

March 6, 2023

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**TRANSMITTED VIA EMAIL**

City of Sunnyvale, Community Development Department  
456 W. Olive Avenue  
Sunnyvale, CA 94086

**Re: SV@Home Recommendations on Sunnyvale Housing Element Update, HCD Review Letter**

Dear Jenny Carloni and Ryan Dyson,

We write to you today to support ongoing revisions you are considering in response to the California Department of Housing & Community Development's (HCD) Housing Element Update review letter submitted to the City of Sunnyvale on October 6, 2022. SV@Home appreciates the Housing Division Staff's continued communication with us on this complicated process. We were pleased to hear during our February 7th, 2023 meeting with City Staff that they intended to include policies similar to the recommendations we have made here into the next iteration of Sunnyvale's Housing Element. There remains, however, areas where we believe the City will fall short of the required actions outlined in HCD review letter, including the lack of commitment to identify low-income sites in higher-resourced areas of South Sunnyvale.

We are committed to supporting the City of Sunnyvale's Housing Element certification. These comments are focused on HCD's comments rather than other areas that might warrant additional attention. We have attempted to provide concrete policy recommendations for the City to consider, along with proposed metrics and timelines.

**Affirmatively Furthering Fair Housing (AFFH) and place-based investments solutions**

In Finding A1, HCD notes that the City must complete a robust fair housing analysis. Based on the outcomes of this analysis, *the Housing Element should add or modify programs by incorporating place-based investments to affirmatively further fair housing.* The Housing Element also needs to demonstrate how such strategies will improve fair housing conditions when paired with the identified sites and include "specific commitment, timing, geographic targeting, and metrics or numerical targets."

In Sunnyvale's initial Draft Housing Element, Implementation Program H35 concerns prioritizing the City's investment in low or moderate resource areas, but lacks specificity. It is our understanding based on discussions with City Staff that this program will include additional specificity, similar to what is proposed below.

**SV@Home recommends that the City revise Implementation Program H35 to incorporate a scoring system to prioritize investment in neighborhoods that have been historically underserved, where incomes are low and where residents have relatively low access to economic opportunities.**

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**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 improvements across the City. The new prioritization process will grant additional points to projects serving tracts where median income falls below that of the city. The goal of this policy is to increase opportunities in low-income areas, while continuing to take into account public safety, state mandates, and protecting the environment. Projects undertaken under this program would include, but not be limited to a new library branch, new or improved park facilities, and street and transit improvements.

**Metric:** 50 percent of the City's new recreational, active transportation, transit infrastructure projects, and other capital improvements, will be located in areas within the city serving specific disadvantaged communities.

**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.

## Sites Inventory Solutions

### ***Correcting unfounded lower-income capacity and development assumptions for Moffett Park***

Section A.3 of HCD's comment letter requires the City of Sunnyvale to provide supporting evidence that 5,744 lower-income units will feasibly be built in Moffett Park within the planning period. We believe HCD's concerns and requests are valid and a substantive response is essential. Roughly 70 percent of the City's lower-income Regional Housing Needs Allocation (including the 30 percent No Net Loss buffer) is included as *reasonably expected to develop* in the Moffett Park Specific Plan (MPSP) area.

We understand that the City intends to lower Moffett Park's lower-income capacity from 5,744 to roughly 4,400 units, similar to the capacity included in the draft circulated in Summer of 2022 (first Draft Housing Element). However, 4,400 units continues to lack credibility for several reasons, including but not limited to:

1. It conflicts with the build-out assumptions in the current draft of the Moffett Park Specific Plan (MPSP). The 2022 Draft Housing Element assumed that Moffett Park would reasonably develop low-income homes totalling 29 percent (5,744/20,000) of the MPSP's maximum residential capacity within eight years. Even if this number is reduced to 4,400, this is well above the current MPSP 20-year target of 15-20 percent (3,000 to 4,000 lower-income units). (Please note that 20,000 residential units is the maximum capacity studied in the Environmental Impact Report and the actual development in the area will likely be significantly lower.)
2. Not all major landowners are committed to building affordable housing within eight years. Current plans presented in public forums by major landowners who have presented proposed numbers are significantly below those in the Draft Housing Element.
3. The MPSP's 15 percent affordable target currently relies on the City's Inclusionary Housing Program, which HCD explicitly prohibited incorporating into the assumptions of the Sites Inventory.

