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TRANSMITTED VIA EMAIL

August 8, 2022

John Davidson
Principle Planner
Community Development, Planning Division
City of Santa Clara
1500 Warburton Avenue

Re: City of Santa Clara 6th Cycle Draft Housing Element Update

John Davidson,

SV@Home is the voice for affordable housing in the Silicon Valley. A membership organization, SV@Home works with a broad coalition of strategic partners to address the urgent housing need by boosting production of homes at all income levels, preserving existing affordable homes, and protecting the families in them.

The City of Santa Clara has been a leader in recent years in its commitment to, and success in entitling and building much needed housing. In the current 5th RHNA Cycle the city is on track to permit over 300% of their above moderate obligation. While the City continues to fall short of 5th Cycle obligations for lower-income production, it has demonstrated strong support for 100% affordable projects, and has an active affordable housing pipeline. In addition, Santa Clara has been active in specific area planning, adding planned capacity for thousands of future homes. With the exception of the initial failure of the El Camino Real Specific Plan, the City is moving forward with major planning for the redevelopment of the downtown and the area surrounding the future BART station.

The 6th Cycle Housing Element Update process is a qualitatively, as well as a quantitatively, different undertaking. This is a unique opportunity to more fully assess the breadth of housing needs in Santa Clara and to identify new tools to address these needs and constraints on developing housing. This process is also an opportunity to engage deliberately with the full community across incomes – especially those representative of 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 the California Department of Housing & Community Development (HCD) in multiple documents interpreting state law.

This is not a simple process, and we appreciate the effort that the City of Santa Clara staff, elected and appointed representatives, and members of the community have invested over the last 6-9 months. As you know, however, the expectations for this process are high, and jurisdictions throughout the state have struggled to generate compliant housing elements for this cycle.

During the review of the current draft, there is still time to receive public input and plan for steps to address concerns prior to the full review of the Housing Element Update by the

state Department of Housing and Community Development. Towards that end, SV@Home is submitting the following comments.

Outreach, Community Input, and targeted Affirmatively Furthering Fair Housing (AFFH) outreach as the foundation of the Housing Element Update process

We do not find that the Draft Housing Element Update shows evidence of the significant public engagement and community participation required to be compliant with guidance provided by the state. The importance of this public engagement and community participation to the development of the Housing Element Update is central to development of each component of the document from the assessment of needs, to the development of policies and programs to address those needs, to the strategies employed to select housing opportunity sites to fulfill the RHNA.

Community Participation means a solicitation of views and recommendations from members of the community and other interested parties, a consideration of the views and recommendations received, and a process for incorporating such views and recommendations into decisions and outcomes. To address these requirements, the housing element must describe meaningful, frequent, and ongoing public participation with key stakeholders. Under AB 686 (Affirmatively Furthering Fair Housing) this requires going beyond simply giving the public an opportunity to provide input and should be proactively and broadly conducted through a variety of methods to assure access and participation of those most impacted by the City's housing needs and least likely to have access to standard modes of community input.

The summary of community engagement efforts and community participation was not included in the Draft Update released for public comment. City Staff explained that an online community survey had closed after the draft was released and that stakeholder meetings were ongoing. During the joint Planning Commission and City Council study session held on July 12th, staff described outreach efforts targeted at increasing participation in the online survey but very little about the process or substance of any additional engagement and solicitation of input. Without the detailed description of this effort it is difficult to assess, but it is clear that the most robust community participation instrument, the online survey, was employed after the draft needs assessment, proposed policies and programs, and sites inventory had been completed.

SV@Home, which had established itself as an interested stakeholder in 2021, and participated in a community meeting and provided comment at an earlier council study session, was notified of the online survey through email on June 20th. I, as a resident of Santa Clara who had expressed an interest in receiving Housing Element Update process updates, received a link to the survey on June 27th. SV@Home was not notified that the draft had been released on July 1. Nor were we notified that a joint Planning Commission and City Council study session would take place on July 12th. We received no notification of earlier study sessions either.

While the participation in the online survey appears to have been significant, it comes too late to inform the draft and is predictably skewed towards older, wealthier, whiter, homeowners. These limits of the survey instrument were discussed at some length during the study session, as was the more specific need to understand the specific needs and priorities of lower-income renters and LatinX respondents. Lower-income, Black and LatinX, renters have been shown to have been disproportionately impacted by the multiple dimensions of the housing crisis. Their perspectives must be disaggregated in community input to reasonably understand their needs. Everybody's input is important, but this falls short of the targeted - early and often - engagement required under AFFH.

As a result, the Housing Element does not a) provide a summary of public comments and b) explain how the comments were considered and incorporated, including comments that were not incorporated.

Housing Needs Assessment and Evaluation of Past Housing Element 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. Given the limited outreach and public engagement prior to the release of the Draft Housing Element Update, it has been impossible for the public, or appointed and elected officials, to understand the assessment of needs presented in a way that allows them to comment on or expand the city's understanding of local housing needs. As a result, there is no evidence of any analysis of need, beyond the rudimentary assessment provided by the Association of Bay Area Governments (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 Santa Clara conduct additional outreach and analysis of the housing needs data in the draft with the goal of better understanding the housing needs of the city as they are experienced by residents of the city. We would draw particular attention to the AFFH requirement to assess the differences in experiences by race/ethnicity and across neighborhoods within the city. We find little effort to connect the data points showing that LatinX residents, and other members of protected classes, face greater incidents of housing instability and overlapping housing needs.

