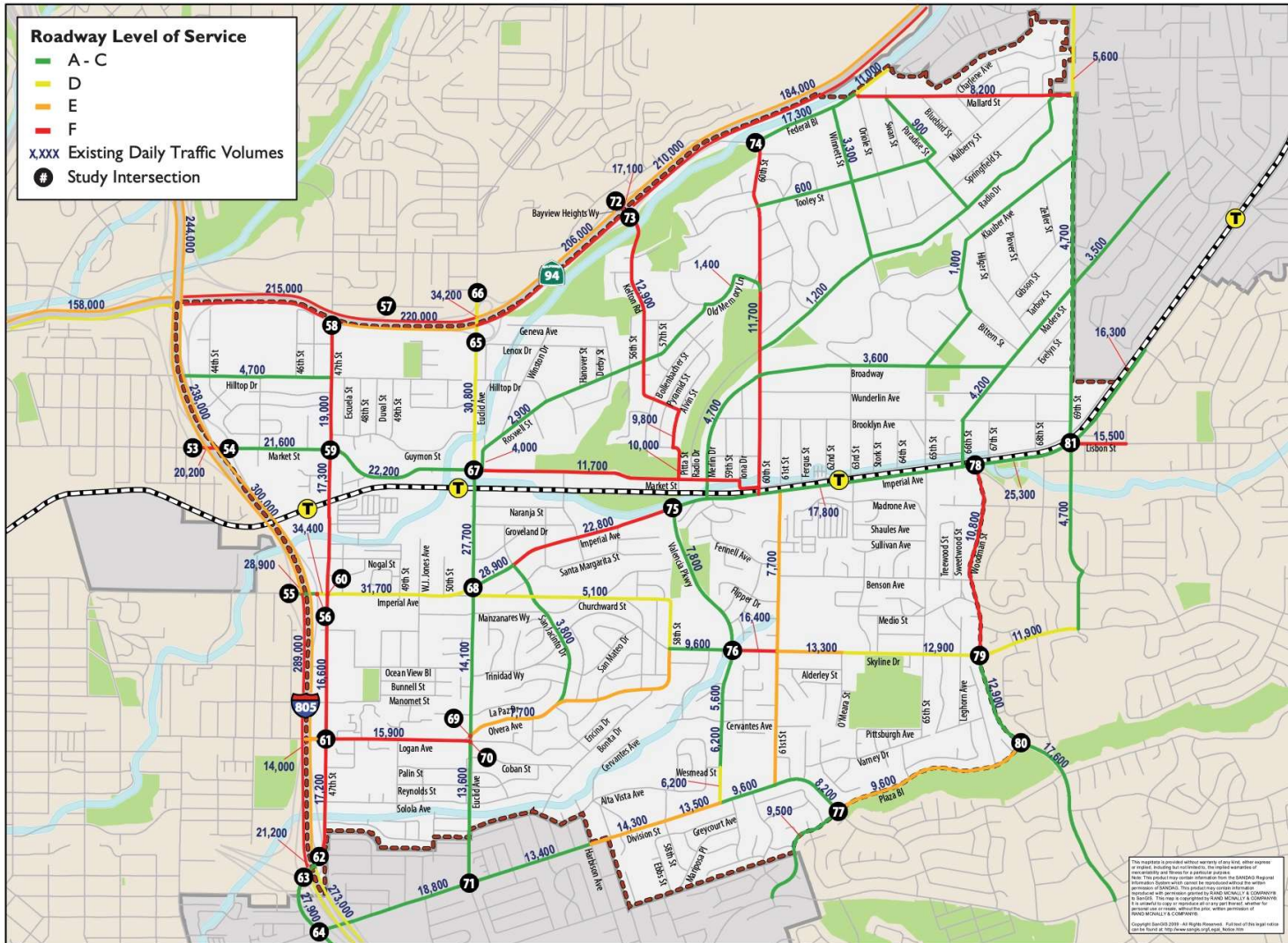


| Right: zoning area as it appears on all maps



Hidden in plain view. Zoning on right is what appears on all maps and published notices from the city.

