



March 14, 2016

**SENT VIA EMAIL [JOHN.BATY@MORGANHILL.CA.GOV]**

Mr. John Baty  
Senior Planner  
Community Development Department – Planning Division  
City of Morgan Hill  
17575 Peak Avenue  
Morgan Hill, CA 95037

Re: Draft Environmental Impact Report: Morgan Hill General Plan 2035

Dear Mr. Baty,

The Santa Clara Local Agency Formation Commission (“LAFCO”) appreciates the opportunity to review and comment upon the Draft Environmental Impact Report (“DEIR”) (SCH No. 2015022074) for the Morgan Hill General Plan 2035 (“General Plan”) and the proposed Residential Development Control System (“RDCS”).

Due to competing workload obligations, we have only been able to complete a very cursory review of the document as it relates directly to the analysis and conclusions concerning certain environmental impacts. As we began to conduct a similarly cursory review of the more policy related parts of the DEIR, we identified what seems to be a misunderstanding or misinterpretation of a County General Plan policy. Specifically, in the Land Use and Planning Section, on Page 4.10-18, the DEIR states that “One of the three basic strategies of the County General Plan is to “Promote Eventual Annexation.” Please note that this strategy relates solely to the annexation of urban unincorporated areas located within the Urban Service Area of a city and it is unclear why this County General Plan policy and not others are referenced as it relates to the DEIR’s analysis of the proposed General Plan’s consistency with County General Plan policies. There may be other instances in the DEIR where such misunderstanding or misinterpretation of local policies exist.

## I. PROJECT DESCRIPTION

### A. "2035 horizon year" and "full buildout" projections methodology.

Please clarify the methodology and assumptions underlying the 2035 Horizon Year (Table 3-2) and Full Buildout (Table 3-3) growth projections. On Page 3-20, the text reads, "The 'full buildout' of the proposed General Plan... would be the development of underutilized and vacant parcels at the mid-point of the maximum allowed density under the General Plan, based on the past and projected development patterns in Morgan Hill." In contrast, the text explains that the 2035 horizon buildout "is based on past development history." It seems as though at least one scenario should be based solely on the maximum buildout allowed under the proposed General Plan.

Specifically, please explain what "mid-point of the maximum allowed density" means. Does this mean for any given vacant parcel, we are assuming development ultimately built will only be half of square footage or dwelling units allowed under the General Plan? Does the DEIR anywhere provide projections based on full buildout allowed under the General Plan?

Similarly, please clarify how the "full buildout" methodology is "based on the past and projected development patterns." The 2035 horizon buildout is also "based on past development history." Are these the same? How did the projections take these into account?

The Project Description does not appear to explain the basis for discounting the anticipated growth under either scenario. Was a market-by-market or industry-by-industry analysis completed to determine that non-residential uses will not reach full buildout? If so, what data sources were relied upon? What economic factors were taken into consideration in determining that the mid-point of allowable density was the most likely buildout scenario?

Finally, the text explains that full buildout of non-residential uses is not anticipated. However, the text also states that market demand for residential development is high, and full buildout of residential uses is anticipated. Yet, under the second paragraph below the heading "General Plan Development Projections" it seems as though, under even the full buildout scenario, residential development is discounted to just the mid-point of the maximum allowable density. Given market demand, the DEIR should assume maximum buildout of residential with and without voter approval of the RDCS.

### B. Failure to analyze the full buildout.

The EIR does not analyze the impacts of the full buildout scenario. Even if full buildout is unlikely under a given forecasting model or economic analysis (see comments above regarding the need for such analysis), the environmental impacts of the full buildout scenario should be analyzed in the DEIR, given that the proposed General Plan

land use designations provide the theoretical capacity for such a buildout. (See e.g., *City of Redlands v. County of San Bernardino* (2002) 96 Cal.App.4th 398, 409; *Rio Vista Farm Bureau Center v. County of Solano* (1992) 5 Cal. App. 4th 351, 370-371.)

### **C. Responsible Agencies.**

The DEIR, in Section 3.7, indicates that one of the intended uses of the EIR is for “annexation of land into the city limits.” However, nowhere does the DEIR identify LAFCO as a Responsible Agency pursuant to CEQA. Please clarify whether the City intends to rely on this EIR to seek approvals from LAFCO with regard to annexations, urban service area amendments, or other LAFCO approvals, in which case LAFCO must be identified in the EIR, as well as noticed by the City, as a responsible agency. Further, we suggest that an additional section be added to Chapter 2 or Chapter 3 wherein all Responsible Agencies for the project are identified.

