



VIA EMAIL

July 19, 2016

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

**RE: FINAL ENVIRONMENTAL IMPACT REPORT FOR MORGAN HILL
GENERAL PLAN 2035**

Dear Mayor and Councilmembers,

The Local Agency Formation Commission of Santa Clara County ("LAFCO") appreciates the City's written responses to our March 14, 2016 comment letter submitted on the Draft Environmental Impact Report ("EIR") prepared for the Morgan Hill General Plan 2035 ("General Plan").

In response to LAFCO's request for clarification, the City's Final EIR, dated May 31, 2016, identified LAFCO as a responsible agency for the General Plan. The City has indicated that it may choose to utilize this EIR in the future to seek approval for eventual annexations that would be consistent with the proposed General Plan. As a responsible agency, LAFCO will then be required to rely on this EIR when considering such applications from the City. To that end, it is our duty to provide the City with comments on the adequacy of the EIR, including any deficiencies in the document. We are, therefore, greatly concerned by the fact that, after reviewing the City's responses included within the Final EIR, many of LAFCO's concerns about the legal adequacy of the EIR remain.

As detailed further in this letter, the EIR contains insufficient information and analysis to support the City's proposed General Plan:

- The EIR fails to provide an analysis of environmental impacts of the General Plan as it does not consider all development allowed under the General Plan.

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- The City's rationale for failing to provide such analysis is based on unpublished case law that does not, in fact, support the City's decision to analyze only the impacts of "expected," rather than "allowed," development under the General Plan.
- The City impermissibly proposes to segment environmental review of development under the General Plan by deferring review of some of the growth allowed under the General Plan until a future unspecified date, as a result of which a comprehensive assessment of the impacts of growth under the General Plan is not presently available.
- The EIR's analysis is based on an unstable project description as it variously and selectively uses three different project descriptions for its population projections.
- The City appears to consider the General Plan EIR as encompassing environmental review of the Citywide Agricultural Preservation Program and Southeast Quadrant Land Use Plan project, even though that project is not analyzed in the EIR.
- The EIR fails to include an analysis of the impacts of the City's Water Infrastructure Master Plan and Wastewater Infrastructure Plan, even though it concedes that the improvements in these Plans will be necessary to serve the future demands generated by the General Plan.
- The EIR fails to include a Water Supply Assessment evaluating the adequacy of water supplies for the project as required by CEQA and the Water Code for all projects that will result in the level of the development that is expressly allowed by the General Plan.

I. PROJECT DESCRIPTION / DEVELOPMENT PROJECTIONS

A. MASTER RESPONSE: DEVELOPMENT PROJECTIONS

There are inconsistencies in the "Master Response: Development Projections" on pages 5-1 and 5-2 of the Final EIR. First, the text on page 5-1 of the Final EIR reads, "As described on page 3-22 and 3-23 of the Draft EIR, development projects were prepared for a 'full buildout' scenario, in which every parcel within the EIR Study Area would be developed with [sic] as allowed under the General Plan..." (Emphasis added.) However, this is not correct. The "full buildout" scenario does not project all development allowed under the General Plan. Page 3-20 of the Draft EIR 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." As iterated in LAFCO's comment letter dated March 14, 2016, and as described in more detail below, LAFCO believes that quantitative analyses of traffic, air

quality, greenhouse gas emissions, noise, population growth, and public services and utilities must be based upon a full projection of all development allowed under the General Plan.

Second, the numbers provided on page 5-2 of the Final EIR as representing the “full buildout scenario” are inconsistent with the numbers provided in the revised Table 3-3 (see redlined Table 3-3 on page 3-2 of the Final EIR). The text on page 5-2 identifies a total of 2,360 new single family units, calculated by adding the “Net Growth” (1,855) and the “Pipeline Projects” (505) columns on Table 3-3. The same is true for multi-family units. The text on page 5-2 identifies a total of 5,071 new multi-family units, calculated by adding the “Net Growth” (5,006) and “Pipeline Projects” (65) columns on Table 3-3. However, the text on page 5-2 does not use the same methodology to calculate new industrial space and new service space. Those numbers (6.1 million square feet of new industrial and 475,000 of new service) do not include pipeline projects’ square footage. Thus, the numbers provided on page 5-2 for new industrial and service development should be revised to include pipeline projects.

B. “ALLOWED” DEVELOPMENT IS NOT “EXPECTED” DEVELOPMENT

As iterated in LAFCO’s comment letter dated March 14, 2016, the Draft EIR lacks an accounting of total potential population growth allowed under the General Plan. Such an accounting is necessary to properly analyze impacts, in particular impacts relating to traffic, air quality, greenhouse gas emissions, noise, population growth, and public services and utilities. At the very least, they should be provided to disclose cumulative impacts attributable to the project. Response to comment RA3-20 states that “allowed” development and “expected” development are synonymous. For all the reasons laid out in LAFCO’s comment letter dated March 14, 2016, and above, this is not correct.

The Final EIR cites to two unpublished cases for the proposition that the EIR need not account for all development possible (by-right) under the General Plan. (*See* Final EIR pages 5-4 [Master Response: Development Projections] and 5-35 [Response to comment RA3-8].) Unpublished cases are not binding legal precedent. Regardless, even if these cases constituted binding case law, neither are applicable here.

First, in *Molano v. City of Glendale* (February 23, 2009, B203243) (nonpub. opn.) there was an actual growth cap in place, which limited development in the Downtown Specific Plan (“DSP”). (*Id.* at page *41.) The court there determined that the thrust of the plaintiff’s complaint was that the city would exceed this growth cap. (*Id.* at page *47.) Here, the current cap is set to expire and the EIR analysis is based on an uncertain expected future cap. If the City’s voters approve a development cap, then an analysis based on less than the amount of development allowed under the General Plan (without the development cap in place) would be appropriate. However, it is reasonably foreseeable that the voters might not approve a development cap, and that developers

may choose to develop to the maximum they are allowed by-right under the General Plan. Thus, *Molano* is not relevant here.

Second, in *Sierra Club v. County of Tehama* (November 20, 2012, C066996) (nonpub. opn.), unlike here, the EIR did calculate the maximum buildout, before going to describe why that maximum buildout was not likely to occur. (*Id.* at pages *10-11.) Further, the EIR's cumulative impacts analysis concluded that impacts relating to population growth would be significant and unavoidable. (*Id.* at pages *10, 67-69.) Morgan Hill's EIR does not calculate maximum buildout at all, and does not determine potential impacts from a maximum buildout even in its cumulative impacts analysis. Thus, *Sierra Club* is also not relevant.

C. DEFERRAL AND SEGMENTATION OF GROWTH EXCEEDING EIR'S ASSUMPTIONS

Response to comment RA3-20 states that, pursuant to General Plan Policy CNF-2.5, the proposed General Plan requires the City to monitor growth and, in the event growth exceeds the projections analyzed in the Draft EIR, the City "shall require that environmental review conducted for any subsequent development project address growth impacts that would occur due to development exceeding the Morgan Hill 2035 EIR's projections." How this would work in practice, however, is unclear. The City cannot saddle a single future project with robustly analyzing growth impacts beyond the purview of that single project (here, the future potential growth allowed under the General Plan). If each future project instead analyzes only its own individual contribution to growth impacts, this would result in improper piece-mealing of the overall impacts of the General Plan. Punting environmental review of the growth allowed under the General Plan – which is proposed today – is improper deferral. For these reasons, and for all the reasons identified in LAFCO's comment letter dated March 14, 2016, and further detailed herein, such review should take place now.

D. IS THE CITYWIDE AGRICULTURAL PRESERVATION PROGRAM AND SOUTHEAST QUADRANT LAND USE PLAN PART OF THE PROJECT UNDER CONSIDERATION IN THE MORGAN HILL 2035 EIR?

Response to comment LA3-7 states: "although development under the Southeast Quadrant (SEQ) Land Use Plan is anticipated, development has not yet occurred. Here it should also be noted that although Morgan Hill has approved a Land Use Plan for this area, on March 11 LAFCO denied the expansion of the Urban Service Area. . . . The addition of this text does not affect the analysis or conclusions of the Draft EIR with regard to agricultural resources." (See FEIR, p. 5-66.) The Final EIR also states that "[t]he conservative assumptions used in the [EIR's] analysis reflect the Southeast Quadrant project, which was pending at the time the Draft EIR was published . . ." (See FEIR, p. 5-3.) Given this, it appears that the City may consider the EIR to constitute CEQA analysis

of the proposed Citywide Agricultural Preservation Program and Southeast Quadrant Land Use Plan project (SEQ Project). LAFCO does not believe that such an incorporation is permitted based on the documentation included in the EIR. As well, there is no analysis of the SEQ Project in this EIR. Further, LAFCO had significant concerns with regard to the adequacy of analysis in the Citywide Agricultural Preservation Program and Southeast Quadrant Land Use Plan Environmental Impact Report (SEQ EIR) and so, to the extent the City considers the EIR to constitute a CEQA document for the SEQ Project, LAFCO hereby restates its comments on the SEQ EIR. (Copies of LAFCO's prior comments on the SEQ EIR are attached to this letter.)

II. ENVIRONMENTAL REVIEW

A. AGRICULTURE

Response to comment RA3-13 reads, "the statement that the proposed General Plan would convert less farmland of concern should be removed." However, this language was not removed per the FEIR's errata. (See FEIR, p. 3-7.)

B. POPULATION/HOUSING

Response to comment RA3-24 explains that the less than significant determination relies upon the Residential Development Control System and the population cap of 48,000 residents found in proposed General Plan Policy CNF-3.4. However, the cap has not been—and might not be—approved by the voters. Further, the Draft EIR's other analyses do not assume this cap will be in place. Therefore, to assume, selectively, that the cap will be in place for this threshold, in order to reach a less than significant impact determination, is incongruous with the rest of the EIR. The project description must be stable throughout the EIR. As drafted, this EIR now relies upon three separate project descriptions (i.e. population projections): the "full buildout" projection, the "horizon-year" projection, and now the residential cap of General Plan Policy CNF-3.4.

In the event that the General Plan is adopted, but the RDCS is not approved by the voters, what would be significance determination for the population, housing, and growth thresholds? This should be disclosed in the EIR.

C. UTILITIES AND SERVICE SYSTEMS

Water Supply and Water Infrastructure

Response to comment RA3-27 states that the City's Water Infrastructure Master Plan is not currently complete, but will determine what types of improvements are needed to meet projected future demand. Presumably this "projected future demand" is the projected future demand generated by the 2035 General Plan - the project. Thus, the

water demand impacts (which include the impacts associated with new water supply infrastructure and improvements) should be considered as part of this project and this EIR.

The analysis on page 4.15-21 of the Draft EIR states on the one hand that “that available capacity is sufficient to meet projected demand from buildout of the proposed General Plan.” Yet, later on the same page, the Draft EIR reads, “existing local distribution lines within the City may be undersized for future projects and improvements under the proposed General Plan.... Similarly... new groundwater wells may be required to ensure an adequate reliable water supply.” These statements seem incongruous with one another, and also inconsistent with the fact that the City is currently in the process of updating its Water Infrastructure Master Plan, which would presumably answer the question as to whether larger distribution lines or additional groundwater wells are required to serve demand generated by this project. Without such an analysis as part of this EIR, it is unclear what the less than significant determination made on page 4.15-21 of the Draft EIR is based upon.

Response to comment RA3-28 reads, “The pending Water Infrastructure Master Plan is not required prior to the certification of the EIR for the General Plan because (1) an addendum to the EIR can be prepared, and (2) the General Plan EIR is a programmatic EIR” This reasoning runs afoul of CEQA’s mandates for several reasons. First, a project cannot be improperly segmented, with one piece of the analysis deferred to some future date. As discussed above, the Water Infrastructure Master Plan will assess the need for additional water infrastructure improvements that result due to the growth allowed and contemplated by this project. Therefore, the analysis of the impacts of the Water Infrastructure Master Plan should be analyzed and disclosed now. The responses to comments provide no reasons for why such an analysis cannot be completed now. Second, without an analysis, there is no way for the City to know at this time, whether an addendum will even be the appropriate level CEQA review document. Even if it were, an addendum cannot be used to cure an EIR that is lacking a required impact analysis. Finally, the fact that the General Plan EIR is a program-level CEQA document does not preclude the need to identify and analyze the known impacts of the General Plan, which the City seems to believe includes impacts related to new water supply infrastructure to be identified in the Water Infrastructure Master Plan, which itself is a program-level document.