Figure 5.2-14: Encanto Neighborhoods Preferred Plan Roadway Traffic Volumes and Level of Service



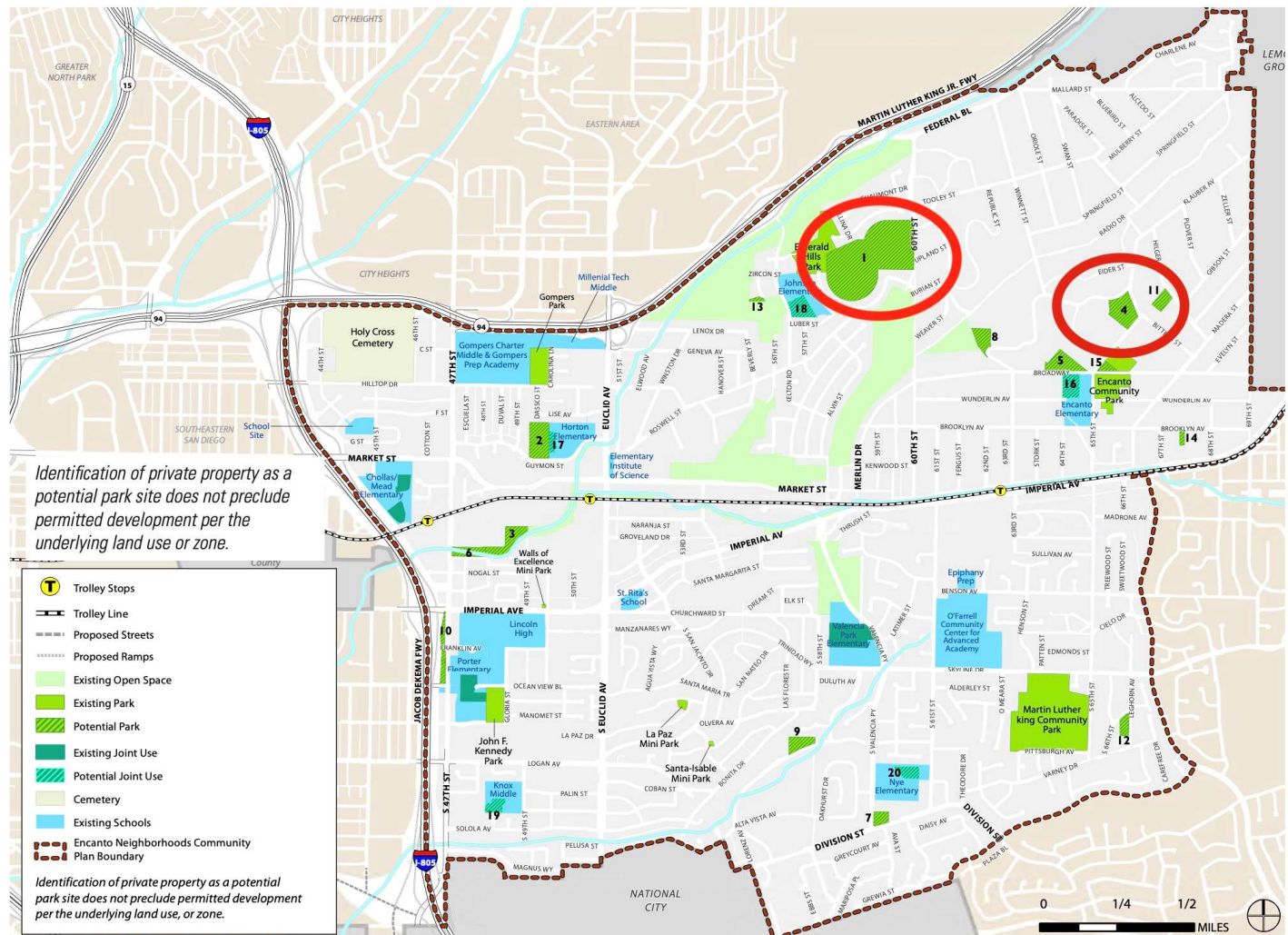
Data Source:  
City of San Diego, 2012; SANDAG Regional  
Data Warehouse, 2012;  
Dyett & Bluth, 2012

In the 2015 Community plan, we had identified these two affected areas as potential park expansion.