Lack of engagement on the assessment of the 5th Cycle Housing Element Update. The City failed to solicit and integrate public comment into the assessment of programs and policies adopted in the 5th Cycle Housing Element update. Neither was this assessment process integrated into the study sessions before the Planning Commission and/or the City Council. Partially as a result, what is provided is a less than thorough assessment of the progress made and the barriers that impeded progress during this period. In most cases, as is the pattern with the draft discussion of the proposed 6th Cycle programs and policies, the programs are simply noted as "ongoing" rather than attempting to assess the impact of specific actions taken. This is both less than we believe is required of this process and a missed opportunity to learn from some of the significant successes. City staff may feel it has a handle on these details, but failure to share through this process in a way that is publicly accessible (and accessible to a mostly new Planning Commission and City Council) is not compliant with state guidance and will significantly hamper ongoing public engagement.

SV@Home recommends that the assessment of the 5th Cycle Policies and Programs be incorporated into the more comprehensive assessment of housing needs, including concrete opportunities for public engagement around the lessons learned from these prior efforts. If most of these policy actions will be continued or have yet to be completed and are rolled over into the 6th Cycle update, it is critical that their impact be carefully reviewed. We believe this is a clear process requirement of this update.

Policies and Programs - Housing Needs Constraints and AFFH. An essential component of the Housing Element Update process is making connections for the plan to be responsive to its own findings – assessing the existing housing needs, and those that may be specific to enumerated populations under AFFH

requirements, and then showing the work and closing the loop connecting them to specific policies and programs to be implemented in response. We have discussed our concerns with the outreach and engagement meant to inform this process. We have noted the limited assessment of existing programs. Subsequently, we struggle to track the connection between needs and solutions in the draft.

As with many other jurisdictions that we are tracking and reviewing across the state, we believe the lack of detail in the policies and programs included in the draft will not prove to be compliant. From our reading each of the policy and program areas presented are listed as “ongoing.” There appear to be two pieces of policy work that are on a scheduled timeline: the comprehensive Zoning Code update initiated in 2014, which we understand as being part of the state mandate that there be objective development standards in place; and the update of the Inclusionary Housing program. With those exceptions, the proposed policies and programs lack a clear definition of work to be undertaken, provide no clear prioritization, and turn to “study,” “consider,” “continue to monitor,” and “review,” rather than fully operationalizing the steps that will be taken. This portion of the update clearly falls short of the standards and guidance provided by the state and by numerous supporting documents made available from multiple sources over the past year. We have seen the lack of detail, discrete action steps, and clear timelines referenced in multiple HCD comments to another jurisdiction.

We would note that we believe there is a general failure to substantively address housing instability and displacement experienced by protected classes under AFFH in Santa Clara. We would also note that this failure was acknowledged during the study session held on July 16th, during which a number of “Potential Programs to Consider” were presented. Ideally, this is not the time to be taking the temperature of decision makers on key policies. These policies should be crafted in response to identified needs and public engagement. If an elected body is presented with a policy solution to address an identified need and chooses not to pursue that policy, this may or may not risk a non-compliant Housing Element. We believe, however, that identifying existing needs and developing specific policy and programmatic responses is required as a part of this process, and it falls to city staff to show their work and explain their recommended course of action.

SV@Home recommends that the content and description of policies and programs to respond to housing needs and constraints should be made significantly more specific in order to be actionable during the 6th Cycle.

Housing Opportunity Sites Inventory

Avoid Double-Counting 5th Cycle Completed Projects into the 6th Cycle Pipeline Inventory. The pipeline projects listed under Table 13.6-2 have sites labeled as “approved” or “Under Construction” but they do not specify whether they have approved building permits. In an initial review we found major projects listed as “Approved” that were already well under construction having received building permits. Similarly, a number of projects listed as “Under Construction” were found on the Annual Progress Report (APR) lists in prior years. The narrative provided on page 13.6-3 defines “Under Construction” projects as sites with anticipated completion and occupancy permits after June 30, 2022. According to the 5th Cycle Housing Element APR rules, however, projects that acquired their building permits within the planning period would count as progress

towards a jurisdiction's RHNA.¹ As such, projects that have acquired their building permits would not qualify to be included in this 6th Cycle Draft Housing Element sites inventory.

SV@Home recommends that the City of Santa Clara confirm and remove any sites from the inventory that received building permits prior to June 30, 2022, whether listed as "Under Construction" or "Approved".