## **II. ENVIRONMENTAL REVIEW**

### **A. Agriculture and Forestry Resources.**

#### *Impact AG-1: Conversion of Farmland*

Page 4.2-13 states that the proposed General Plan would designate approximately 1,125 acres of farmland for non-agricultural uses. However, it is unclear what uses these parcels will be re-designated as and whether agricultural uses are permitted uses under these designations.

Also, it is unclear from Figure 4.2-4 which of these agricultural areas are within the City’s proposed Urban Growth Boundary and Urban Service Area. We suggest clarifying within the text and also adding the UGB and USA lines to Figure 4.2-4.

Similarly, on the bottom of page 4.2-15, the text states that “the majority” of the farmland designated for development is within the UGB. However, is this the existing UGB, or the proposed UGB? And how many of the 1,125 total acres are located outside of the UGB and outside of the USA?

On page 4.2-16, the text reads, “[t]he proposed General Plan would convert less farmland of concern under CEQA for non-agricultural uses than the existing General Plan...” Please provide additional clarification. The proposed General Plan will designate 1,126 acres of farmland to non-agricultural uses, and therefore it seems like the proposed General Plan would convert more farmland than the existing General Plan.

Finally, on page 4.2-18, the text identifies “applicable regulations” including the LAFCO Agricultural Mitigation Policies and the City’s Municipal Code. However, neither are discussed in the analysis of Impact AG-1. We suggest expanding the analysis to

explain how LAFCO's policies and the City's code address impacts relating to farmland conversion.

**B. Greenhouse Gas Emissions.**

Baseline Emissions Inventory

Page 4.7-20 states that Morgan Hill's baseline emissions inventory totaled 279,407 MTCO<sub>2e</sub> in 2010. However, no explanation is provided as to why the use of 2010 levels is appropriate. Has any significant development or other activities occurred since 2010 that might change the baseline emissions levels *in 2015* (the year the NOP was issued for this project)? If not, we suggest adding a discussion explaining that none have occurred and why the 2010 baseline is likely a reliable estimate of baseline 2015 emissions. However, if changes have occurred that call the applicability of the 2010 emissions levels as a proper baseline into question, we suggest analyzing this and adjusting the baseline either up or down to accommodate such changes.

Further, a footnote on page 4.7-22 implies that while the baseline emissions inventory is from 2010, the transportation emissions have been updated to reflect more recent VMT data. Is this correct? If so, we suggest explaining this in the text on page 4.7-20.

Efficiency Targets

Please provide additional explanation as to how the efficiency threshold of 6.6 MTCO<sub>2e</sub> per service population per year translates to the 3.3 MTCO<sub>2e</sub> and 1.3 MTCO<sub>2e</sub> thresholds for 2035 and 2050, respectively. (See pages 4.7-24 and -25.)

Plan Bay Area and the Downtown Transit Center PDA

The text on page 4.7-38 states that *Plan Bay Area* allocates 1,420 new dwelling units to the Downtown Transit Center PDA. The text states that the proposed General Plan would encourage development in this PDA, but the DEIR does not say outright that the proposed General Plan designations would accommodate this allocated growth. Please clarify.

**C. Population and Housing.**

Baseline Year

On the bottom of page 4.12-4 there is reference to 2014 being the EIR's baseline year. Should this be 2015?

### Impact POP-1: Growth Inducement

At the bottom of page 4.12-8, the text reads, “This Draft EIR considers the ‘reasonably foreseeable’ effects of adopting the proposed General Plan, which would result from development allowed between the adoption of the document and its horizon year of 2035.” However, doesn’t the DEIR only analyze the buildout that is expected (i.e. the 2035 horizon year) as opposed to the buildout that is allowed (i.e. the “full buildout”)? Please clarify.

Similar to our comments above on the Project Description, it is still unclear whether the 68,057 residents that are assumed on page 4.12-9 are based on a buildout of all residential-designated parcels to their maximum density, or just to the “mid-point of the maximum allowed density” as described on page 3-20. Please clarify.

On page 4.12-9, the text states that there would be a total of approximately 21,299 housing units within the SOI at buildout. However, according to Tables 3-2 and 3-3, it seems as though there would be a total of 22,400 dwelling units at buildout (13,181+9,219). Please clarify.