The city, in it's Parks Master Plan, has a goal to acquire 100 acres of new parkland in San Diego.

Environmental Justice element of the General Plan identifies the entire area of Footnote 7 as affected land.

FIGURE 7-2: Existing and Proposed Parks and Park Equivalencies



September 30th, 2024

TO: Todd Gloria, City of San Diego Mayor  
Heidi Vonblum, City Planning Director  
Joe LaCava, San Diego City Councilmember D1  
Jennifer Campbell, San Diego City Councilmember D2  
Stephen Whitburn, San Diego City Councilmember D3  
Henry L. Foster III, San Diego City Councilmember D4  
Marri Von-Wilpert, San Diego City Councilmember D5  
Kent Lee, San Diego City Councilmember D6  
Raul Campillo, San Diego City Councilmember D7  
Vivian Moreno, San Diego City Councilmember D8  
Sean Elo-Rivera, San Diego City Councilmember D9  
CC: Kohta Zaiser, Council Affairs Advisor, Mayors Office  
Liz Saidkhanian, Development Project Manager, Planning Department

**RE: SUPPORT FOR SCRUTINY OF LANGUAGE IN THE SAN DIEGO MUNICIPAL CODE TO ENSURE COMPLIANCE WITH FEDERAL & STATE FAIR HOUSING LAW**

We, the members of the Community Planners Committee, urge in the strongest terms that language in the San Diego Municipal Code be immediately scrutinized, as it seems on its face to have the intent and effect of maintaining unlawful housing segregation. This scrutiny should be conducted with the maximum possible speed that is consistent with solving a major local crisis.

The language in question can be found in Footnote 7 for Table 131-04D in the San Diego Municipal Code. This footnote came to the attention of the Chollas Valley (Encanto) Planning Group during a mismanaged appeal process. The planning group was appealing a project that was in clear violation of the zoning in their community plan. This footnote carves out Encanto (now known as Chollas Valley) and Eastern Area which specifically targets these historically underserved communities of color.

A 1936 map of San Diego shows much of southeastern San Diego was "redlined." These discriminatory housing practices led the federal government to pass the Fair Housing Act (Title VIII) in 1968. The purpose of this legislation was to combat housing discrimination, eliminate racial bias, undo historic patterns of segregation, and lift barriers that restrict access to foster inclusive communities and achieve racial equity, fair housing choice, and opportunity for all Americans. Within Title VIII, the mandate to Affirmatively Further Fair Housing (AFFH) has been, is, and should be recognized.

In 2022, Stephen Russell, executive director of the San Diego Housing Federation, told KPBS that those "redlined" maps are nearly identical to socio-economic maps of San Diego today, with a few exceptions. In the same article, Richard Rothstein, author of *The Color of Law: A Forgotten History of How Our Government Segregated America*, said, "We have a national myth that the racial segregation that still exists in every metropolitan area in the country is created simply by private prejudice, private lending practices, people's desires to live with others of the same race. This is false." In fact, this private prejudice has historically been and is currently operationalized by law

throughout the nation. There is more than reasonable cause to believe that a prime example of this exists in the City of San Diego Code:

*San Diego Municipal Code, Chapter 13, Table 131-04D, Development Regulations for RS Zones, Footnote (7) states: "In the Encanto and Southeastern San Diego Community Planning areas, the lot size shall be a minimum of 5,000 square feet, and all development regulations of the RS-1-7 zone shall apply to subdivisions."*