Response to comment RA3-28 continues on to state that General Plans are not required to include concurrent infrastructure master plans and completion of a Water Master Plan is not a requirement or prerequisite for General Plan adoption or EIR certification. While this may be true in some cases, CEQA *does* require that program-level EIRs analyze the reasonably foreseeable impacts of the program being approved. Here, the text of the Draft EIR, and the responses to comments indicate that water infrastructure

improvements will be required to accommodate the growth allowed under the General Plan. Therefore, the impacts of such improvements must be considered now.

Finally, response to comment RA3-30 states, without citation to relevant statutory or case law, that SB 610 applies only to specific development projects or Specific Plans. SB 610 does not so state. As expressed in LAFCO's comment letter dated March 14, 2016, SB 610 requires Water Supply Assessments ("WSAs") for any project that will, *inter alia*, result in residential development of more than 500 dwelling units, or shopping center or businesses establishments employing more than 1,000 persons or having more than 500,000 square feet of floor area. Even with the discounted growth projections relied upon in the EIR, these triggers have been met. A WSA is needed to establish that adequate water supplies are available to support the growth anticipated and allowed by the proposed project – regardless of whether the project is a General Plan.

Wastewater Infrastructure

Response to comment RA3-32 states that the City's pending Wastewater Infrastructure Master Plan similarly need not be considered by this EIR because (1) the General Plan EIR is programmatic; and (2) any potential impacts associated with infrastructure improvements identified in the Wastewater Infrastructure Master Plan can be addressed in some future CEQA document. For all the reasons described above in relation to the City's Water Infrastructure Master Plan, these arguments fail. First, the Wastewater Infrastructure Master Plan is needed to assess the reasonably foreseeable impacts of the population growth allowed and contemplated by the General Plan. Second, the Wastewater Infrastructure Master Plan is itself a program-level plan. Third, putting off the environmental analysis of impacts associated with this project could result in either (or both) improper project segmentation and improper deferral of environmental analysis.

The response to comment RA3-32 reads, "[I]f it is determined that information in the Wastewater Infrastructure Master Plan, upon completion, is considered substantial with respect to the circumstances under which the project is undertaken, a subsequent EIR [see CEQA Guidelines section 15162] may be prepared... in the form of an Addendum to the EIR." There are myriad issues with this statement. First a subsequent EIR is not an addendum – an addendum can only be completed when none of the circumstances in State CEQA Guidelines section 15162 requiring a subsequent or supplemental EIR have occurred. Second, this statement assumes that the Wastewater Infrastructure Master Plan is part of this project, and thus the actual contents of that document – when they are drafted – may result in a change in this General Plan project. If this is true, then the Wastewater Infrastructure Master Plan should be incorporated into the General Plan, and its impacts analyzed as part of the General Plan EIR, the City does not explain why it cannot do so.

Response to comment RA3-34 does not address the issue raised in LAFCO's original comment letter. LAFCO's original comment asked how, given the list of "example" impacts provided in Table 4.15-4, the City has determined that these impacts will be less than significant. The City's response is that the EIR evaluates impacts at a program level, and that project-specific impacts will be evaluated at a future time. However, if there are reasonably foreseeable impacts (and inclusion of a list of example impacts seems to indicate such impacts are reasonably foreseeable) they must be disclosed as part of this EIR, even if it is a program-level document.

III. CONCLUSION

LAFCO appreciates the time taken by the City to respond to its comment letter dated March 14, 2016, and requests that the City continue to resolve these remaining questions.

To that end, we request that the City not proceed with certification of the EIR for the General Plan until these important issues are resolved and the affected local agencies, the community and the City Council have had an opportunity to fully consider this information.

Further, we would be happy to meet with City staff to discuss our comments and any questions they may have regarding these comments. Thank you for your attention to this matter.

Sincerely,



Neelima Palacherla
LAFCO Executive Officer



Mala Subramanian
LAFCO Counsel

Attachments:

LAFCO Comment Letter Dated March 14, 2016 re. Draft Environmental Impact Report for Morgan Hill General Plan 2035

LAFCO's Prior Comment Letters on the Southeast Quadrant Project

CC:

LAFCO Members

Steve Rymer, City Manager

Andrew Crabtree, Community Development Agency Director



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 (“RDSCS”).

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_{2e} 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_{2e} per service population per year translates to the 3.3 MTCO_{2e} and 1.3 MTCO_{2e} 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



February 17, 2010

Kathy Molloy Previsich, Community Development Director
Community Development Department
City of Morgan Hill
17555 Peak Avenue
Morgan Hill, CA 95037-4128

RE: SOUTH EAST QUADRANT (SEQ) PROJECT

Dear Ms. Previsich:

Thank you for advising LAFCO about the City's public workshop on the South East Quadrant (SEQ) Project. The SEQ Project area consists of unincorporated lands that are located outside of the City of Morgan Hill's Urban Service Area (USA) boundary. As you are aware, the City of Morgan Hill must seek and obtain LAFCO approval to expand its USA boundary prior to annexing any lands within the SEQ Project area. As part of the USA amendment, LAFCO would consider whether the project is consistent with LAFCO's four primary objectives. These objectives are as follows:

- Encourage the orderly formation of local governmental agencies
- Preserve agricultural land and open space resources
- Discourage urban sprawl
- Encourage the efficient provision of services

LAFCO has adopted local policies based on these objectives. Specifically applicable to the SEQ Project are LAFCO's policies relating to USA amendments, annexation requests, and agricultural mitigation (See Attachments B, C & D). Pursuant to these policies, some of the key issues that the City must consider prior to proposing an USA expansion relate to the need and timeliness of an USA amendment/annexation request, availability of lands within existing city boundaries that could accommodate the proposed growth, the ability of the city to extend and finance urban services to the growth area without detracting from current service levels to residents within the city, premature conversion of agricultural lands and open space lands, other environmental impacts, and the fiscal impacts on local agencies and service providers.

In general, the purpose of including lands within a city's USA is to allow the city to annex and provide urban services to those lands in order to allow development. It is our understanding that the SEQ Project Area includes a substantial amount of agricultural land. State law and LAFCO policies discourage USA expansions that prematurely include or result in the conversion of agricultural land to non-agricultural uses.

LAFCO policies call for the development of existing vacant and underutilized sites that are located within a city's existing boundaries before expanding into agricultural lands. Development of existing vacant and underutilized sites that are located within the city's existing boundaries typically would not impact agricultural land and open space resources, would be a more efficient and effective use of existing city infrastructure, and would result in a more efficient provision of city services which is particularly important in these times as public agencies struggle financially to maintain existing service levels.

The inclusion of the SEQ Project area within the City's USA for Sports-Recreation-Leisure and Public Facility land uses would result in the conversion of agricultural lands to non-agricultural uses. If the City decides to move forward with the SEQ USA expansion, the City must address agricultural mitigation issues in a manner consistent with LAFCO's Agricultural Mitigation Policies. Additionally, we encourage the City to consider LAFCO's policies as a point of reference as the City develops its own agricultural mitigation program.

Based on the information provided in the City's notice, LAFCO would be a "Responsible Agency" for the SEQ Project under the California Environmental Quality Act (CEQA). As a Responsible Agency, LAFCO expects to use the City's environmental documents when considering any associated LAFCO applications. Therefore, please ensure that LAFCO's potential role in the project is adequately described in the project scope and that LAFCO Policies are adequately addressed during the City's environmental review process. We will provide further comments upon receipt of the City's Notice of Preparation for the Environmental Impact Report.

Please notify LAFCO about any future public workshops, Planning Commission or City Council meetings related to this Project. If you have any questions regarding these comments, you can reach me at (408) 299-5127. Thank you.

Sincerely,



Neelima Palacherla, LAFCO Executive Officer
LAFCO of Santa Clara County

Cc: LAFCO Members
Morgan Hill City Council Members
Jody Hall Esser, Director, County of Santa Clara Department of Planning and Development
Michele Beasley, Greenbelt Alliance

Attachments:

- A. City of Morgan Hill's Notice of Public Workshop
- B. LAFCO Urban Service Area (USA) Policies
- C. LAFCO Policies on Annexation/Reorganization for Cities and Special Districts
- D. LAFCO Agricultural Mitigation Policies



April 6, 2010

Steve Piasecki, Community Development Director
Community Development Department
City of Morgan Hill
17555 Peak Avenue
Morgan Hill, CA 95037-4128

Re: South East Quadrant (SEQ) Project

Dear Mr. Piasecki:

Thank you for meeting with us on March 25th and for providing us with an overview of the South East Quadrant Project. As we indicated to you at the meeting, the proposed project presents several issues of concern to LAFCO. The following is a summary of our concerns based on our initial understanding of the Project.

Annexation of Lands Outside of a City's Urban Service Area is Not Supported by LAFCO's Policies

It is our understanding that as part of the Southeast Quadrant Project, the City intends to request annexation of lands outside of its Urban Service Area (USA). LAFCO Policies strongly discourage such annexations until inclusion into the Urban Service Area is appropriate because the general purpose for a city to annex lands is to provide them with urban services in order to allow their development. As you know, LAFCO has no authority over lands once they are annexed into a city. Upon annexation, these lands are under the city's authority for land use and development decisions and a city can amend the zoning and general plan designations for these lands and develop them.

LAFCO would only consider annexations outside of the USA if it is to promote the preservation of open space and/or agricultural land. If it is the City's intent to annex lands outside its USA for open space/agricultural purposes, LAFCO will require the City to sufficiently demonstrate that the affected lands will be permanently preserved for agricultural/open space purposes, and not developed or provided with urban services. One potential way in which permanent preservation can be demonstrated is by dedicating such lands to a qualified agricultural/open space conservation entity that has a clear preservation program and has the legal and technical ability to hold and manage conservation easements or lands for the purpose of maintaining them in open space or agriculture. Absent these measures, such a request to annex lands outside of a City's USA Boundary is not supported by LAFCO's Policies. Please see LAFCO's *"Policies Relative to Annexation / Reorganizations for Cities and Special District"* (B)(1).

LAFCO Policies and State Law Encourage Cities to Pursue the Development of Vacant and Underutilized Incorporated Lands before Seeking to Annex Agricultural Lands

The City is also seeking to expand its USA and annex portions of the SEQ Area. We understand that the SEQ Area consists of largely prime agricultural land - land that the City wants to include in its USA even as the City has substantial amounts of land within its current boundaries that are vacant or underutilized. State law and LAFCO policies discourage the conversion of agricultural land to non-agricultural uses and require that development be guided away from existing prime agricultural lands. Please see LAFCO's *"Policies Relative to Annexations / Reorganizations for Cities and Special Districts"* (A)(3) and (B)(3) and Government Code Section 56377 (a) & (b).

The statutes and policies call for a city to exhaust existing vacant or underutilized lands within its boundaries before expanding into agricultural lands because developing lands which are already within a city's boundaries would allow for more effective use of existing city infrastructure, would result in more efficient provision of city services, would discourage premature and unnecessary conversion of irreplaceable agricultural land to urban uses, and would encourage compact development that would be more consistent with recent greenhouse gas reduction regulations and goals. Therefore we encourage the City to conduct a comprehensive review of its large inventory of vacant or underutilized lands to consider how best to provide opportunities for its development and maximize its use prior to expanding outwards into agricultural lands.

LAFCO Policies and State Law Require Consideration of many Factors, Including whether the City has the Ability to Provide Urban Services to the Expansion Area without Detracting from Current Service Levels

In addition to considering the impacts on agricultural lands and evaluating the need and timeliness of expanding the City's boundaries to accommodate growth, the City must also evaluate whether or not it has the financial ability to extend and provide services to the new area without detracting from current service levels to existing residents within the city. This is a particularly important issue in these economic times when many cities are struggling to provide and maintain acceptable service levels for services such as public safety (emergency medical, fire and police), libraries and schools. Other factors that LAFCO would consider in evaluating such proposals are contained in LAFCO's USA policies and include among other things, environmental impacts of the proposed development, availability of adequate water supply for the proposed development, and fiscal impacts to other affected agencies.

