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Mayor Constantine and Councilmembers
City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037

Dear Mayor Constantine, Mayor Pro Tem McKay, and Councilmembers Borgioli, Beltrán, and Spring:

RE: Comments on the Draft Housing Element

The 6th Cycle Housing Element Update process is a unique opportunity to fully assess housing needs in Morgan Hill and to identify new tools and sites to address these needs and constraints on developing housing. This process is also an opportunity to engage deliberately with the full community, especially those who are represented from populations that have been historically excluded and are at risk of displacement, to share their housing needs. This unique opportunity is one that is required to adhere to the clear legal guidance as outlined by HCD in multiple documents interpreting state law.

This is not a simple process, and we appreciate the work that Morgan Hill staff, elected and appointed representatives, and members of the community have done over the last 12-14 months. As you know, the expectations for this process are high, and jurisdictions throughout the state have struggled to generate compliant housing elements for this cycle.

During this comment period on the current draft, there is still time to receive public input and address concerns prior to submission of the Housing Element Update to the state. Towards that end, SV@Home is submitting the following comments.

Outreach, Community Input, and targeted AFFH outreach as the foundation of the Housing Element Update process

Morgan Hill shares the challenges of many local jurisdictions in effectively translating community input into clearly defined actionable programs in response. Morgan Hill has done an excellent job of documenting extensive community outreach and public participation, including both virtual and in-person events in both Spanish and English over a period of more than a year. Particular efforts were made to engage with residents at a range of income levels and representatives or members of school communities, homeless safe parking sites, affordable housing developments, affordable housing and market rate developers, and local and regional advocacy organizations serving residents in protected classes. The thoroughness of this outreach is reflected in the reported demographics of those who participated in meetings or completed surveys, which fairly closely approximate the demographics of the city as a whole. Staff also included summaries and graphic representations of feedback, and copies of letters and email correspondence received. However, programs to address these needs, in many cases, lack clear actions for implementation, specific timelines, and measurable outcomes.

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SV@Home recommends that the City of Morgan Hill fully incorporates public input into clear strategies to address identified housing needs.

Housing Needs Assessment and Evaluation of Past Performance

The Housing Needs Assessment does not incorporate local knowledge or analysis. The Housing Needs Assessment is almost entirely taken from the data packet of demographic information provided by the Association of Bay Area Governments. Despite the robust collection of resident and stakeholder input and a clear familiarity with the Morgan Hill housing ecosystem, there was very little incorporation of local knowledge, or any analysis of need beyond the rudimentary assessment provided by ABAG, incorporated into the Housing Needs Assessment. ABAG's materials state that the final step for completing the Housing Needs Assessment when using the provided data packets is to "Make meaning and find insights: Add the analysis that contextualizes this data for your jurisdiction and connects housing needs to policies and programs."

SV@Home recommends that the City of Morgan Hill incorporate the local knowledge gathered through the outreach process, along with the data provided by ABAG, into an analysis that clearly lays out the housing needs of Morgan Hills communities.

Policies and Programs, Assessment of Fair Housing, and AFFH

The large number of Draft Housing Element Policies and Programs require prioritization in order to address them effectively. Morgan Hill's Draft Housing Element has identified 7 goals and 85 policies in Chapter 4: Goals and Policies section of the Draft Housing Element, and 57 Implementation Programs/Actions in Chapter 5: Implementation. We are concerned that such a large collection of priorities will strain a small department's ability to focus effectively on critical priorities. Additionally, the structure of the Goals and Policies section of the Housing Element (Chapter 4), separate from the Implementation section (Chapter 5) with steps to implement the Policies, creates challenges in easily seeing which actions are meant to implement which policies without cross-referencing each action to the previous chapter.

Morgan Hill's Draft Housing Element Policies and Programs lack specific timelines and measurable outcomes. As with many other jurisdictions across the state, few policies or implementation actions include concrete, actionable steps, clear timelines, and specific, measurable outcomes or indicators of success as required by HCD. Many policy implementation steps indicate "ongoing" as the timeline, which HCD has specified should generally be rewritten with clear, accountable steps. Some policies do not have corresponding implementation actions at all. Because of the lack of specificity, action steps, or measurable outcomes, it is not clear how policies will be resourced or implemented, or how the efficacy of individual policies will be evaluated in the future. [See examples.](#)

Policies included in the Draft Housing Element do not directly address, within the 6th cycle, the disparate outcomes and segregation patterns of impacted racial and ethnic groups identified in the Assessment of Fair Housing. The housing needs elicited from the community during the lengthy and robust outreach process have not been translated to strategies that will address the disparate outcomes and segregation patterns of impacted racial and ethnic groups identified in the Assessment of Fair Housing portion of the Housing Element. Of the 85 policies in the Draft Housing Element, only four are intended to further Goal 3 of advancing

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equity and inclusion throughout the City. In the Assessment of Fair Housing, these Affirmatively Furthering Fair Housing (AFFH) policies are laid out with strong connections to identified needs. However, implementation for some policies is indicated as "for the City's next Housing Element," with no specific timeline and no measurable outcome identified. And, in many cases the action is to "consider", "study", "review", or "support." In comment letters to other cities, HCD has instructed cities to avoid policies with similarly vague words unaccompanied by more detailed, concrete actions. [See examples.](#)

SV@Home recommends that the City of Morgan Hill prioritize the policies and programs in the housing element and discuss how each policy and program will be fully and realistically operationalized by providing the specific steps, timeline, and measurable outcomes that will achieve their intended goals. SV@Home further recommends that the City of Morgan Hill, per guidance from HCD, ensure that strategies will address the disparate outcomes and segregation patterns of impacted racial and ethnic groups identified in the Assessment of Fair Housing, within the 6th planning cycle.