Finally, Table 4.12-7 (page 4.12-10) is titled “Projected Buildout”, however it seems like this table is only showing net growth as opposed to total buildout. Is this correct? As such, it is difficult to understand what numbers the Jobs/Housing Balance (Citywide) is based upon, as the numbers in the table seem to be the new housing units and new jobs added and does not seem to account for existing units or jobs.

### Impact POP-2: Displacement of Existing Housing

At the bottom of page 4.12-11, the text reads, “While the population cap cited in Policy CNF-3.4 would exceed ABAG projections, given the requirements for planning associated with this growth, its impact would be less than significant.” Please expand upon the meaning of “requirements for planning associated with this growth.” Is this referring to specific policies (e.g., Policy CNF-4.3 [Prerequisites for Urban Development], or Policy CNF-4.1 [USA Expansions within UGB], etc.)? Or is it referring to some other type of development control or regulation? It is unclear what the conclusion that impacts are less than significant is based upon here.

### Cumulative Impacts

Page 4.12-14 refers to “Mitigation Measure POP-1” however there is no mitigation identified in this DEIR chapter. Is a mitigation measure necessary to reduce cumulative impacts to less than significant?

### Full Buildout

The text on page 4.12-15 states that the under the “full buildout” methodology, significantly more non-residential development would occur than under the 2035 horizon year. The text goes on to state, “therefore, the potential for impacts related to population and housing would increase.” How is this so? It is unclear how an increase in development on parcels designated for non-residential uses would (1) induce substantial unexpected population growth (Impact POP-1); (2) displace substantial numbers of existing housing units (Impact POP-2); or (3) displace substantial numbers of people. Please clarify.

### **D. Utilities and Service Systems (Water Supply).**

#### Water Infrastructure Master Plan

Page 4.15-1 states that the Water Infrastructure Master Plan will not be complete before publication of the DEIR, and that impact analyses for water supply services may be subject to change through a subsequent CEQA document, such as an addendum, after the Water Infrastructure Master Plan is approved. Is this the Santa Clara Valley Water District’s Master Plan, or the City’s Master Plan? Please clarify.

Please provide an explanation in the text that describes what the Water Infrastructure Master Plan is, and why it is not required prior to the certification of the EIR for the proposed General Plan. Please describe how the Water Infrastructure Master Plan relates to the Water System Master Plan described on page 4.15-7.

#### Regulatory Framework

It seems as though the 2004 Recycled Water Master Plan should be identified under “Local Regulations” and described here.

#### Water Supply Assessment

While the DEIR identified Senate Bill (SB) 610 and its requirements for the preparation of a Water Supply Assessment (page 4.15-2), it does not appear that a WSA was prepared for the proposed General Plan Update. As you know, CEQA and the Water Code require the preparation of a WSA for project that will result in:

- Residential development of more than 500 dwelling units.
- Shopping center or business establishment employing more than 1,000 persons or having more than 500,000 square feet of floor area.
- Hotel or motel, or both, having more than 500 rooms.

- Industrial, manufacturing or processing plant, or industrial park planned to employ more than 1,000 persons, occupying more than 40 acres of land, or having more than 650,000 square feet of floor area.
- Mixed-use project that includes one or more of the projects specified above.
- Project that would demand an amount of water equivalent to, or greater than, the amount of water required for 500 dwelling units.

On page 3-23 the DEIR states that full buildout of the proposed General Plan and proposed Residential Development Control System would result in:

- 13,181 total single-family residential units
- 9,219 total multi-family residential units
- 2.70 million square feet of total retail space
- 1.89 million square feet of total office space
- 10.33 million square feet of total industrial space
- 1.15 million square feet of total service space

Full buildout as to any one of these development categories requires preparation of a WSA. Given this, we request that a WSA be prepared for the development contemplated in the DEIR.

#### Water Demand and Supply Projections

At the bottom of page 4.15-9, the text states that the City used 6.778 acre-feet per year of water. This should be 6,778 acre-feet per year.