City is Encouraged to Adopt Agricultural Mitigation Policies/Program that are Consistent with LAFCO's Agricultural Mitigation Policies

We understand that the City is in the process of developing its agricultural mitigation program and that the specifics of the program are yet to be finalized by the City. However, we believe it is timely to let the City know that many of the key recommendations that are being discussed and considered by the City are not

consistent with LAFCO's Policies. Please see LAFCO's "Agricultural Mitigation Policies" (Policies #1 & #2). As you may know, in 2007, LAFCO adopted Agricultural Mitigation Policies in order to provide guidance to property owners, potential applicants and cities on how to address agricultural mitigation for LAFCO proposals and to provide a framework for LAFCO to evaluate and process in a consistent manner, LAFCO proposals that involve or impact agricultural lands. LAFCO encourages cities with potential LAFCO applications involving or impacting agricultural lands to adopt citywide agricultural mitigation policies and programs that are consistent with LAFCO's Agricultural Mitigation Policies.

Proposed Agricultural Mitigation for SEQ Project is not Consistent with LAFCO's Agricultural Mitigation Policies and is Problematic

If the City decides to move forward with the SEQ Urban Service Area expansion request, the City must address agricultural mitigation issues in a manner consistent with LAFCO's Agricultural Mitigation Policies. Please see the table below for a summary of the key differences between the City's Proposed Agricultural Mitigation and LAFCO's Agricultural Mitigation Policies. If these inconsistencies are not addressed, LAFCO would be unable to consider the proposed mitigation as effective.

| COMPARISON OF CITY'S RECOMMENDED AGRICULTURAL MITIGATION PROGRAM AND LAFCO'S AGRICULTURAL MITIGATION POLICIES AS THEY RELATE TO THE SOUTH EAST QUADRANT | | |
|---|--|---|
| | CITY'S RECOMMENDED AGRICULTURAL MITIGATION <i>(based on information provided at the February 18th Workshop)</i> | LAFCO'S AGRICULTURAL MITIGATION POLICIES |
| Lands Subject to Agricultural Mitigation | Uses Important Farmland Map and modified LESA model to determine if mitigation is required. No mitigation required for development during first year of City's Agricultural Mitigation Program. | Mitigation recommended for LAFCO proposals resulting in the conversion of any and all lands that meet LAFCO's definition for "Prime agricultural land." (Policies #1 & #6) |
| Exemption from Mitigation for Converting Agricultural Lands to Certain Land Uses | Consider potential exemptions and/or reduced mitigation fees for certain types of land uses such as less intensive sports, recreational, and leisure uses or for economic development uses. | Mitigation recommended for all projects resulting in the conversion of "Prime agricultural land" irrespective of the type of proposed land use or development. (Policies #1 & #6) |

| Mitigation Ratio | Less than 1:1 Mitigation Ratio. | 1: 1 Mitigation Ratio recommended. (<i>Policy #7</i>) |
|---|---|--|
| Future Use of Lands Preserved as Agricultural Mitigation | Consider allowing low intensity sports, recreational and leisure uses on agricultural preservation areas. | Areas preserved as agricultural mitigation are intended in perpetuity for the purpose of agriculture. (<i>Policy #7</i>) |

City Should Consider and Address these Major Concerns and Re-Evaluate the Scope and Need for the SEQ Project

The City's USA expansion and annexation proposals for the SEQ area in their present form are contrary to LAFCO objectives of preventing urban sprawl and preventing premature conversion of agricultural lands and are inconsistent with LAFCO policies and provisions in state law. The proposed agricultural mitigation program under consideration varies significantly from what is recommended in recently adopted LAFCO policies and is inadequate for providing effective mitigation. We urge the City to fully consider and address the issues presented before proceeding further and spending time and resources on the Environmental Impact Report for the SEQ Project.

If you have any questions regarding these comments, please contact me at (408) 299-5127. Thank you again for providing us with the opportunity to comment on this significant project.

Sincerely,



Neelima Palacherla,
LAFCO Executive Officer

Cc: LAFCO Members
Morgan Hill City Council Members
Jody Hall Esser, Director, County of Santa Clara Department of Planning and Development
Michele Beasley, Greenbelt Alliance

Attachment A: LAFCO's February 17, 2010 Comment Letter Re: Southeast Quadrant, including LAFCO's Urban Service Area Policies, Annexation Policies, and Agricultural Mitigation Policies.



November 22, 2010

Rebecca Tolentino, Senior Planner
Community Development Department
City of Morgan Hill
17555 Peak Avenue
Morgan Hill, CA 95037-4128

**RE: NOTICE OF PREPARATION FOR THE MORGAN HILL SOUTHEAST
QUADRANT (SEQ) GENERAL PLAN AMENDMENTS AND AGRICULTURAL
MITIGATION AND PRESERVATION PROGRAM**

Dear Ms. Tolentino:

Thank you for providing the Local Agency Formation Commission (LAFCO) of Santa Clara County with an opportunity to comment on the City of Morgan Hill's Notice of Preparation for the SEQ General Plan Amendments and Agricultural Mitigation and Preservation Program and for extending the comment period to November 23rd. The Notice of Preparation notes that the project will require approval from LAFCO for annexation and inclusion of the project area in the City's Urban Service Area. Therefore, LAFCO is a responsible agency. LAFCO's comments on the NOP are provided below.

1. THE NOP CONTAINS INSUFFICIENT INFORMATION

LAFCO's response to the NOP is limited to the information provided to it, and LAFCO reserves the right to comment upon any information ultimately included in the EIR:

Project Description in the NOP is Inadequate and Confusing (Section 1.3)

The State CEQA Guidelines require that a Notice of Preparation (NOP) "provide the responsible and trustee agencies and the Office of Planning and Research with sufficient information describing the project and the potential environmental effects to enable the responsible agencies to make a meaningful response." (State CEQA Guidelines, §15082(a) (1)) The NOP does not provide a clear or sufficiently detailed description of the project. LAFCO requests that a more complete project description be provided and that it include, at a minimum, the following information:

- Language for the City's proposed Agricultural Land Use Designation
- Language for the City's proposed Sports-Recreation-Leisure Land Use Designation
- Language for the City's proposed Open Space Zoning District
- Language for the City's proposed Agricultural Zoning District
- Language for the City's proposed Sports-Recreation-Leisure Zoning Districts
- Language for the City's proposed Agricultural Preservation Policies/Program
- Language for the City's proposed Agricultural Conversion Policies
- Language for the City's proposed Open Space Program

- Site plans for the proposed Private High School and any specific details or plans available for the other 6 development proposals

In addition, the NOP also lists the following two objectives of the EIR:

- Identify lands within the SEQ viable for long-term agriculture
- Develop a program that fosters long-term agriculture within the SEQ through land use planning, agricultural preservation policies/programs, and agricultural mitigation.

Based on the NOP, it appears that these objectives are to be accomplished through the environmental impact report (EIR), which is in conflict with the purpose of an EIR. Pursuant to State CEQA Guidelines §15121(a), an EIR only serves the purpose of “an informational document which will inform public agency decision makers and the public generally of the significant environmental effects of a project ...”. Please provide clarification and more detailed information on the two objectives listed above and their relationship to the EIR.

The NOP indicates in sections 1.3.3 through 1.3.5 that the City intends to develop various policies for agricultural preservation and conversion, as well as an Open Space Program. Those policies and programs are included in the Project Description, but it is not clear whether such policies would actually be included in the City’s General Plan Amendment. Moreover, few details about such policies and programs are provided, limiting the ability to provide a meaningful response to the NOP. Nevertheless, at a minimum, the EIR must address all of the comments raised in prior LAFCO letters to the City dated April 6 and February 17, 2010, both of which are incorporated herein by reference.

Description of Existing Conditions Requires Clarification (Section 1.2)

The description of existing conditions in section 1.2 of the NOP states that the Southeast Quadrant area is “characterized by rural residences and agricultural lands.” It then predicts that agricultural and orchard uses of the area would gradually cease and that rural residential uses would predominate. These statements in the NOP appear to prejudge the feasibility of continued agricultural uses of the area, despite a contrary statement in section 1.3.3 of the NOP. In any event, section 15125(a) of the State CEQA Guidelines requires that the EIR include a description of physical environmental conditions in the project area “as they exist at the time the notice of preparation is published [.]” Additionally, the EIR’s description of the environmental setting must include both local and regional perspectives. (State CEQA Guidelines, §15125(a)). Thus, the EIR will need to address existing agricultural uses, and conversion pressures, not just in the Southeast Quadrant, but the rest of the region as well. This description of the existing environmental setting must also address the availability of vacant and underutilized lands within the City.

Information on Probable Environmental Effects is Insufficient (Section 1.5)

Pursuant to state law, at a minimum, the NOP must also identify any “[p]robable environmental effects of the project.” (State CEQA Guidelines, §15082(a) (1) (C)).

Section 1.5 of the NOP lists fifteen topics that will be analyzed in the EIR. That section does not describe those potential effects, or indicate which environmental effects may be probable. Please provide more information regarding potential environmental impacts or please provide a copy of the initial study. Based solely on the information provided in the NOP, the following impacts, alternatives and mitigation measures must be addressed in the EIR.

Agricultural Impacts: As previously noted, the EIR will need to address impacts to all agricultural land. Such lands should include not just those identified on the Important Farmland Map and modified LESA model, but also all of those lands that fall within LAFCO's definition of prime agricultural land. Further, the EIR must analyze potential indirect impacts to agriculture resulting from the development of urban uses in close proximity to agricultural uses. Cumulative impacts related to conversion of agriculture within the region must also be analyzed. LAFCO has also adopted many policies for protecting agricultural resources that should be addressed in the EIR's analysis of agricultural impacts.

Biological Resources: Agricultural lands often provide foraging and nesting habitat for wildlife. The EIR should, therefore, address the potential direct, indirect and cumulative impacts to listed, special-status and non-listed species.

Climate Change: The list of topics in Section 1.5 indicates that the EIR would address climate change along with air quality. Recent amendments to the State CEQA Guidelines clarify that an EIR address whether the project will increase greenhouse gas emissions compared to the existing environmental setting. (State CEQA Guidelines, § 15064.4(b).) Thus, the analysis should address the project site's existing carbon sequestration, as well as the emissions that may result from conversion, construction and ultimate operation of activities described in the NOP. The EIR should also address the project's consistency with statewide policies encouraging in-fill and compact development and discouraging expansion into non-urbanized areas.

Energy Impacts: Appendix F of the State CEQA Guidelines requires analysis of a project's energy impacts. This analysis should address energy conservation, consumption and efficiency, particularly related to the expansion of services in the project area.

Land Use: LAFCO's prior comments alerted the City to the proposed project's inconsistency with existing LAFCO policies. Appendix G of the State CEQA Guidelines suggests addressing whether the project conflicts with any applicable policy of an agency with jurisdiction over the project. Here, LAFCO is a responsible agency. Consistency with its policies is a key issue that must be addressed in the EIR.

Public Services: The project includes extension of the City's Urban Service Area and annexation of agricultural lands for conversion to more urban uses. The City's ability to provide urban services, including, among others, public safety, libraries, schools, utilities, etc., must be analyzed in the EIR. Additionally, given the project's size and character, a water supply assessment may be required.

Mitigation Measures: As noted in LAFCO's previous comments, LAFCO has adopted Agricultural Mitigation Policies. The most recent information provided by the City indicates that its mitigation plan is not consistent with LAFCO policies. Those inconsistencies must be addressed in order for LAFCO, acting as Responsible Agency, to find that mitigation to be effective.

Alternatives: The EIR will be required to analyze a reasonable range of alternatives to the proposed project. Given that the project site includes prime agricultural land, the EIR must analyze alternative locations within the City to establish Sports-Recreation-Leisure districts. If the City concludes that no feasible alternative location exists, it must disclose the reasons for that conclusion in the EIR.