This excerpt of code, herein referred to as Footnote 7, is limited in scope to two specific community planning areas in San Diego that are historically comprised of redlined neighborhoods. That to this day, continue to primarily consist of nonwhite residents and have been classified by the City as "Communities of Concern." Both planning group areas, encompassing 16 individual neighborhoods, are designated by the state of California as low opportunity, with some parts experiencing high poverty, and almost all meet the state definition for segregation. Footnote 7 targets the RS-1-2 zone as outlined by their Community Plans, and does not apply citywide. No similar footnotes exist for other Community Planning Areas or zones. Footnote 7 effectively nullifies zoning protections without regard for existing Community Plans or the California Environmental Quality Act as it pertains to findings effectuating elements of those community plans. There is more than reasonable cause to believe that Footnote 7 is an act of intentional racial targeting in violation of the Equal Protection clause of the Constitutions of the United States of America and the State of California, prohibitions against racial discrimination in United States Title VIII, and AFFH mandates within Title VIII and the state of California's AB 686 law.

We hold that Footnote 7 perpetuates racial biases in historically segregated communities, Encanto and Southeastern, by limiting residents' access to the same zoning opportunities that predominantly white San Diego neighborhoods enjoy — namely, different density and housing size options which bolster economic opportunity. We urge, in the strongest terms, the immediate removal of Footnote 7 from Table 131-04D. All projects seeking to use Footnote 7 should be put on pause until a determination can be made as to whether this violates Title VIII. We demand, as the law requires, fair housing language in all future municipal code updates.

Sincerely,

Andrea Schlageter  
Chair, Community Planners Committee





October 21, 2024

Andrea Schlageter, Chair  
Community Planners Committee  
Via Email to [aeschlag@gmail.com](mailto:aeschlag@gmail.com)

**SUBJECT: COMMUNITY PLANNERS COMMITTEE LETTER OF CONCERN OVER DISCRIMINATORY CODE LANGUAGE**

Dear Ms. Schlageter:

Thank you for your September 30, 2024 letter requesting that language in the San Diego Municipal Code related to the RS-1-2 zone in the Encanto and Southeastern San Diego Community Planning Areas be evaluated for fair housing consistency. Your attention to this matter is very appreciated. We agree that the code amendment at issue here that was adopted in 2020 is not an amendment that we support.

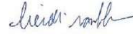
As you are aware, the Encanto and Southeastern San Diego Community Plans were last updated in 2015. Generally, parcels further from the trolley line were assigned lower land use densities, allowing for 0-4 dwelling units per acre. Several parcels in the Encanto Community Planning Area are zoned RS-1-2, which at the time, required a minimum lot size of 20,000 square feet. This continues to be the case for all parcels zoned RS-1-2 throughout the City, except in the Encanto and Southeastern San Diego Community Planning Areas (although the RS-1-2 zone does not exist in Southeastern San Diego).

In 2020, the 12th Update to the Land Development Code Phase 2 was adopted, which included an amendment that allowed parcels zoned RS-1-2 to have a minimum lot size of 5,000 square feet within the Encanto and Southeastern San Diego Community Planning Areas. It is our understanding that this change was intended to facilitate the planned land use of 0-4 dwelling units per acre by permitting larger lots to be subdivided into 5,000 square foot lots. However, it remains unclear to me why this application was not implemented citywide and why it was specifically applied to the Southeastern San Diego Community Planning Area, given that it contains no lots that are zoned RS-1-2.

This code amendment was brought forward and adopted before the City Planning Department established internal procedures to evaluate each proposed change to the Land Development Code for consistency with the City's climate and housing goals, including the City's commitment to affirmatively further fair housing. In all our Land Development Code Updates, the City Planning Department now evaluates each item for consistency with both the Climate Action Plan and the Housing Element, including the obligation to affirmatively further fair housing. Because we are not supportive of this prior amendment, we will evaluate it for potential amendment and look forward to continued engagement with the Community Planners Committee.