Site Inventory and AFFH

In its heavy reliance on pipeline projects, Morgan Hill's Site Inventory does not respond to housing needs identified during public outreach or the Housing Needs Assessment or to the duty to affirmatively further fair housing. Morgan Hill is in the unique position of having such a robust pipeline of residential development that the entire RHNA at every income level fits within currently proposed or entitled projects. While this is both laudable and indicative of the professionalism and commitment of Morgan Hill's Planning and Housing Departments, it does not address the purpose of the Site Inventory, for several reasons.

HCD has consistently given guidance to cities to use an AFFH lens when initially deciding which sites to include, not as a check after choosing sites, and to describe the process and considerations for choosing sites. Although the City completed robust outreach, Housing Needs Assessment, and Assessment of Fair Housing, the pipeline sites cannot be responsive to those needs identified since they were chosen by developers in a process entirely separate from the Housing Element process.

Further, two of the five pipeline sites planned in the Draft Housing Element for lower-income housing units are located in areas identified by the State as low-resource. Because these sites hold a disproportionate share of the lower-income pipeline units, should all planned units be built, it would result in location of the bulk of the lower-income housing in low-resource areas. [See analysis.](#) No further sites beyond the pipeline sites are identified in the Site Inventory for lower-income sites: only sites for Moderate and Above Moderate units are listed.

AB 686, Statutes 2018 requires that a jurisdiction identify sites throughout the community, in a manner that is consistent with its duty to affirmatively further fair housing pursuant to Section 65583(c)(10)(A). In the context of AFFH, the site identification requirement involves not only an analysis of site capacity to accommodate the RHNA, but also an analysis and conclusion of whether the identified sites improve or exacerbate conditions for each of the fair housing areas (integration and segregation, racially and ethnically concentrated areas of poverty, areas of opportunity, disproportionate housing needs including displacement). No such analysis of sites is included in the Sites Inventory. The Assessment of Fair Housing identifies several priorities that could broaden the distribution of lower-income sites to include the higher-resource areas of eastern Morgan Hill, but indicates these priorities would not be implemented until the City's next Housing Element.

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In order to evaluate the sufficiency of the pipeline and estimate the number of proposed pipeline development projects that are expected to reach completion during the 6th cycle, the City examined completion rates of pipeline development **projects** during the 5th cycle for projects with discretionary entitlements and building permit applications and applied those success rates to housing **units** in the pipeline. We are concerned with this methodology, since housing units will not move forward in the absence of an approved project, and a single large failed development could have an outsized impact on the number of units produced. Should this failure occur within a development project of lower-income housing units, there is no site identified in the housing element to maintain the required capacity for lower income units.

SV@Home recommends that the City of Morgan Hill identify additional sites responsive to the housing needs identified during public outreach and in the Housing Needs Assessment, and responsive to the duty to affirmatively further fair housing; expand the “buffer” of sites planned to hold the RHNA at each income level in order to ensure compliance with SB 330, and monitor the City’s identified housing unit capacity continually rather than annually.

Constraints to the Development of Housing

The Constraints Assessment, in many cases, lists the City’s processes and standards rather than providing the required analysis of their cumulative impact on the supply and affordability of housing. In the Constraints Assessment, the City has included “Length of Time between Project Approval and Applications for Building Permits” as a constraint as required by State Housing Element law, but identifies this as a nongovernmental constraint “influenced by a number of factors, none of which are directly impacted by the City.” The City also notes that a recent Santa Clara County Planning Collaborative analysis in April 2022, performing a regional fee comparison, showed that the City of Morgan Hill’s impact fees typically fall just under the average when compared with other jurisdictions in the region, and conclude that “the City’s fees are not considered a constraint on housing production.” Both fees and permit processing timelines are assumed not to be a constraint because they are fairly average for the county, without any further analysis as required. In its Housing Element Building Blocks, HCD has stated that,

*“The analysis should identify the specific standards and processes **and evaluate their cumulative impact on the supply and affordability of housing.** Each analysis should use specific objective data (quantified, where possible). In cases where the analyses identify existing constraints, the housing element should include program responses to mitigate the effects. A determination should be made for each potential constraint as to whether it poses as an actual constraint.”*

The City identifies the relative lack of land zoned for multifamily as a constraint, especially in the eastern city, in relation to AFFH. However, the policies identified to address this constraint are targeted to the 7th Housing Element cycle, leaving this issue unaddressed in the 6th cycle. The Constraints Assessment also does not acknowledge that only one General Plan land use designation (Residential Downtown, 24-46 units/acre) is nearly sufficient to meet the minimum density for low-income housing (30 units/acre), or that this is located only in the downtown core, and simply lists development standards without analyzing how they could act as constraints (e.g. max FAR of .5 in Mixed-Use Flex).

SV@Home recommends that the City of Morgan Hill conduct a robust analysis of specific standards and processes and evaluate their cumulative impact on the supply and affordability of housing, as required by law, and create policies and programs that address identified constraints within the 6th planning cycle.

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SV@Home values its partnership with the City of Morgan Hill and is pleased to have been invited to provide feedback on the Draft Housing Element. We welcome the opportunity to engage in an ongoing dialogue as the Draft Housing Element moves through cycles of review and revision, with the shared goal of addressing the City's urgent housing need by boosting production of homes at all income levels, preserving existing affordable homes, and protecting the families in them.

Sincerely,



Regina Celestin Williams

Executive Director

Cc: Adam Paszkowski, Principal Planner; Rebecca Garcia, Housing Director; California Department of Housing and Community Development