2. THE PROJECT IS A MAJOR REVISION OF THE CITY'S GENERAL PLAN AND SHOULD BE CONSIDERED IN THE CONTEXT OF A COMPREHENSIVE GENERAL PLAN UPDATE AND SHOULD INVOLVE BROAD STAKEHOLDER PARTICIPATION

As we understand it, the scope of the City's potential project is extensive; it involves major changes to the City's General Plan and includes at least the following:

| |
|---|
| Changes to existing growth management boundaries and jurisdictional boundaries |
| <ul style="list-style-type: none"> • Expanding the City's Urban Limit Line to include 700 acres in the SEQ. • Expanding the City's Urban Growth Boundary to include 660 acres in the SEQ. • Expanding the City's Urban Service Area to include 305 acres in the SEQ. • Annexing 760 acres of the SEQ into the City Limits |
| Creation of New Land use Designations in the City's General Plan and Creation of New Zoning Districts |
| <ul style="list-style-type: none"> • Create an Agriculture land use designation and zoning district • Create a Sports-Recreational- Leisure land use designation and zoning district |
| Application of Land Use and Zoning Designations to Lands in the SEQ |
| <p>Apply the following land use designations to SEQ lands:</p> <ul style="list-style-type: none"> • Sports-Recreation-Leisure: 359 acres • Residential Estate: 215 acres • Public Facility: 82 acres • Open Space: 121 acres • Agriculture: 266 acres • Rural County 291 acres |
| Establishment of Citywide Policies / Programs re. Agricultural & Open Space Lands |
| <ul style="list-style-type: none"> • Development of Agricultural Preservation Policies and Mitigation • Development of Agricultural Conversion Policies • Development of Open Space Program |
| Analysis of Development Proposals in the SEQ |
| <ul style="list-style-type: none"> • Project level analysis of development of a private high school on 40 acres • Programmatic level analysis of five other public and privately initiated development proposals in the SEQ covering over 376 acres |

Given the project's sizeable scope (as outlined above), the large amount of unincorporated land that will be directly affected by the project (approximately 1,300 acres in the SEQ which is equal to over 15% of current city lands), the fact that these lands are overwhelmingly prime agricultural lands and the long-term significance of planning for these lands not only to the property owners/businesses in the vicinity but to the entire city and the region, the project should be considered in the context of a comprehensive general plan update.

Furthermore, in 1996, the City of Morgan Hill adopted its urban growth boundary (UGB). Subsequently, the County and the City adopted joint policies in their respective general plans to address among other things, how to administer and maintain a dependable UGB and established a rational process for considering changes to the UGB over time. According to these policies, major modifications to the UGB location should be processed only in the context of a "comprehensive City General Plan land use element update, which occurs on an approximately 10 year interval, unless triggered by the established criteria, findings, or prerequisites, to ensure coordination between relevant land use planning issues and growth management considerations."

This project has the potential to impact the entire city, the surrounding unincorporated lands, and the region. Consideration of these impacts and the overall need, timeliness, and location of such a project are best considered and analyzed through a comprehensive general plan update process.

3. LAFCO'S PREVIOUS LETTERS IDENTIFY SEVERAL MAJOR CONCERNS REGARDING THIS PROJECT AND ITS CONSISTENCY WITH LAFCO POLICIES AND STATE LAW

As noted in this letter and our two previous letters (dated February 17, 2010 and April 6, 2010) to the City, there are many issues and unanswered questions concerning the project's consistency with the various City, County, and LAFCO Policies.

These are the type of issues that should be fully considered by the community, the stakeholders and the decision makers through a comprehensive general plan update process. Furthermore these are the types of issues LAFCO is required to consider in its review of any USA amendment proposals. Therefore we respectfully recommend that these issues be addressed as early as possible in the process.

Lastly, the NOP is inadequate for LAFCO's use as a responsible agency. Please revise the NOP to clearly define the project, identify the potential impacts and re-circulate it for review and comment to the affected agencies and the public.

If you have any questions regarding these comments, please contact me at (408) 299-5127. Thank you again for providing us with the opportunity to comment on this significant project.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Neelima Palacherla'.

Neelima Palacherla
LAFCO Executive Officer

Cc: LAFCO Members
Jody Hall Esser, Director, Santa Clara County Department of Planning & Development

ATTACHMENTS

LAFCO's April 6, 2010 and February 17, 2010 Comment Letters Re: Southeast Quadrant, including LAFCO's Urban Service Area Policies, Annexation Policies, and Agricultural Mitigation Policies.



February 18, 2014

VIA EMAIL

Rebecca Tolentino, Senior Planner
Development Services Center
City of Morgan Hill
17555 Peak Avenue
Morgan Hill, CA 95037-4128

Re: Draft Environmental Impact Report for Citywide Agriculture Preservation Program and Southeast Quadrant Land Use Plan

Dear Ms. Tolentino

Thank you for providing the Santa Clara County Local Agency Formation Commission (LAFCO) with an opportunity to review and comment on the Draft Environmental Impact Report (DEIR) for the City of Morgan Hill's Proposed Southeast Quadrant Land Use Plan and Citywide Agriculture Preservation Program. Furthermore, thank you for extending the public comment period to February 18th and for discussing the proposed project with LAFCO staff on February 5th.

It is our understanding that, as part of the proposed project, the City intends to apply to LAFCO in order to expand its Urban Service Area (USA) boundary to facilitate the City's eventual annexation of certain lands and also in order to annex additional lands outside of its USA boundary. Therefore, LAFCO is a Responsible Agency under CEQA for the City's proposed project. LAFCO staff and LAFCO's Legal Counsel (Attachment A) have reviewed the City's DEIR & Citywide Agriculture Preservation Program and have provided the following comments for the City's consideration.

Separation of the SEQ Land Use Plan from the City's General Plan Update Process that is Currently in Progress is a Violation of Rational Planning Practices and CEQA Procedures

As we understand it, the scope of the City's proposed project is extensive; it involves major changes to the City's General Plan and includes at least the following:

Changes to Existing Growth Management Boundaries and Jurisdictional Boundaries

- Expanding the City's Urban Limit Line to include 840 acres in the SEQ.
- Expanding the City's Urban Growth Boundary to include 659 acres in the SEQ.
- Expanding the City's Urban Service Area to include 305 acres in the SEQ.
- Annexing 759 acres of the SEQ into the City Limits

| |
|---|
| <p>Creation of a New Land Use Designation in the City's General Plan and Creation of a New Zoning Districts</p> <ul style="list-style-type: none"> • Create a Sports-Recreation-Leisure land use designation and zoning district |
| <p>Application of City Land Use Designations to Lands in the SEQ Apply the following land use designations to SEQ lands:</p> <ul style="list-style-type: none"> • Sports-Recreation-Leisure: 251 acres • Residential Estate: 76 acres • Public Facilities: 38 acres • Open Space: 445 acres • Rural County: 480 acres |
| <p>Application of City Zoning Designations to Lands in the SEQ Apply the following zoning district designations to SEQ lands:</p> <ul style="list-style-type: none"> • Sports-Recreation-Leisure (142 acres in Subdistrict A and 109 acres in Subdistrict B): 251 acres • Residential Estate: 9 acres • Public Facilities (with a Planned Development overlay): 38 acres • Open Space (with a Planned Development overlay): 461 acres • 531 acres will remain under County Jurisdiction with the County's A-20 Acre (Exclusive Agriculture 20-acre minimum) Designation |
| <p>Establishment of Citywide Policies / Programs re. Agricultural & Open Space Lands</p> <ul style="list-style-type: none"> • Development of Agricultural Preservation Policies and Mitigation |
| <p>Development Proposals in the SEQ</p> <ul style="list-style-type: none"> • Private high school on 38 acres • Privately initiated development proposals in the SEQ covering over 375 acres <ul style="list-style-type: none"> • Craiker Sports Retail/Restaurant Uses • Puliafico Sports-Recreation-Leisure Uses • Jacoby Sports-Recreation-Leisure Uses • Chiala Planned Development (Under Chiala Family Ownership) |

Given the project's sizeable scope (as outlined above), the large amount of unincorporated land that will be directly affected by the project (approximately 1,300 acres in the SEQ which is equal to over 15% of current city lands), the fact that these lands are overwhelmingly prime agricultural lands and the long-term significance of planning for these lands not only to the property owners/businesses in the vicinity but to the entire city and the region, the project should be considered in the context of a comprehensive general plan update.

Furthermore, in 1996, the City of Morgan Hill adopted its urban growth boundary (UGB). Subsequently, the County and the City adopted joint policies in their respective general plans to address among other things, how to administer and maintain a dependable UGB and established a rational process for considering changes to the UGB over time. According to these policies, major modifications to the UGB location should be processed only in the context of a "comprehensive City General Plan land use element update , which occurs on an approximately 10 year interval, unless triggered by the established criteria, findings, or prerequisites, to ensure coordination between relevant land use planning issues and growth management considerations."

This project has the potential to impact the entire city, the surrounding unincorporated lands, and the region. Consideration of these impacts and the overall need, timeliness, and location of such a project are best considered and analyzed through a comprehensive general plan update process.

The DEIR states that the City has begun such a process to create a new General Plan through 2035 and that the process will involve updating the City's master plans and identifying infrastructure needed to service future growth areas. The DEIR also indicates that the SEQ Area will be included in these studies and will contribute to the build-out of the necessary infrastructure as a condition of development and through payment of development impact fees. However, we understand that the proposed SEQ Land Use Plan and Citywide Agriculture Preservation Program were developed and are being considered and are intended to be approved/adopted separate from the City's current General Plan update process.

The proposed Project is a major revision of the City's General Plan and should be considered in the context of a comprehensive general plan update and should involve broad stakeholder participation.

LAFCO Policies and State Law Encourage Cities to Pursue the Development of Vacant and Underutilized Incorporated Lands Before Seeking to Annex Agricultural Lands

As part of the proposed project, the City is seeking to expand its Urban Service Area boundary (USA) and annex portions of the SEQ Area. We understand that the SEQ Area consists of largely prime agricultural land and that the City wants to include these lands in its USA even as the City has substantial amounts of land within its current boundaries that are vacant or underutilized. State law and LAFCO policies discourage the conversion of agricultural land to non-agricultural uses and require that development be guided away from existing prime agricultural lands. The statutes and policies call for a city to exhaust existing vacant or underutilized lands within its boundaries before expanding into agricultural lands because developing lands which are already within a city's boundaries would allow for more effective use of existing city infrastructure, would result in more efficient provision of city services, would discourage premature and unnecessary conversion of irreplaceable agricultural land to urban uses, and would encourage compact development that would be more consistent with greenhouse gas reduction regulations and goals. The County also has similar long-standing policies discouraging the premature conversion of agricultural lands and managing growth. It is unclear how the proposed project is consistent with State law, LAFCO policies, County General Plan policies, and City policies.

Annexation of Lands Outside of City's Urban Service Area is Inconsistent with LAFCO Policies

As part of the proposed project, the City intends to request annexation of lands outside of its Urban Service Area (USA). LAFCO Policies strongly discourage such annexations until inclusion into the Urban Service Area is appropriate because the general purpose

for a city to annex lands is to provide them with necessary urban services (including police, fire, water, wastewater, and storm water management) in order to allow for their subsequent development.

As you know, LAFCO has no authority over lands once they are annexed into a city (irrespective of whether they are in the USA boundary or not). Upon annexation, these lands are under the city's authority for land use and development decisions and a city can amend the zoning and general plan designations for these lands and develop them. As part of any annexation or urban service area amendment request, LAFCO is required to consider whether the city has the ability to provide urban services to the proposed growth areas without detracting from current service levels.

Furthermore, LAFCO would only consider annexations outside of the USA if it is to promote the preservation of open space and/or agricultural land. If it is the City's intent to annex lands outside of its USA for such purposes, LAFCO will require the City to sufficiently demonstrate that the affected lands will be permanently preserved for agricultural/open space purposes. One potential way in which permanent preservation can be demonstrated is by dedicating such lands to a qualified agricultural/open space conservation entity that has a clear preservation program and has the legal and technical ability to hold and manage conservation easements or lands for the purpose of maintaining them in open space or agriculture. According to the DEIR, these lands are planned for residential estate sized lots, sports-recreation-leisure related uses, and agricultural-related uses; and the permanent preservation of all of these lands is not proposed.

The DEIR concludes the proposed project is consistent with LAFCO's policies. However, as indicated above, it is unclear how the proposed annexation of these lands outside of the City's USA would be consistent with LAFCO Policies.

Proposed Southeast Quadrant Land Use Plan Including its Various Project Components is Inconsistent with Many of the Stated Objectives of the Project

Three of the stated objectives of the proposed project are to:

- 1) "Identify lands within the SEQ area viable for permanent agriculture;"
- 2) "Develop a program that fosters permanent agriculture within the SEQ Area and citywide through land use planning, agricultural preservation policies/programs, and agricultural mitigation."
- 3) "Create an open space/agricultural greenbelt along the southern edge of the City's Sphere of Influence boundary."

However, it is unclear how the proposed SEQ Land Use Plan and its various project components will be consistent with the above objectives. According to the DEIR, the proposed project will convert several hundred acres of agricultural lands to non-agricultural uses.