#### Wastewater Infrastructure Master Plan

Page 4.15-26 states that the City is preparing a Wastewater Infrastructure Master Plan, but that it will not be complete before publication of the DEIR, and that impact analyses for wastewater treatment and collection services may be subject to change through a subsequent CEQA document. Is there an existing Wastewater Infrastructure Master Plan that applies in the interim? The text states that the Wastewater Infrastructure Master Plan “will assess existing wastewater demand and capacity and determine what types of improvements are necessary to meet projected future demand.” It seems as though the Wastewater Infrastructure Master Plan is therefore needed to assess the impacts of development permitted under the General Plan on wastewater demand. Please explain why this is not deferral of environmental analysis.

Please provide an explanation in the text that describes what the Wastewater Infrastructure Master Plan is, and why it is not required prior to the certification of the EIR for the proposed General Plan.

Impact UTIL-4: Wastewater Treatment Requirements

Pages 4.15-32 and -33 conclude that “with continued compliance with applicable regulations... and in accordance with the goals, policies, and actions in the proposed General Plan... wastewater generated from buildout of the Project Area would not exceed Central Coast RWQCB’s applicable treatment requirements...” However, on pages 4.15-30 and -31, the text explains that wastewater flow projections indicate that the SCRWA wastewater treatment facility will soon exceed capacity. Please explain how the capacity of the SCRWA facility is relevant to the analysis of Impact UTIL-4.

Impact UTIL-5: Wastewater Treatment Facility Expansion

Page 4.15-35 concludes that the impacts of the proposed wastewater treatment expansion will not result in significant environmental effects. However, the analysis on page 4.15-36 states that actual impacts from the expansion are too speculative to evaluate at this time. How can we know that the “example” impacts provided in Table 4.15-4 will be less than significant?

Further, CEQA requires that the proposed General Plan be compared against the existing conditions on the ground (which here, do not include the expanded wastewater treatment facility), not against plans for future projects that will change the existing conditions (here, the plans to expand the facility once by 2022, and again in the 2030s). For this reason, it seems as though the impact analysis should not rely on the future expansion absolutely coming to pass.

Impact UTIL-6: Wastewater Treatment Capacity

Regarding SCRWA’s expansion of the treatment facility, what will happen if the facility is not completed by 2022, when capacity is projected to be exceeded? What impacts would occur in that scenario? As discussed above, CEQA requires that the proposed General Plan be compared against the existing conditions on the ground (which here, do not include the expanded wastewater treatment facility). For this reason, it seems as though the impact analysis should not rely on the future expansion.

Impact UTIL-7: Cumulative Wastewater Impacts

Same comment as above. The cumulative impacts analysis determines that because no expansions are required *beyond those anticipated in 2022 and the 2030s* the Project will not result in the need for expanded facilities or the impacts associated with the same. Please explain how impacts will be less than significant, given CEQA’s mandate to compare projects against existing (not planned) conditions.



Impact UTIL-11: Energy Impacts

State CEQA Guidelines Appendix F requires that EIRs address “avoiding or reducing inefficient, wasteful, and unnecessary consumption of energy.” While the analysis on pages 4.15-54 through -57 addresses effects on service demands, energy conservation, and infrastructure needs, it does not seem to address whether the Project will result in “inefficient, wasteful, or unnecessary” energy consumption or any of the provisions of CEQA Guidelines Appendix F. Further, as you know, *California Clean Energy Committee v. City of Woodland* holds that an EIR fails to appropriately assess energy impacts consistent with Appendix F of the State CEQA Guideline when it fails to investigate renewable energy options that might be available and appropriate for a project. Given this, we request that added analysis of the potential application of Appendix F to the project be added to the EIR, and that the EIR’s energy discussion be revised and expanded.

**E. Growth Inducing Impacts**

Page 7-4 states that the policies enacted under the General Plan would ensure that adequate planning occurs to accommodate any growth, and that these policies would control the geographic extent of growth. Please provide additional detail. For example, which policies would do so? How would growth be controlled?

Similarly, the text on this page states that the General Plan commits to only allowing development where infrastructure is in place or is planned. Please describe how the General Plan does this.

Finally, there does not seem to be any significance determination provided at the conclusion of this analysis. Would the growth inducing impacts of the proposed General Plan be less than significant, or significant and unavoidable?

**F. Proposed Chiala Development**

The proposed Chiala Development, as described under 3.5.1.4, lacks specifics and the associated environmental analysis is insufficient.

LAFCO looks forward to working with the City to resolve the questions highlighted in this comment letter. Please let us know should you have any questions regarding these comments. Thank you for your attention to this matter.

Sincerely,



Neelima Palacherla  
Executive Director