SV@Home is highly supportive of the City's identification of the Moffett Park Specific Plan as a focused area of investment, and agrees that the redevelopment of this area and resulting population growth will likely result in changes to the current census tract boundaries and anticipates that the area will be classified in the future as a high resource area. Integrating affordable homes into newly-planned communities will ensure more equitable access to these neighborhoods in the future, and is essential to efforts to Affirmatively Furthering

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Fair Housing. However, the assumptions about how many lower-income units can be expected to develop in Moffett Park are unrealistic and not supported by existing planning documents and landowners' stated intentions.

**SV@Home recommends reducing Moffett Park's lower-income inventory from 5,774 units to approximately 2,310 units (40 percent of 5,774) and reallocating the remaining units to higher-resourced areas. Therefore, we recommend the following changes:**

**Proposed Policy:** Update Implementation Program H2's Rezone Program by:

- a. Acknowledging MPSP's 20,000-unit maximum build-out and 15 to 20 percent affordable housing production targets.
- b. Reducing Moffett Park's lower-income inventory.
- c. Transfer remaining lower-income units to high-resourced areas in northern and southern areas of Sunnyvale, targeting the Village Centers (as discussed below).
- d. Transfer the moderate-income capacity in high-resourced areas throughout Sunnyvale to Moffett Park to avoid reduction of the No Net Loss buffer.

**Metric:** Reduce lower-income Regional Housing Needs Allocation in Moffett Park from 5,744 units to roughly 2,310 units. Transfer the remaining allocation of about 2,148 units roughly in half to higher-resourced areas of North Sunnyvale and South Sunnyvale (using El Camino Real as the dividing line), targeting the Village Centers. This would amount to allocating 1,074 lower-income units to higher-resourced areas in each half of the city. Importantly, this reallocation maintains the 25-percent No Net Loss buffer as originally proposed in the first Draft Housing Element.

**Timeline:** Effective immediately, as part of the certified Housing Element.

***Affirmatively Further Fair Housing by establishing a South Sunnyvale Affordable Housing Overlay and local ordinance supporting implementation of AB 2011***

Under sections B.1 and C of HCD's comment letter, HCD highlights how Implementation Program H3 must have clear and specific commitments, metrics deliverables, and housing outcomes that promote housing affordability in higher-resourced areas, such as the Village Centers in South Sunnyvale. Section B.4 of the HCD letter also notes that programs should be modified based on a more complete analysis that goes beyond status quo actions in order to AFFH, as discussed in section A. We agree with HCD's assessment and believe the Housing Element needs to reconcile this shortcoming.

As written in the Revised Draft Housing Element, Implementation Program H3 involves only *identifying* additional housing opportunity sites south of El Camino, such as in the high resourced Village Center areas. Instead, this should be a clear commitment with details on the steps to take to reach the program's objectives. We also believe that setting a goal of 100 units over the planning period dramatically understates the potential of these areas. Collectively, these sites make up approximately 48 acres throughout the city and roughly 23 acres in the southern, highest resourced areas of Sunnyvale. Most of these sites are larger than half an acre, and with appropriate rezoning, would be ideal locations to develop affordable housing, support established AFFH requirements, and accommodate the relocation of units that we believe are unrealistically assigned to Moffett Park.

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Many jurisdictions throughout the state have argued that they are “built out,” and have no space for affordable housing, particularly in higher-resourced neighborhoods zoned exclusively for single-family homes. The recommendations below would allow the City to incentivize affordable housing development by leveraging the land-use control they do have, and meet the high AFFH bar set by state law.