The Southeast Quadrant (SEQ) Area includes approximately 1,290 acres of private land, plus 48 acres of public roadways. Per the DEIR, these lands are currently developed with rural-residential and agricultural uses. The DEIR states that the SEQ contains 707 acres of Important Farmland (approx. 597 acres of Prime Farmland, 87 acres of Farmland of Statewide Importance, and 23 acres of Unique Farmland). When Farmland of Local Importance is accounted for, the SEQ contains approx. 771 acres of agricultural land per the California Department of Conservation's 2010 Important Farmlands Map.

Per the DEIR, the City is proposing to annex 759 acres of the 1,290 total acres (58.8% of the total private land area). The proposed high school site contains 38.63 acres of Important Farmland. The proposed 251-acre Sports-Recreation-Leisure Land Use Designation and Zoning District will overlap with and thus potentially convert a minimum of 120 acres of the Important Farmland to non-agricultural use. Furthermore, it is anticipated that the proposed 461-acre Open Space (Planned Development overlay) Zoning District will include a yet to be determined number of acres of sports-recreation-leisure related uses, residential estate sized lots, and agricultural-related uses. The proposed Open Space District overlaps with and thus potentially could convert hundreds of acres of Important Farmland to non-agricultural use.

Per the DEIR, the remaining agricultural land in the SEQ Area would form an "Agricultural Priority Area" that would be bordered on the north by lands in the existing city limits, on the west by lands zoned for urban development [e.g. commercially oriented uses such as gas stations, restaurants, motels/hotels, and grandstands/stadiums, and potentially two drive-thru uses (restaurants or gas stations)], and on the east by lands also zoned for urban development (e.g. residential estates, adventure sports/facilities, arts and crafts, batting cages, equestrian centers, farmers markets, and indoor/outdoor sports centers). It is unclear how the introduction of urban land uses into one of the last remaining agricultural areas in the county would help achieve the aforementioned project objectives.

Proposed Boundary Adjustments are Illogical and Render Boundaries Meaningless for Planning and Growth Management Purposes

The proposed project includes major adjustments to the City limits (i.e. annexation) urban service area, urban growth boundary, and urban limit line. However, these boundary adjustments and their relation to each other appear illogical from a planning and growth management perspective. For example, the City is proposing to annex lands while keeping these same lands outside of the City's Urban Service Area, but including most of these same lands in the City's Urban Growth Boundary and Urban Limit Line. The proposed use and configuration of boundaries renders each boundary meaningless for planning and growth management purposes.

Additionally, the DEIR identifies an "Agricultural Priority Area" that has been identified as a "priority location to preserve and encourage the long-term viability of agricultural and Open Space Lands." However, the DEIR indicates that the vast majority of the "Agricultural Priority Area" will be located within the City's proposed Urban Limit Line

which would “define the ultimate limits of City urbanization beyond the 20-year timeframe of the Urban Growth Boundary.”

Project’s Adverse Impacts to Agricultural Lands Cannot be Fully Mitigated and Represent a Significant and Unavoidable Impact

Per the DEIR, as part of the proposed project, the City proposes to adopt an Agricultural Preservation Program, which would apply to new development citywide that converts agricultural land to a non-agricultural use. Applicants would be required to mitigate the loss of farmland through measures that may include payment of an agricultural mitigation fee, acquisition of other agricultural land, or dedication of an agricultural conservation easement on eligible agricultural land and payment of a fee to cover ongoing management and monitoring activities. Mitigation would be required at a ratio of 1:1 (1 acre of mitigation for 1 acre of agricultural land converted to a non-agricultural use). While mitigation preserves agricultural land that may otherwise be converted to nonagricultural use in the future, it does not provide additional, new farmland to replace the original acres lost as a result of the proposed project. Therefore, impacts to agricultural resources, even with mitigation in place, would be considered significant and unavoidable and conversion of agricultural land should only be considered when there is no vacant or underutilized land left within a city or existing USA boundary to accommodate growth.

Furthermore, the DEIR notes that the proposed agricultural mitigation fee of \$15,000 per an acre is not sufficient to purchase agricultural conservation easements on land surrounding the City of Morgan Hill at a 1:1 ratio. The DEIR states that the City will use additional funds to augment the mitigation fee in order to accomplish this objective. Given the lack of information provided in the DEIR concerning these additional funds and noted uncertainties on this matter, it is unclear whether 1:1 mitigation will actually occur.

Project’s Potential Adverse Impacts to Williamson Act Lands Cannot be Self Mitigated and Represent a Significant and Unavoidable Impact

The DEIR indicates that the SEQ Area contains 10 properties totaling 91.65 acres that are encumbered by active Williamson Act contracts and that one of the properties is contemplated for annexation, while the other nine are not. The DEIR incorrectly states that should any of the Williamson Act contracts be required to be cancelled as a prerequisite for annexation, such a cancellation would be considered a self-mitigating aspect of the proposed project and would preclude the possibility of a conflict with a Williamson Act contract. If the proposed project could result in the early cancellation of a Williamson Act contract, this impact would be considered significant and unavoidable.

LAFCO Policies and State Law Require LAFCO to Consider Availability of Adequate Water Supply

Given the various identified deficiencies in the environmental analysis discussed here and in Attachment A, it is unclear whether the water supply assessment and water demand analysis conducted for the proposed project is adequate for LAFCO purposes. As part of LAFCO's review of any urban service area amendment or annexation request, LAFCO policies and State law require LAFCO to consider the availability of adequate water supply.

Analysis of Cumulative Effects and Growth-Inducing Impacts is Deficient

As discussed in this letter and Attachment A, analysis of impacts to agricultural resources, land use, population and housing, and greenhouse gas emissions is deficient. These deficiencies render the analysis of cumulative effects and growth-inducing impacts deficient as well.

Key Elements of the Proposed Agricultural Preservation Program Require Clarification and Outcome of Proposed Program is Uncertain

As you know, LAFCO adopted Agricultural Mitigation Policies in 2007 and these Policies encourage cities with potential LAFCO applications involving or impacting agricultural lands to adopt citywide agricultural mitigation policies and programs that are consistent with these policies. We have reviewed the City's Proposed Agricultural Preservation Program and have the following questions and comments about the program and its potential outcome:

Agricultural Priority Area

Under the proposed Program, "the Agricultural Priority Area is defined as an area within the SEQ that has been identified as a priority location to preserve and encourage the long-term viability of agricultural and Open Agricultural Lands..." The boundaries of the proposed Priority Area are illogical, and particularly when coupled with the various elements of the SEQ Land Use Plan are unlikely to fulfill the City's stated objective of preserving and encouraging long-term viability of agricultural lands.

The proposed Agricultural Priority Area is sandwiched between and surrounded on three sides by, lands proposed to be included within the city limits. The surrounding city lands are proposed to be designated for urban uses such as "Sports Recreation and Leisure" which would allow for "private commercial, retail, and /or public /quasi-public, at a scale that creates a destination area for both regional and local users..." Potential applications in the area including a private high school for 1,600 students, 40,000 square feet of sports retail, 3,000 square feet of sports themed, sit-down restaurant, outdoor sports fields, indoor facilities for indoor soccer, batting cages, volleyball courts, ropes challenge course, medical offices for minor sports related injuries, and other commercial recreation and sports fields, provide a picture of the type of development likely to occur in the area. Given the potential for direct land use

conflicts between such high intensity urban uses and agriculture, and the additional impacts of extending roads, and services through the Agricultural Priority Area to serve the new development, it is improbable that the City's efforts to prioritize agriculture in this area will be successful. The City has not provided an explanation for setting these irregular boundaries for its Agricultural Priority Area.

Furthermore, the SEQ Land Use Plan proposes that the proposed City Urban Limit Line include the vast majority of the Agricultural Priority Area. However, the "Urban Limit Line defines the ultimate limits of city urbanization beyond the 20-year timeframe of the Urban Growth Boundary." Adopting an Urban Limit Line that includes lands identified for agricultural preservation will result in increased land values in the priority area due to speculation, drive-up the cost of agricultural mitigation to a point where preservation is financially infeasible, and discourage farmers and conservation entities from making any long-term agricultural investments in the area.

Mitigation Ratio and Agricultural Preservation In-Lieu Fee

The City's proposed Agricultural Lands Preservation Program requires mitigation at a ratio of 1:1, i.e., one acre of in-perpetuity of farmland preservation for each acre of farmland conversion. The Mitigation Fee Nexus study prepared for the City indicates that the cost of acquiring a conservation easement would be approximately \$47,500 per acre in the Morgan Hill area and approximately \$12,750 per acre in the Gilroy area. The City's Agricultural Lands Preservation Program intends to preserve agricultural lands within Morgan Hill's sphere of influence with a focus for land preservation in the City's SEQ area. The City however, proposes to establish an Agricultural Preservation In-Lieu Fee, including the Program Surcharge Fee, in the amount of approximately \$15,000 per acre which would be insufficient to cover the cost of easement acquisitions in the Morgan Hill sphere of influence or in the SEQ area. No explanation is provided for establishing a fee that does not cover the mitigation costs in the preferred / priority area.

Furthermore, the City indicates that additional funds would be needed in order to purchase conservation easements in the Priority Area. However, the City does not provide any detailed or specific information on the source of the City's funds, current amount available, any limitations of these funds, and projected availability.

Given the amount of the proposed in-lieu fee and lack of information on the availability of other funding sources, it is impossible to conclude with any certainty that the proposed program will result in conservation of agricultural lands in the Priority Area.

Agricultural Land Definition

Under the City's proposed Program, lands identified as "Grazing Land" on the 2010 map of the Farmland Mapping and Monitoring Program are not subject to the offsetting preservation/mitigation requirement. However, it is well known that many lands identified as grazing land are simply prime farmland left fallow. Given the limited amount of prime farmland left in the County, the City should not exempt "Grazing Land" from the offsetting preservation/mitigation requirement, without first confirming

that these lands are not prime farmland. If it is determined that these lands are prime farmland, then they too should be considered "Agricultural Land" and be subject to the offsetting preservation/mitigation requirement.

Open Agricultural Land Definition

Please clarify the difference between "Agricultural Land" and "Open Agricultural Land" as defined and used in the City's Agricultural Lands Preservation Program. What is the significance of open agricultural land to the Preservation Program?

Qualifying Entity Definition

Under the City's Proposed Program, the qualifying agricultural conservation entity should meet certain technical, legal, management, and strategic planning criteria and the entity's performance should be monitored over time against those criteria. However, it appears that a public agency could not be considered such an "entity" even if it meets all of the identified criteria. The specific purpose served by eliminating public agencies from being a "qualifying entity," provided that they demonstrate that they meet the remaining criteria, is unclear. In fact, there are many benefits associated with using a public agency for agricultural conservation purposes, such as greater public accountability and transparency requirements, financial stability, publicly elected Boards, and better access to certain government grants or funding. For these reasons, the City should include public agencies in its consideration of qualifying entities. The proposed program also states that the "third party Qualifying Entity will need to include individuals with direct experience and knowledge of farming activities." Please clarify the purpose of this requirement and what role the City envisions these individuals might play in the Qualifying Entity. This requirement also has the risk for increased potential for conflicts of interest, which in public agencies can be better disclosed / managed through Fair Political Practices Commission requirements.

Stay Ahead Provision

It is unclear how such a provision would be implemented and why an applicant or the City might choose this option of providing mitigation prior to converting or developing farmland. Without further details on this provision, it is impossible to provide meaningful comments on it.

Measurement of Affected Area

The City's proposed Program excludes certain portions of property that are left as "open space/ open fields that in the future could be put back to agricultural uses" when calculating the total agricultural mitigation requirement.

Such an exemption is inconsistent with the intent of LAFCO's agricultural mitigation policy. The urban service area of a city delineates land that will be annexed to the city, and provided with urban services / facilities and developed with urban uses. Based on this, it is implicit that any land proposed for inclusion in a City's USA will be converted to support urban development unless the land is protected as agricultural land in

perpetuity by a conservation easement. Therefore, it is not appropriate to exclude certain portions of property based on the assumption that they could at some point be put back into use as agricultural lands. Additionally, there is no way to guarantee / enforce that the land will remain "open space" unless the lands are preserved in-perpetuity through a conservation easement.

