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**TRANSMITTED VIA EMAIL**

January 24, 2023

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

Dear Mayor Turner, Mayor Pro Tem Spring, and Councilmembers Borgioli, Beltrán, and Librers:

**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 by planning concrete actions that can enable safe, stable and affordable housing for all. This is also a critical opportunity to affirmatively further fair housing, by taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. This opportunity is one that is required to adhere to the clear legal guidance as outlined by the California Department of Housing and Community Development (HCD) in multiple documents interpreting state law.

This is not a simple process, and we recognize and appreciate the additional work City staff has done in response to the review letter from HCD, received on November 17, 2022, to bring the draft housing element closer to compliance. The revised draft represents substantial improvement, but we believe it will require further revisions to comply with State Housing Element Law.

**Further analysis required of AFFH impact of pipeline projects, Implementing Actions to mitigate impacts**

Regarding the proposed and approved pipeline projects the Draft Housing Element relies on to meet its entire RHNA, HCD's review letter requests that the site inventory analysis address how the project locations are distributed throughout the community in a manner that affirmatively furthers fair housing. *"A full analysis should address the income categories of identified projects with respect to location and number of units by income groups and how that affects the existing patterns for all components of the assessment of fair housing (e.g., segregation and integration, access to opportunity). The element should also discuss whether the distribution of projects improves or exacerbates conditions. If project locations exacerbate*

*conditions, the element should identify further program actions that will be taken to mitigate this (e.g., anti-displacement strategies)."*

*Section 2.6: Affirmatively Furthering Fair Housing*, located at the end of *Appendix H2: Site Inventory*, appears to partially respond to this request, by discussing in very general terms the locations and land area of pipeline projects. While it acknowledges that, of the four planned affordable housing developments, "some units [are] anticipated to be in a low resource area and some in a moderate resource area," it does not quantify the income categories of identified projects with respect to location and number of units by income groups, or discuss how that affects the existing patterns for all components of the assessment of fair housing.

An analysis conducted by SV@Home found that about 60% of lower-income and 70% of moderate-income units are proposed or permitted for low-resource areas. There are no geographically targeted programs in the Draft to improve access to resources for future residents of pipeline projects in low-resource areas, or to take steps to replace segregated living patterns with truly integrated and balanced living patterns in low-resource areas.

In the Assessment of Fair Housing, the City determined that the lack of both public and private investment in specific neighborhoods, including services or amenities is not a factor contributing to Fair Housing issues. However, it appears the only framework within which this was assessed was public and private investment in housing within the current housing pipeline, and did not take into account historical patterns of investment and disinvestment, infrastructure, or amenities.

**SV@Home recommends that the City create a Program and Implementing Actions to prioritize investment in neighborhoods that have been historically underserved, where incomes are low and where residents have relatively low access to economic opportunities.**

**Proposed Policy:** Establish an infrastructure prioritization process for the City's Capital Improvement Program (CIP) that can be used as a factor to efficiently and equitably deliver infrastructure across the City. The new prioritization process will grant additional points to projects serving tracts where median income falls below that of the city, in order to increase opportunities in low-income areas, while continuing to take into account public safety, state mandates and protecting the environment. Projects undertaken will include, but not be limited to, public improvements such as streets and drainage, sidewalks and alleys, green spaces and parks, street trees, and other public facilities, amenities and infrastructure in neighborhoods with the greatest need, including neighborhoods with high concentrations of poverty and limited existing resources and amenities.

**Metric:** 50% of the City's new recreational, active transportation, public works, and transit infrastructure projects serving specific disadvantaged communities identified in the analysis

**Timeline:** Prioritization process will be developed with public input by the end of 2023 and implemented during the 2024 CIP process. Progress will be evaluated during each year's subsequent review of the CIP.

### **Specific commitments, metrics, and geographic targeting to affirmatively further fair housing**

In Morgan Hill's Housing Element Review letter, HCD clarified the requirement that *"Goals and actions must specifically respond to the analysis and to the identified and prioritized contributing factors to fair housing issues and must be significant and meaningful enough to overcome identified patterns and trends. Actions must have specific commitment, metrics and milestones as appropriate, include geographic targeting as appropriate, and must address housing mobility enhancement, new housing choices and affordability in high opportunity areas, place-based strategies for community preservation and revitalization and displacement protection."*

While the City has added much more detail to some of the Implementing Programs, many programs still lack concrete commitments and measurable outcomes. For example, *Action HE 1.C: Evaluate the creation of smaller lot sizes through the Zoning Code to reduce the cost of single-family housing units obtainable to lower income households.*

- Does not commit to implementing a small-lot zoning category
- Does not target a specific lot size or size range necessary to increase affordability
- Does not commit to any particular number of small lots enabled or percentage of single-family residential land affected
- Does not target higher-resource areas, which could help enhance mobility for lower-income households, or racially segregated areas, which could improve integration

Without concrete commitments and measurable outcomes, it is impossible to assess whether the Action is meaningful enough to overcome patterns and trends identified in the Assessment of Fair Housing, or measure its success. There are no Implementing Actions in the Draft Housing Element that are geographically targeted to respond to housing mobility enhancement, disparate housing needs, or disparate displacement risk within the planning cycle.

**SV@Home recommends that each Implementing Action contain concrete commitments and measurable outcomes, as required by Housing Element Law and specified in Morgan Hill's HCD review letter.** For example, *Action HE 1.C could be revised to read:*

**Proposed Policy:** *Create a Zoning Code category enabling subdivisions of smaller lot sizes and significantly higher densities, with lots as small as 2,500 square feet, in tracts categorized as Racially Concentrated Areas of Affluence (RCAs), to reduce the cost of single-family housing units obtainable to lower income households.*

**Metric:** 30% of residential land in RCAs rezoned to allow small lot residential subdivisions as a permitted use

**Timeline:** Ordinance creating Zoning Code enacted in 2024, rezoning complete in 2025

**Timelines for Implementing Actions should fall early in the planning period for beneficial impact.**

The timelines for many Implementing Actions fall far into the planning period, with little opportunity to impact the production of housing or tenant protections within the planning cycle. For example, three anti-displacement policies, *Action HE-3.C Rent Increase Mediation*, *Action HE-3.D Tenant Relocation Assistance Ordinance*, and *Action HE-3.E Eviction Counsel* each have a timeline of 2025 to 2027. For the *Rent Increase Mediation* and *Tenant Relocation Assistance* Actions, the City's commitment is to "consider adoption" and "study the possibility," respectively, with the subsequent possibility of a "draft ordinance within five years."

Likewise, Actions meant to spur the development of affordable housing, *Action HE-3.B Affordable Housing Overlay Districts*, and *Action HE-3.G Review Inclusionary Housing Ordinance* have a timeline of 2028 to 2031. The delay in implementing these programs would mean they do not apply to developments entitled during the course of the planning period, potentially robbing the City of important tools to bring more affordable housing to fruition in the next planning period.

**SV@Home recommends that programs intended to protect vulnerable tenants from displacement or expected to impact the affordability of future development should occur early enough in the planning period to realize a beneficial impact.**

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