**SV@Home recommends that the City revise Implementation Program H3 to incorporate an Affordable Housing Overlay in northerly and especially southerly located higher-resourced areas of Sunnyvale, emphasizing Village Centers (1a). SV@Home also recommends utilizing the recently passed AB 2011 state legislation to increase the number of lower-income housing capacity in the northerly and southerly areas of Sunnyvale (1b). Policies 1a and 1b, will together support the same goals and metrics, but with different timelines.**

**Proposed Policy 1a:** Produce an Affordable Housing Overlay in higher-resourced areas throughout the city, including Village Center Master Plan areas, North Sunnyvale, and emphasizing areas south of El Camino Real. This overlay would facilitate affordable housing development for lower-income units regardless of the current zoning and General Plan designation of the site. In order to make affordable housing financially feasible, the overlay would allow for incentives, such as reduced parking needs, reduced unit sizes, increased density, fee waivers, and priority processing. The overlay would only apply to developments that are 100 percent deed-restricted affordable housing and have at least a minimum density of 36 units per acre.

**Metric:** a) Develop 1,074 lower-income units in higher-resourced areas of North Sunnyvale and 1,074 lower-income units in higher-resourced areas of South Sunnyvale within the planning period. These metrics would work in combination with this proposed policy and other policies and programs in the Housing Element.

**Timeline:** Propose an overlay structure to the public by December 2023, pass the overlay through City Council by December 2024, and have the overlay implementable by January 1st, 2025.

**Proposed Policy 1b:** Support local implementation of AB 2011 to build lower-income capacity in higher-resourced areas in both northern and southern parts of Sunnyvale, emphasizing the Village Centers:

- a. mapping-out commercial, office, retail or parking use.
- b. assessing how many lower-income units can be generated, while incorporating a site-specific feasibility analysis.
- c. adopting a local ordinance to implement the requirements outlined in AB 2011.
- d. launching a permitting process that is clear for developers.

**Metric:** In combination with the AB 2011 program and other policies and programs, develop 2,148 lower-income units in higher-resourced areas throughout Sunnyvale within the planning period. Allocate 1,074 lower-income units to northerly-located higher-resourced areas of the city and 1,074 lower-income units to higher-resourced areas in South Sunnyvale, including Village Centers.

**Timeline:** a) map AB 2011 sites by final Housing Element submission to HCD (date TBD), b) update sites inventory, including AB 2011 sites with site-specific analysis by final Housing Element submission to HCD, (date TBD), c) adopt local ordinance by December 2023, and d) implement clear permitting process by January 1st, 2024.

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## Development Constraints

HCD highlights under section A.4 that the City's Housing Element lacks significant detail in its analysis of governmental constraints. This is a critical first-step assessment intended to shape policy and program reforms to address these constraints. It is our understanding that staff will be proposing additional analysis of permitting procedures and at least one program to explicitly address plan review permit constraints. We are hopeful that these additions will address the issues we have identified below.

In the prior draft, H18 is the only program that directly addresses HCD's comment on fees and exactions, but it does not explicitly state the need for analysis intended to reduce the governmental constraints of the City's planning and development impact fees on residential development – and instead proposes only a “review”. Development fees in Sunnyvale are among the highest in Santa Clara County and the City highlights its high fees as a constraint, but there is not a clear understanding of how planning and development fees are applied to affordable housing projects and their impact.

We also found that the timeline for permitting and approvals is unclear and incomplete, and lacks a clear analysis of how affordable housing moves through the development process. Subsequently it lacks an assessment of the cumulative impacts of the costs created by the development process. Understanding the impact of imposed costs are critical to revising the City's permit and approvals processing. Some of these costs include timing and approval certainty, multiple rounds of plan check, the inclusion of a preliminary review process, the challenges in implementing streamlined processes via SB 330 or SB 35, and the impact of Zoning Amendment approvals by City Council.

**SV@Home recommends additional analysis and appropriate action in response to these findings. The first proposed policy below is meant to provide clarity to fees as a housing constraint and specify the considerations for affordable housing development. The second proposed policy addresses the lack of a substantive analysis of any program from the City on its permitting and approvals procedures.**

**Proposed Policy:** Conduct a full study of all planning and development fees, and taxes for single-family, small multi-family and large multi-family developments, including an assessment of the value of providing exemptions, waivers, and reductions, for affordable housing.

**Metric:** Clear report on this analysis, outlining the individual and cumulative impact of the various exemptions, waivers and reductions to affordable housing projects.