Conclusion

For the foregoing reasons, we urge the Morgan Hill City Council to not approve the proposed Environmental Impact Report (EIR) at this time. As noted above, LAFCO is a Responsible Agency for certain aspects of the proposed project and therefore has an independent obligation to review the EIR for legal adequacy under CEQA prior to issuing any approvals for the project (CEQA Guidelines, §15096). As detailed in this letter and Attachment A, we have identified significant deficiencies in the DEIR. Therefore, we respectfully request that the City prepare a revised environmental document that addresses the identified deficiencies and then circulate the revised document to affected agencies and the public for their review and comment, as required by CEQA.

If you have any questions regarding these comments, please contact me at (408) 299-5148. Thank you again for providing us with the opportunity to comment on this significant project.

Sincerely,



Neelima Palacherla,
Executive Officer

Attachment A: LAFCO Counsel's February 18, 2014 Letter: Comments on Citywide Agriculture Preservation Program and Southeast Quadrant Land Use Plan Draft Environmental Impact Report

cc: Andrew Crabtree, Director, Morgan Hill Community Development Department
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February 18, 2014

VIA E-MAIL (Rebecca.Tolentino@morganhill.ca.gov)

Ms. Rebecca Tolentino, Senior Planner
Development Services Center
17575 Peak Avenue
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RE: Comments on Citywide Agriculture Preservation Program and Southeast
Quadrant Land Use Plan Draft Environmental Impact Report (SCH#
2010102010)

Dear Ms. Tolentino:

Best Best and Krieger LLP, as counsel for the Santa Clara County Local Agency Formation Commission ("LAFCO"), thanks the City of Morgan Hill ("City") for the opportunity to review and provide comment on the City's Draft Environmental Impact Report ("EIR") for the Citywide Agriculture Preservation Program and Southeast Quadrant Land Use Plan ("Project").

According to the EIR, the Project consists of five program-level components—collectively referred to as the Southeast Quadrant ("SEQ") Project—and one project-level component—the South County Catholic High School. The five program-level components include (1) the establishment of the Agricultural Lands Preservation Program, (2) adjustments to the City limits, urban service area ("USA"), urban growth boundary ("UGB"), and urban limit line ("ULL") (collectively, "boundary adjustments"), (3) establishment of a new Sports-Recreation-leisure ("SRL") land use designation in the City's General Plan and zoning district in the City's Zoning Code, (4) General Plan amendments and Zoning Code amendments for the new SEQ area, and (5) four separate "programmatic" project applications.

Many of the flaws in the EIR's analysis are so broad—including flaws in the Project Description and the improper segmentation of the Project—as to infect nearly every aspect of the environmental review contained therein. However, although the comments contained in this letter may only scratch the surface, it is LAFCO's hope that these comments will lead the City to fully and sufficiently analyze the environmental impacts of the Project as a whole.

As the Project would require approvals from LAFCO for the boundary adjustments, LAFCO is a responsible agency for the Project under State CEQA Guidelines (Title 14 Cal. Code. Regs.) section 15096. The comments contained herein are provided pursuant to State CEQA Guidelines section 15096, subdivisions (d) and (g), on behalf of LAFCO. As required,



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the following comments pertain to those Project activities which are within LAFCO's areas of expertise and which are subject to LAFCO's approval authority. (*Ibid.*)

The EIR Segments the Environmental Analysis

The analysis separately discusses the impacts from the SEQ Area and the proposed high school. This segmenting of the analysis may downplay impacts resulting from development of the Project as a whole, inclusive of the high school (i.e. it inaccurately describes total impacts in SEQ Area). A specific example of this, although it is an issue throughout the entirety of the EIR's analysis, is the analysis of impacts to police services. (EIR at 3.12-22-23.) In this analysis, the high school is stated as having a potentially significant impact, and yet the SEQ Area is stated as separately having a less than significant impact. This evidences how segmentation can incorrectly minimize impacts that would otherwise be considered potentially significant. This type of analysis violates CEQA. (State CEQA Guidelines, §§ 15378, 15003(h); *City of Santee v. County of San Diego* (1989) 214 Cal.App.3d 1438, 1450; *Tuolumne County Citizens for Resp. Growth, Inc. v. City of Sonoma* (2007) 155 Cal.App.4th 1214, 1229.)

The EIR also provides that "the City has begun the process to create a new General Plan for growth through 2035. The process will involve updating the City's utility master plans and identifying infrastructure needed to serve future growth areas. The SEQ Area will be included in these studies and will contribute to the buildout of the necessary infrastructure as a condition of development and through payment of development impact fees." First, by relying on environmental analysis for the 2035 General Plan which has not yet occurred, this improperly defers environmental analysis of the infrastructure improvements for the SEQ Area and the potential development within the Area. The potential infrastructure needs for the Project must be analyzed in this EIR. Second, if the City is preparing an update to its General Plan at this time, the SEQ Area should be included in the 2035 General Plan Update. Although a Notice of Preparation for the General Plan Update has not yet been issued, the fact that the City is in the process of both amending the General Plan for this Project, and also considering other amendments to the General Plan for future planning through 2035 suggests that analysis of the necessary amendments for implementation of Projects over this 20-year horizon, including the Project here, is being improperly and unnecessarily segmented into two projects.

Analysis of Cumulative Impacts

Because the analysis of the Project is improperly segmented, thereby minimizing its environmental effects, the analysis of cumulative impacts cannot be accurate. A "Cumulative Impact" is that when, considered with other effects, compounds to have a significant effect on the environment. (See State CEQA Guidelines, § 15355.) Unless the Project's environmental impacts are accurately evaluated and disclosed, its contribution to a potentially significant cumulative effect also cannot be accurately evaluated. Thus, the EIR's analysis of cumulative impacts is flawed. Should revisions to the analysis disclose new significant individual or



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cumulative impacts, recirculation of the Draft EIR would be required. (See State CEQA Guidelines, § 15088.5.)

Project Description

The Boundary Changes Are Unclear and Conflict with LAFCO Policies

The Project Description is confusing in how it discusses and delineates the various components of the proposed SEQ Area. The Project Description first states that the SEQ Area includes approximately 1,290 acres (EIR at 2-1), and yet later states that only 759 acres is proposed for annexation into the City limits (EIR at 2-41). Some of the area to be annexed is also that which is to be included in the City's UGB and ULL, but not its USA. (EIR at 2-10.) The EIR should explain the purpose of these differing boundaries. In addition to the confusion as to the boundary changes, the Project Description should also make clear how many acres would be subject to the Sports-Recreation-Leisure General Plan and Zoning amendments, the General Plan amendments and "prezoning" of land in the SEQ Area, and the manner in which these two sets of amendments are different and whether there is any overlap within the SEQ Area.

If the entirety of the area proposed for annexation is not proposed for inclusion in the expanded USA, this Project would be in conflict with LAFCO's policies for approving city limit changes that go beyond a USA. It is LAFCO's policy (Policy B.1 for Annexations or Reorganizations of Cities and Special Districts) that such proposals be approved only if the portion of the city not located within its USA is to be placed in permanent protection as open space or for other public lands. Here, the area of the City not within the USA (Chiala Development) would be residential and is intended to be served by septic systems and a private water company.

As to LAFCO Policy Annexation/Reorganization B.5 (see EIR at 3.9-30), the Chiala Planned Development would not be served by City services, and would require water from a private company and the use of septic systems. Further, the EIR states that there is "limited opportunity to extend existing storm drain facilities in the northern portion of the USA expansion." (EIR at 3.14-45.) These facts demonstrate that, contrary to the EIR's conclusions, the Project would "create or result in any areas that are difficult to serve," and therefore the consistency determination for this policy is unsupported.

The City also misinterprets LAFCO Policy 6. Under LAFCO policies, the preferred option is to discourage USA expansions that would impact agricultural lands, keeping those lands in agricultural use. Here, the EIR does not demonstrate that the annexation of these lands is necessary and has not provided the status of the City's vacant and underutilized lands inventory. Further, to the extent it is assumed the Project would preserve agricultural lands, as stated above regarding the Project Description and Agricultural Impacts, the Project appears to



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propose more intense development on these lands. Therefore, the Project is inconsistent with this LAFCO policy as well.

Lastly, the EIR does not even evaluate the Project's consistency with LAFCO's Urban Service Area Policies 5 and 7, which are directly relevant to this Project. Policy 5 provides that "[w]hen a city with a substantial supply of vacant land within its Urban Service Area applies for an Urban Service Area expansion, LAFCO will require an explanation of why the expansion is necessary, why infill development is not undertaken first, and how an orderly, efficient growth pattern, consistent with LAFCO mandates, will be maintained." Nowhere in the EIR has the City explained why this Project cannot be developed on land already within the City's limits. With respect to Policy 7, and as discussed in this Letter below, contrary to the conclusions in the EIR, the nature of the Project demonstrates that it would encourage the conversion of agricultural land to non-agricultural uses resulting in an adverse impact to agricultural resources. This directly conflicts with Policy 7, a fact which the EIR ignores.

If after the City conducts additional analysis to assess the Project's compliance with these policies a new significant impact is disclosed, recirculation of the Draft EIR would be required. (See State CEQA Guidelines, § 15088.5.)

The EIR Defers Environmental Analysis By Conducting Only Programmatic Analysis of Project-Level Proposals

Next, the EIR states that it contains programmatic analysis of project-level applications. (EIR at 2-52.) State CEQA Guidelines section 15168 provides that a program EIR is appropriate where "a series of actions . . . can be characterized as one large project and are related either: (1) Geographically; (2) As logical parts in the chain of contemplated actions; (3) In connection with issuance of rules, regulations, plans, or other general criteria to govern the conduct of a continuing program, or (4) As individual activities carried out under the same authorizing statutory or regulatory authority and having generally similar environmental effects which can be mitigated in similar ways."

Although the four applications are related geographically, as shown in Exhibit 2-12, and are being evaluated in connection with the General Plan amendment goals and criteria as outlined in the EIR, evaluation of several projects within a program EIR is intended to provide "an occasion for a more exhaustive consideration of effects" than would otherwise be considered in individual project-level environmental review. (State CEQA Guidelines, § 15168(b).) Here, the EIR provides that the four project applications are reviewed programmatically because "detailed land use proposals" have not yet been submitted. (See EIR at 2-52.) However, this is inconsistent with specific details actually provided in the EIR when describing these applications. For example, the "Craiker Sports Retail/Restaurant Uses" application provides that it would consist of 40,000 square feet of sports retail and a 3,000 square-foot sports-themed restaurant on four acres. As a result, the EIR defers more detailed analysis under the guise of a



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program EIR despite the apparent ability to conduct a more thorough and detailed, project-level review of these applications. This is a violation of CEQA.

Likewise, the EIR discloses that the Chiala Planned Development would add up to 38 new residences on 107 acres, sports-recreation-leisure uses on 86 acres, and agricultural uses on 114 acres. (EIR at 2-55.) The EIR even discloses that the development would be served by a private water company and would use septic systems. Also, as part of the Project, the Zoning Amendments are designed to facilitate the planned development on this site. An analysis of the impacts of future actions should be undertaken when the future actions are sufficiently well-defined that it is feasible to evaluate their potential impacts. (See *Env't'l Protection Info. Ctr. v. Dept. of Forestry & Fire Prot.* (2008) 44 Cal.4th 459, 503.) The level of detail in the application demonstrates that the analysis of this development at a programmatic level is insufficient and improperly defers the analysis of the specific impacts that would result.

This is not an instance where a future development will implement the program identified in the EIR, and therefore programmatic review is appropriate; rather, here, the program (the General Plan and Zoning amendments) is designed to implement the future development. Project-level analysis of the projects described in the four applications and the Chiala Planned Development is warranted.

The Proposed Development Is Inconsistent with the Project's Objectives to Preserve Agricultural Lands

Several components of the Project are inconsistent with its stated objectives. Four of the ten objectives stated for the Project concern the preservation and/or enhancement of agricultural lands. (See EIR at 2-26-35.) Yet the Project consists of a General Plan amendment that would permit "private commercial, retail, and/or public/quasi-public, at a scale that creates a destination area for both regional and local users." (EIR at 2-45.) The SRL zone would likewise permit "gas stations, restaurants, motels/hotels, and grandstands/stadiums." (EIR at 2-46.) The four project applications are consistent with these land designations and zoning, and would develop retail, restaurants, indoor sports facilities, and other such non-agricultural uses. (See EIR 2-52, 55.) However, none of these proposed uses is consistent with the majority of the stated Project objectives as not one of them would "foster permanent agriculture" or "[s]trengthen the City's historic role as an agricultural center." Even more, the Zoning amendments are characterized in the EIR as "urban zoning designations," further undercutting the stated Project objectives. (See EIR 3.9-23.)