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Oct. 21, 2024

Sincerely,



Heidi Vonblum, Director  
City Planning Department

HV/lis

cc: Honorable Mayor  
Chris Ackerman-Avila, Senior Policy Advisor, Office of the Mayor  
Kohta Zaiser, City Council Affairs Advisor, Office of the Mayor  
Honorable Council President Sean Elo-Rivera  
Honorable Council President Pro Tem Joe La Cava  
Councilmember Jennifer Campbell, Council District 2  
Councilmember Stephen Whitburn, Council District 3  
Councilmember Henry L. Foster III, Council District, 4  
Councilmember Marni Von-Wilpert, Council District 5  
Councilmember Kent Lee, Council District 6  
Councilmember Raul Campillo, Council District 7  
Councilmember Vivian Moreno, Council District 8  
Tait Galloway, Deputy Director, City Planning Department  
Seth Litchney, Program Manager, City Planning Department  
Liz Saidkhanian, Development Project Manager III, City Planning Department



## Rezoning Process

City of San Diego  
Development Services Department

INFORMATION  
BULLETIN

517

July 2020

The rezoning of property is initiated by resolution or by application in accordance with the San Diego Municipal Code (SDMC) Section [123.0103](#), and is ultimately adopted by ordinance by the City Council. A rezone is a discretionary action, addressed in SDMC [Chapter 12, Article 3, Division 1](#).

Rezoning applications typically originate from private property owners who request zone changes by filing an application in accordance with SDMC Section [112.0102](#) in order to accommodate a proposed development project. These types of rezones are usually processed concurrently with a variety of other land development approvals such as Site Development Permits, Planned Development Permits, and Tentative Maps.

Other types of rezoning actions occur in conjunction with the Community Plan Update process and/or the code amendment process. These types of zoning actions typically encompass a large number of properties and can involve a multitude of base zones and/or overlay zones.

Because rezones invariably change the density and use of the land, a Community Plan Amendment is frequently associated with the rezone. In addition, a rezone will also require California Environmental Quality Act (CEQA) review.

Rezones are a [Resolution E](#) City Council decision, which first require a Planning Commission recommendation. Deposit information for the rezoning process can be found in [Information Bulletin 503](#). Submittal requirements can be found in the [Project Submittal Manual, Section 6](#).

Because each rezoning is unique, there is no reliable way to forecast exactly how long an application will take to process as time frames vary dependent upon a number of unpredictable factors such as project complexity and quality of information received. However, on average a rezoning can require at least 12-18 months to process. As with all discretionary actions, approval is not guaranteed. To determine the feasibility for

### Documents referenced in this Information Bulletin

- [Project Submittal Manual, Section 6](#)
- [Form DS-3032, General Application](#)
- [Community Planning Groups Contact List](#)
- [Information Bulletin 503 - Fee/Deposit Schedule for Development & Policy Approvals/Permits](#)
- [Information Bulletin 513 - Preliminary Review](#)
- [San Diego Municipal Code, Chapter 12, Article 3, Division 1](#)
- [Deposit Account/Financially Responsible Party Form \(DS-3242\)](#)
- [Information Bulletin 512 - Public Noticing Information](#)

processing a rezoning, a Multi-Discipline Preliminary Review may be requested prior to applying for a rezoning. See [Information Bulletin 512](#) for information regarding the Preliminary Review process.

When considering a rezoning, it is recommended the assigned community planner is contacted for an initial discussion prior to submittal. The assigned community planner can be found by checking the [Community Planning Groups Contact List](#).

Rezoning actions within the Coastal Overlay Zone will also require an amendment to the Local Coastal Program. Such amendments require certification by the California Coastal Commission prior to finalization, which can extend the timeline.

Visit our web site at [www.sandiego.gov/development-services](http://www.sandiego.gov/development-services).  
Upon request, this information is available in alternative formats for persons with disabilities.

DS-5517 (07-2020)