**Timeline:** Conclusion of study with recommendations by Fall 2024.

**Proposed Policy:** Complete analysis of building permit processing and project approval procedures.

**Metric:** Table 6-23 and Table 6-24 must include timelines for affordable housing and include each procedural “step,” include analysis outlining the individual and cumulative impact of the stages in the development process, and propose policy actions to address these impacts on affordable housing projects.

**Timeline:** Completion of analysis by 2023, and adoption of new policies and process guidelines by the end of 2024.

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## **AFFH and protections for tenants facing unequal housing opportunities and displacement risks**

In finding B4, HCD recommended that “Programs to AFFH should go beyond status quo actions, include specific commitment, timing, geographic targeting and metrics or numerical targets and should as appropriate, address housing mobility, encourage new housing choices in higher resource areas, improve place-based strategies toward community revitalization and *protect existing residents from displacement.*”

For programs H24 and H25, we have expressed our concern directly to City Staff that the City’s effort to develop a Tenant Relocation Assistance Ordinance, and right to a one-year lease ordinance, have stalled in the committee review process. These policies were included in the initial draft of the Housing Element, but the revised draft replaced the more impactful actions of “establish and adopt” with “educate”, implying that the city will be relying on the protections provided by state laws SB 330 and AB 1482. Each of these laws have produced limited and uneven local implementation and effect. In discussions with City Staff and the contracted consultant supporting the Housing Element Update process we have been assured that the change in language was not intended to undermine the city’s commitments to enacting these ordinances. We expect that this language will be changed in the revised document.

**SV@Home recommends the City adopt local ordinances that expand on the state laws by creating local solutions to address displacement. Please refer to the letter SV@Home sent in June, it includes [anti-displacement policy recommendations](#) for the Housing Element.**

**Proposed Policy in-lieu of H24:** Adopt a local Eviction Reduction Ordinance to expand, and enforce the state’s just cause eviction protections included in AB 1482.

**Metric:** Local eviction protection extended to all renters in Sunnyvale, and made effective through landlord/tenant education campaign and information on enforcement.

**Timeline:** Adopt a local ordinance by the end of 2023.

**Proposed Policy (H25):** Adopt a Sunnyvale Tenant Relocation Assistance Ordinance, with benefits greater than those included in SB 330.

**Metric:** 50 percent of tenants receiving a no-fault eviction are able to relocate within Sunnyvale or neighboring jurisdictions.

**Timeline:** Adopt a local ordinance by the end of 2023.

**Proposed Policy:** Institute a Rent Registry Program that would complement the newly adopted tenant protections (above), and provide much needed local data on the level of housing instability faced by the 55 percent of Sunnyvale’s population that live in renter households.

**Metric:** Change in rents, tenancy, and the cause of change in tenancy are tracked for 75 percent of units by 2026.

**Timeline:** Adopt ordinance requiring landlord participation by the end of 2024, and implement the registry by the beginning of 2025.



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**Proposed Policy:** Coordinate with other cities to work with the local court to make eviction data publicly available and accessible - including Unlawful Detainers filed with the court that do not result in court ordered evictions.

**Metric:** Tracking 100 percent of filed Unlawful Detainers, and court order evictions in the city.

**Timeline:** Receive quarterly data from the courts by the end of 2023.

In Sunnyvale, 55 percent of the households are renters. Renters in Sunnyvale have long faced extremely high rents relative to local wages for many working families. Rent burden and overcrowding are experienced disproportionately by BIPOC residents of the city, particularly LatinX households, senior and people with disabilities on fixed incomes. The City needs to commit to establishing the local protections needed to address displacement impacts in the Sunnyvale community.

## Conclusion

SV@Home understands and appreciates the work done by City Staff, the prior City Council, and many individuals and organizations committed to Sunnyvale residents. As the City continues to make substantive changes to the Draft Housing Element in response to the detailed comments provided by HCD, our intent here has been to support this effort by proposing concrete policies and programs that will move Sunnyvale closer to adoption of a compliant plan. We look forward to further conversations, and offer our support to any additional work the city is considering to reach this shared goal.

Sincerely,



Regina Celestin Williams

Executive Director