This inconsistency is also highlighted by the fact that the proposed "Agricultural Priority Area," as well as existing lands under Williamson Act contracts, would be inside of the proposed ULL adjustment, suggesting that urban development may occur on lands which should be set aside for conservation (or which would require cancellation of Williamson Act contracts). (See EIR at 2-41, Exh. 2-10.) Moreover, as shown in Figure 2-9 of the EIR, the proposed Agricultural



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Preserve Area would be placed in the middle of planned development within the SEQ Area. This, along with the Project objectives and the inclusion of the Agricultural Preserve Area within the ULL, strongly suggests that the purpose of the Agricultural Preserve Area may be undermined by other future developments in the Area.

The Project Would Create a Conflict Between the General Plan and Zoning Code

For the Chiala Planned Development, the EIR states that this area would be zoned Open Space, with a Planned Development overlay, but would be designated as only Open Space by the General Plan. (EIR at 2-55.) Zoning ordinances must be consistent with an applicable general plan. (Gov. Code, § 65860(a).) A zoning ordinance is inconsistent with a general plan if it would authorize land uses that are incompatible with the objectives, policies, general land uses, or programs specified in the general plan. (*Ibid.*) As proposed in the EIR, the Zoning amendment for the Chiala Planned Development would be inconsistent with the General Plan designation for the site, which the EIR states will not be likewise amended. (EIR 2-55.) A zoning ordinance that is inconsistent with a general plan at the time of enactment is “void *ab initio*,” meaning invalid when passed. (See *Leshar Communications, Inc. v. City of Walnut Creek* (1990) 52 Cal.3d 531, 541.) Therefore, to the extent the City asserts that the developer is expected to seek a General Plan amendment once the project proposal is finalized, this would not prevent the proposed zoning for the site from being void. This defect in the EIR’s analysis is also present within the Land Use and Cumulative Effects analysis concerning Land Use impacts. (EIR at 3.9-10, 4-10.)

Agricultural Resources

Analysis of Impacts to Important Farmland Is Deficient

Although the EIR includes the LAFCO’s definition of “prime agricultural land” (EIR at 3.2-3-4), it does not evaluate impacts to agricultural land in light of LAFCO’s broader definition. This analysis is required for the LAFCO to review the boundary change applications, and proposed mitigation should address impacts to lands falling within the LAFCO’s definition.

Also, the analysis states that a minimum of 120 acres would be converted to non-agricultural uses for the SEQ Area. However, this figure does not include the potential conversion occurring for the Chiala Development Plan (307 additional acres). For purposes of analyzing and mitigating impacts to agricultural lands, the analysis should utilize a conservative, worst-case analysis to ensure that all potential impacts stemming from development under the SEQ are encompassed within the EIR’s analysis. To evaluate the boundary changes, LAFCO policies provide that impacts to agricultural land should be mitigated on a 1:1 basis. If all acres potentially converted (under the worst-case scenario) are included in the analysis, then this goal cannot be met with the remaining land available within the SEQ Area.



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Moreover, in its consideration of proposals, LAFCO policies require the development of existing vacant lands within City limits prior to conversion of additional agricultural lands. Likewise, LAFCO's USA Amendment Policies require an explanation of why the inclusion of agricultural lands is necessary and how such losses will be mitigated. The EIR contains no such explanation and, as stated above, does not demonstrate how the total potential loss of agricultural land will be mitigated. These deficiencies further render the Project inconsistent with Open Space and Conservation Policy 3q of the City's General Plan, which requires development to "[s]upport policies of the [LAFCO] which would guide urban development away from those agricultural areas with the greatest potential for long-term economic viability."

The Mitigation Measures For Farmland Impacts Are Inadequate

In light of the worst-case conversion of agricultural lands to non-agricultural uses under the Project *as a whole* (465.63 acres), only 242.03 acres of important farmland would remain in the SEQ area, which includes the Agricultural Lands Preservation Program land. (See EIR at 3.2-17, 2-37 [Figure 2-9].) Therefore, unless other lands are identified within the City's sphere of influence, mitigation at a 1:1 ratio would not be possible. In such a case, the conclusion that impacts would be mitigated to less than significant is not supported. In the event additional analysis conducted to address this issue discloses a significant and unavoidable impact with respect to farmland, recirculation of the Draft EIR would be required. (See State CEQA Guidelines, § 15088.5.)

Mitigation Measures 1a and 1b provide that Project applicants will either preserve agricultural land, or pay fees. (EIR at 3.2-20.) On page 3.2-18 of the EIR, the analysis explains that, for purposes of mitigating agricultural impacts, the City may use existing "Open Space Funds." However, the EIR does not state the amount of funds that are available and so does not support the contention that impacts to agricultural lands will be mitigated to a less than significant level. Further, this same discussion provides that the Agricultural Lands Preservation Program contains "Stay Ahead" provisions, but does not explain exactly what these provisions are or how they would be implemented. It is also unclear to what extent these provisions are intended to supplement applicant-initiated mitigation; and it is unclear whether the applicants for the projects in the SEQ Area and/or the City would have sufficient funds available with which to purchase necessary mitigation lands. The uncertainty of this mitigation and the ability to mitigate lands at a 1:1 ratio renders it infeasible. (State CEQA Guidelines, § 15364.)

Agricultural Lands Preservation Program (Appendix K)

Under the proposed program, a public agency could not be a qualifying conservation entity. There are several benefits associated with using a public agency for this type of activity, such as transparency and accountability requirements, financial stability, a publicly-elected board, better access to certain government grants or funding, and other benefits. It is unclear why this option was eliminated. Also, the City has not indicated that there is an existing entity



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that it believes could fulfill the role of the qualifying entity. The ability to identify a qualifying entity is further complicated by the seemingly unnecessary requirement that the entity have farmers on its governing board. While knowledge of farming is important, there are many ways that this knowledge can be addressed, including special technical committees, staff, advisors, or partnerships with farm organizations. Without more details and flexibility, the success of this aspect of the Program, and the mitigation described therein, is uncertain and infeasible. (State CEQA Guidelines, § 15364; see *Kenneth Mebane Ranches v. Superior Court* (1992) 10 Cal.App.4th 276, 291.)

Conflicts with Williamson Act Contracts Are Not Analyzed

The EIR (at 3.2-22, and also for Cumulative Effects at 4-4) provides that cancellation or protest of the ten Williamson Act contracts in the SEQ Area is “self-mitigating.” This is incorrect. Where a project would require the termination of a Williamson Act contract in any way—cancellation or protest—it conflicts with an existing Williamson Act contract and, thus, a potentially significant environmental impact may result. To argue that there would be no conflict because the contract would be cancelled is circular and defeats the purpose of the threshold and the analysis required by CEQA.

The EIR is also incorrect that the only two options are cancellation or protest. In the event that neither of these occurs, the City would succeed to the rights, duties and powers of the County under the existing contract. Regardless, the conclusion that no significant impacts would occur because the contracts could be cancelled or protested is grossly insufficient. Further, public agency cancellations are discretionary agency actions that may, themselves, be subject to CEQA under Public Resources Code sections 21065 and 21080, a fact which the EIR declines to mention or analyze.

The Project May Result In the Conversion of Lands to Non-Agricultural Uses

As stated above concerning the Project Description, the proposed Agricultural Priority Area would be inside of the proposed ULL adjustment, suggesting that urban development may occur on lands which should be set aside for conservation. (See EIR at 2-41, Exh. 2-10.) Also, as shown in Figure 2-9 of the EIR, the proposed Agricultural Priority Area would be placed in the middle of planned development within the SEQ Area. The EIR (at 3.2-24) states that the inclusion of the Agricultural Priority Area would deter the conversion of lands to non-agricultural uses. However, as stated, the circumstances surrounding the Agricultural Priority Area suggest that it would not be much of a deterrent. It is also unclear how the inclusion of lands within the City limits but outside of its USA would deter development on agricultural lands.



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The potential conversion of agricultural lands is also inconsistent with the findings contained in the Agricultural Lands Preservation Program, attached as Appendix K to the EIR. As stated therein, “[t]he SEQ of the City is of particular importance as the last major, contiguous area of agricultural land in the Morgan Hill SOI and due to its potential as a permanent ‘greenbelt’ between Morgan Hill and the neighboring rural residential development of San Martin.” (App. K at 4.)

For these same reasons, the Cumulative Effects analysis, which concludes without any support that “neither the SEQ programmatic uses nor the high school would create environmental pressures to prematurely convert neighboring agricultural uses to non-agricultural uses because of the Agricultural Lands Preservation Program,” is defective. (See EIR at 4-7; *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 435 [conclusions reviewed for substantial evidence].)

Air Quality/Greenhouse Gas Emissions

LAFCO’s policies promote the preservation of agricultural lands, encourage efficient delivery of services and also promote compact urban growth to prevent urban sprawl. Through such orderly development, LAFCO policies seek to reduce total vehicle miles traveled, among other concerns. In doing so, these policies strive to reduce greenhouse gas emissions that would result from poorly planned, sprawling development.

The conclusions regarding the significance of greenhouse gas emissions from the Project are inconsistent with the quantitative analysis conducted for the Project and contained within the EIR. Although the EIR correctly states the threshold for Greenhouse Gas emissions established under BAAQMD’s CEQA Guidelines, the EIR incorrectly states the emissions per service population based on these thresholds to be 3.16. (See EIR at 3.3-65, Table 3.3-14.) However, calculations show the emissions per service population to actually equal 4.64. Under this calculation, the greenhouse gas emissions exceed the BAAQMD thresholds. Thus, this impact would be considered significant, not less than significant as stated in the EIR. (See EIR at 3.3-65.) Therefore, the correction of the error in the greenhouse gas emissions calculations would disclose a new significant impact, and the City is required to recirculate the Draft EIR. (See State CEQA Guidelines, § 15088.5.)

Land Use

The Project Is Not Consistent with the General Plan Policies and Goals

As stated above, the Project Description for the Chiala Planned Development states that this area would be zoned Open Space, with a Planned Development overlay, but would be designated as only Open Space by the General Plan. (EIR at 2-55.) Although the Land Use analysis does not acknowledge this fact (see EIR at 3.9-10), this renders the conclusion that the



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Project would not result in any conflicts with the General Plan inaccurate; and for the reasons stated in the discussion of the Project Description concerns, above, due to this conflict with the General Plan designation, the Zoning amendment for this development is void.

As demonstrated with regard to the deficiencies in the Agricultural Resources analysis, the Project as a whole could convert over 400 acres of agricultural lands to non-agricultural uses and would result in the cancellation of Williamson Act contracts. In light of the uses which would be permitted under the proposed Project, the findings that the Project would be consistent with Policy 2a, Goal 5 and Policy 5b of the General Plan concerning agricultural preservation are unsupported. (See EIR at 3.9-13, 23.)

The proposed amendment to General Plan Policy 2c (see EIR at 3.9-12) suggests that the City may develop lands with urban uses that are not within its USA or UGB so long as the land is in the City's limits. As stated above, this would be inconsistent with LAFCO's policies. This would permit the City to develop lands to which it has not committed to providing services, resulting in potential health and safety concerns. It is also unclear what this measure is intended to "self-mitigate." The amendment would conflict existing policies and could result in additional impacts that are not analyzed in the EIR. The assertion that the amendment is "self-mitigating" is devoid of supporting environmental analysis.

Policy C-GD-3 (EIR at 3.9-19) provides that the USA should generally include only urban uses, and yet the City seeks to expand the USA to encompass uses which it claims will preserve agricultural uses. The fact that the City is seeking to expand the USA contradicts its assertions. And if the City is not planning to develop urban uses on the land, then it need not be included in an expanded USA. Otherwise, the Project is inconsistent with this policy.

Concerning Policy C-GD-8, the EIR claims that "[n]o other areas in the existing Morgan Hill city limits have the attributes of the SEQ area need for the proposed SRL uses." However, this is a conclusory assertion, unsupported by evidence referenced in the EIR.