Overdependence on a few Specific Plan Areas, lacking assessment of development expectations. In general, cities should use an AFFH lens when initially reviewing sites to potentially include in the inventory and should not place too much reliance on sites in major plan areas located in lower-resourced areas. The sites inventory places 95% (4,590 units) of its lower-income sites in three major plan areas north of El Camino Real, all within moderate resourced areas with some sites abutting low-resourced areas. The ability of affordable developments to be competitive for state and federal financing will be more limited in moderate-resource areas. Beyond the failure to plan in higher-resourced areas, this over reliance raises a number of concerns: phasing for specific plan areas is often already planned and is subsequently better known than the potential timing for infill development sites; similarly, the developers' intent for specific sites – commercial, market-residential, affordable-residential – are also more generally more transparent. For these reasons the standard of evidence of likely development in these plan areas should reflect this knowledge.

Failure to incorporate AFFH requirement to spread lower-income sites throughout the City, including higher-resourced areas. The sites inventory should identify and analyze the viability of placing lower-income housing units in high opportunity areas. The highest resourced areas in Santa Clara are located in the southerly sections of the city, which have the highest incomes and schools with the top ranking education scores, as shown in Figure 13.3-22 and Figure 13.3-23. Although investing in lower-resourced areas should also be a priority, **the City of Santa Clara must show efforts to provide access to affordable housing options throughout the entire city.** While located in more areas throughout the city, the distribution of pipeline projects alone does not satisfy this AFFH requirement, as they only make up 15% of the lower-income inventory and are not predominantly located in high resourced areas.²

Obvious areas of opportunities to build lower-income housing in higher-resourced areas would be in Santa Clara's downtown or near Stevens Creek Boulevard, which have General Plan Focus Areas. However, the sites inventory does not take advantage of these potential higher-resourced areas to meet AFFH, nor does the Draft Housing Element discuss why these particular areas should not be included. It is particularly disturbing that the prevalence of neighborhood opposition to new housing development is explicitly used as an explanation of why the sites inventory focuses entirely on plan areas where fewer people currently live. This is explicitly contrary to the state direction that the expectation of AFFH requirements open up areas and neighborhoods that have previously been exclusive and created barriers to economic integration and expanded access to opportunity.

¹ [HCD, Housing Element Annual Progress Report Instructions \(pg 91\)](#)

² [Site Inventory Guidebook](#), Attachment: Summary of New Laws Referenced in the Guidebook (pg. 39): "AB 686 requires jurisdictions to conduct an assessment of fair housing in the housing element, **prepare the housing element site inventory through the lens of affirmatively furthering fair housing**, and include program(s) to affirmatively further fair housing."

SV@Home recommends that the City of Santa Clara update the sites inventory to include sites in the General Plan Focus Areas located in high and highest resourced areas so as to achieve AFFH requirements of providing affordable housing opportunities throughout the city.³

HCD's base level standards for the sites inventory are high. Lower-income sites must: 1) provide substantial evidence, such as market conditions and stronger development trends than what was provided, that indicate existing non-residential use will be discontinued or will not be an impediment to future residential development, 2) demonstrate that there is clear developer interest in redeveloping each site within the planning period, and 3) incorporate potential constraints (e.g. environmental, parking, open space, etc.) into the inventory's realistic capacity calculations consistent with HCD's Site Inventory Guidebook (per Government Code section 65583.2(c)(2)). An explanation of the factors leading to these conclusions in the site-specific analysis should also be provided.

The policies and programs listed in the Draft Housing Element need to support the efforts to successfully build-out the sites inventory. Chapter 13.6 should summarize and be clearly reflective of the outcomes from the proposed policies and programs outlined in Chapter 13.2 of the Housing Plan in order to make the identified sites viable for development without foreseeable constraints, within the planning period.⁴

Closing

The City of Santa Clara's Draft 6th Cycle Housing Element falls short of the statutory requirement at multiple levels, from its failure to elicit and reflect community input, to its deficient analysis of needs, to its absence of concrete programs with implementation details and timelines. We also believe the sites inventory falls significantly short of the AFFH requirements for this process. We encourage HCD to issue findings that the Draft does not substantially comply with Housing Element Law and direct the City to correct these and other deficiencies which may be identified. We would acknowledge again, that City staff have made it clear that they intend to continue to solicit input and refine the current draft prior to final review and approval by the City Council. We believe this provides opportunities to address deficiencies, but these actions will need to be significant.

Sincerely,

Mathew Reed
Director of Policy

³ [Site Inventory Guidebook](#), Background/Purpose, Housing Element Site Inventory Requirements (pg. 3): "When determining sites to include in the inventory to meet the lower income housing need, HCD recommends that a local government **first identify development potential in high opportunity neighborhoods**. This will assist the local government in meeting its requirements to affirmatively further fair housing and ensure developments are more competitive for development financing... A site inventory and analysis will determine whether **program actions** must be adopted to "make sites available" with appropriate zoning, development standards, and infrastructure capacity to accommodate the new development need."

⁴ ABAG Summary of Housing Element Reviews: Sites Inventory (pg. 3): "For non-vacant sites, most jurisdictions will need to provide substantial evidence that the existing use is not a barrier to redevelopment. This is a high bar and will require both *site-specific* analysis and a summary of development trends. Additionally, jurisdictions should **summarize policies and programs that support residential development on proposed redevelopment sites**"

350 W. Julian Street, Building 5, San José, CA 95110
www.svathome.org • info@siliconvalleyathome.org