In determining that the Project would be consistent with Policy SC 1.10, the EIR states that the eastern portion of the SEQ Area would be annexed, but proposed development would not be urban. (See EIR at 3.9-22.) However, the Project would prezone this area with an "urban zoning designation, including SRL, Open Space and Residential Estate (100,000)." (See EIR at 3.9-23 under "Zoning Districts.") It is therefore uncertain whether urban development is allowed or not allowed for this area. It is also unclear how the City is defining "urban development" for this Project, and as stated throughout, the analysis suggests that more intense uses may be permitted on the Project site than are analyzed and disclosed in the EIR.



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Population and Housing

The population growth analysis should include a discussion of the Project's impacts as determined by the Morgan Hill Residential Development Control System and indicate whether the housing allocations have been made already. (EIR at 3.11-11.) The 38 residences of the Chiala Planned Development alone constitute approximately 15% of the annual allotment. The EIR should confirm that the Project has been accounted for in the allotment.

More importantly, the analysis also does not disclose the number of new residences expected to be generated by the Project as a whole, and thus there is no analysis of the Project's impacts with respect to ABAG's or the City's General Plan projections. The EIR provides that the Project would designate 76 acres as "Residential Estate," with only 9 acres zoned "Residential Estate." (See EIR at 4-11.) Not only does the General Plan designation anticipate that the entirety of the 76 acres will, at some point, be developed with residential uses, but this acreage is wholly separate from the Chiala Planned Development, which the Project specifically anticipates will contain 38 residences. The EIR should include analysis of impacts resulting from the maximum potential residential development under the Project in order to complete an analysis of the Project *as a whole*. (State CEQA Guidelines, § 15378(a); *Orinda Assn. v. Bd. of Supervisors* (1986) 182 Cal.App.3d 1145, 1171.) This is not speculative as the proposed General Plan designations would permit residences consisting of a specific lot size. The EIR should use this information to predict the maximum potential development, and analyze that as the Project.

These deficiencies in the EIR's analysis likewise render the Cumulative Effects analysis for Population and Housing defective because the Project is not fully analyzed and, thus, its contribution to cumulative effects cannot be accurate.

Public Services and Recreation

The Analysis of Impacts to Public Services Is Insufficient Under CEQA

County Growth and Development Policy C-GD 8(b) (see EIR at 3.12-12) provides that expansion of USA boundaries shall not be approved unless "the existing supply of land within the city's USA accommodates no more than five years of planned growth." The EIR should disclose whether the land currently within the City's USA will accommodate no more than 5 more years of planned growth. If this is not the case, then the Project is inconsistent with LAFCO and County General Plan policies.

The analysis of impacts to services assumes that impacts would be less than significant if the distance to the nearest service facility (i.e. fire station) would be less than or equal to the current distance. (EIR at 3.12-20-21.) However, service population should also be taken into account by projecting an approximate number of employees and/or residents that would be present in the SEQ Area as a result of the planned developments (4 project development



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applications *and* the high school) because, even if a facility is nearby, additional uses may place a strain on existing services by increasing demand. This could result in the need for new facilities and should be analyzed in the EIR.

As provided above as an example of improper segmentation of environmental analysis, in the analysis of police services (EIR at 3.12-22-23), the high school is stated as having a potentially significant impact, and yet the SEQ Area alone is stated as having a less than significant impact. This segmentation improperly minimizes impacts that could otherwise be considered potentially significant for the Project as a whole. This type of analysis violates CEQA. (State CEQA Guidelines, §§ 15378, 15003(h); *City of Santee v. County of San Diego*, *supra*, 214 Cal.App.3d at 1450.) Further, this analysis undermines the conclusion that cumulative impacts to public services would be less than significant. (See EIR at 4-12.)

Utility Systems

Mitigation Measure US-3a is a product of the Project's defects concerning the USA, and likewise conflicts with LAFCO policies, as described above, because the Project is proposing to develop urban land uses within its City limits to which it would not provide services. Further, the Measure provides no means of determining whether retention systems unconnected to the City's drainage system are feasible and, therefore, no means of determining whether connection to City systems is necessary. And even if the Measure did contain this information, the EIR is completely lacking in analysis of impacts resulting from the construction of the retention basins for the SEQ (air quality/greenhouse gases, impacts to City systems if site-specific retention systems are infeasible).

Growth-Inducing Impacts

As stated in the EIR, growth-inducing impacts may occur where a project would remove obstacles to population growth, or lead to the construction of additional development in the same area. (See EIR at 6-2-3.) Although the EIR concludes that the Project would not induce growth, as stated above concerning the "Conversion of Lands to Non-Agricultural Uses," the nature of the Project opens the land to non-agricultural uses despite the assertions in the EIR to the contrary. In doing so, even though the extension of services as a result of the USA expansion and the land annexation is currently planned only to connect to those uses specifically identified in the EIR, the very fact that the USA would be expanded and additional land annexed into the City opens these new areas to additional development. Therefore, the EIR's conclusions that the Project would not induce significant growth are unsupported. Where additional analysis on this issue discloses a new significant impact, the City would be required to recirculate the Draft EIR pursuant to State CEQA Guidelines section 15088.5.

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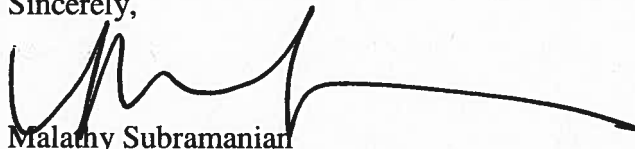
Alternatives

Project Objectives 4, 5, 6 and 10 actually describe components of the proposed Project. The specificity of these objectives, and their similarity to the Project as proposed, precludes effective consideration of Project alternatives. Any Project alternative that does not include all of these Project components by default fails to meet the Project's Objectives to the extent that the proposed Project would, thereby permitting the City to reject the alternative even if it would reduce the Project's significant and unavoidable impacts. As evidence of this, the only alternatives considered are the various components of the Project and the mandatory No Project alternative. In addition, the EIR discloses that the Project would result in a minimum of eight significant and unavoidable environmental impacts. Almost all of these impacts are directly related to the intensity of proposed land use and resulting noise, traffic and air quality impacts. Therefore, a "reduced scale" alternative should have been included for analysis. However, the ability to analyze alternatives which could reduce the Project's significant and unavoidable impacts is seriously constrained by the targeted Project objectives. Thus, the EIR's analysis of alternatives is deficient: it does not satisfy CEQA's information disclosure purposes, it fails to analyze a reasonable range of alternatives which could minimize Project impacts (State CEQA Guidelines, § 15126.6(a), (c)), and it ignores the California Supreme Court's directive that the alternatives and mitigation analysis be "the core of an EIR" (see *Citizens of Goleta Valley v. Bd. of Supervisors* (1990) 52 Cal.3d 553, 564).

Conclusion

For the foregoing reasons, we urge the City Council to not approve the Draft EIR at this time. As you know, LAFCO is a Responsible Agency for the Project and will require adequate CEQA documents to complete its review of the proposals. Therefore, on behalf of LAFCO, we respectfully request that the City prepare a revised Draft EIR that addresses the identified deficiencies and that the City then circulate the revised documents for review and comment, as required by CEQA.

Sincerely,



Malathy Subramanian
General Counsel for the Local Agency Formation
Commission of Santa Clara County



June 9, 2014

VIA E-MAIL [Andrew.Crabtree@morganhill.ca.gov]

Andrew Crabtree
Community Development Director
City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037

RE: Comments on Citywide Agriculture Preservation Program and Southeast Quadrant Land Use Plan Final Environmental Impact Report

Dear Mr. Crabtree:

Thank you for providing the Local Agency Formation Commission of Santa Clara County (LAFCO) with an opportunity to review and comment on the Final Environmental Impact Report (FEIR) for the City of Morgan Hill's Agriculture Preservation Program and Southeast Quadrant Land Use Plan ("Project"). As you know, LAFCO has provided numerous comment letters to the City outlining LAFCO's concerns regarding various aspects of the Project. Most recently on February 18, 2014, LAFCO and its legal counsel submitted extensive comments to the City regarding the Project. As stated therein, the Draft EIR for the Project fails to satisfy the requirements of the California Environmental Quality Act.

As limited examples, and as detailed in these previous comment letters, the Draft EIR segments the environmental analysis; improperly defers environmental analysis by conducting programmatic review of project-level proposals; fails to sufficiently mitigate significant impacts to agricultural resources; fails to adequately analyze impacts to agricultural resources, air quality, public services and utilities, and utility systems; and also fails to analyze a reasonable range of alternatives. Furthermore, the Project is inconsistent with several LAFCO policies against which the Project will later be evaluated by LAFCO for its approvals.

Although LAFCO appreciates the City's efforts to address the comments presented in its letters, the Final EIR fails to remedy the identified deficiencies, and the responses themselves do not comport with the requirements of CEQA. When significant environmental issues are raised in comments on a Draft EIR, like those raised by LAFCO, CEQA requires that the response must be detailed and must provide a reasoned, good faith analysis. (State CEQA Guidelines, § 15088(c); see *Flanders Found. v. City of Carmel-by-the-Sea* (2012) 202 Cal.App.4th 603, 615 [Failure of a

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COMMISSIONERS: Cindy Chavez, Sequoia Hall, Johnny Khamis, Margaret Abe-Koga, Linda J. LeZotte, Mike Wasserman, Susan Vicklund Wilson

ALTERNATE COMMISSIONERS: Pete Constant, Yoriko Kishimoto, Terry Trumbull, Cat Tucker, Ken Yeager

EXECUTIVE OFFICER: Neelima Palacherla

lead agency to respond to comments raising significant environmental issues frustrates CEQA's informational purpose and may render the EIR legally inadequate].)

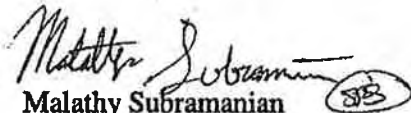
Rather than clarifying the issues raised by LAFCO, and others, including the County of Santa Clara, the Santa Clara County Open Space Authority and various environmental organizations, the Final EIR neglects to adequately respond to the comments, and in many cases adds to the confusion identified in the comments concerning the scope of the Project and the analysis of its environmental impacts.

For the foregoing reasons, we urge the City Council not to certify the EIR or approve the Project because to do so would violate the procedural and substantive mandates of CEQA. We once again thank the City for the opportunity to review the EIR, and LAFCO staff remains available should the City wish to discuss LAFCO's concerns.

Sincerely,



Neelima Palacherla
Executive Officer
LAFCO of Santa Clara County



Malathy Subramanian
General Counsel
LAFCO of Santa Clara County

Attachment A: LAFCO's February 18, 2014 Letter: Draft Environmental Impact Report for the Citywide Agriculture Preservation Program and Southeast Quadrant Land Use Plan

Attachment B: LAFCO Counsel's February 18, 2014 Letter: Comments on Citywide Agriculture Preservation Program and Southeast Quadrant Land Use Plan Draft Environmental Impact Report (SCH# 2010102010)



VIA E-MAIL

November 5, 2014

Honorable Mayor Tate and City Council Members
City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037

RE: SOUTHEAST QUADRANT (SEQ) LAND USE PLAN AND CITYWIDE AGRICULTURAL LANDS PRESERVATION PROGRAM

Honorable Mayor Tate and City Council Members,

The purpose of this joint letter is to express our concerns and to request that the City not approve the proposed SEQ Project and the Agricultural Lands Preservation Program and not approve the Final EIR. Attachment 1 summarizes our concerns. We encourage the City to step back from its current plan to develop agricultural lands, and in partnership with the County of Santa Clara (County), LAFCO of Santa Clara County (LAFCO), and the Santa Clara County Open Space Authority (OSA) develop a SEQ proposal that better aligns with local and regional policies/goals.

Collaboration Efforts To-Date

Since July of this year, staff from the County, the OSA, and LAFCO have been meeting with City staff to develop an alternative agricultural preservation program in the SEQ. Staff explored conservation and financing strategies for a viable agricultural lands preservation program while addressing the City's growth needs in a sustainable manner in conformance with longstanding urban development policies.

Staff from the four agencies met several times over the course of the three months to discuss a range of potential strategies. In a good faith effort, the OSA arranged for a consultant to help staff prepare a Scope of Work for developing and implementing a viable plan for financing agricultural land preservation in the area. Successful models that the staff were beginning to evaluate would link economic incentives and initiatives (such as TDRs, conservation easements) with complementary growth management strategies (i.e. well-defined growth boundaries). The benefits of such approaches are accommodating growth without significantly impacting agricultural land; limiting development pressure in areas identified as important for continued agricultural production and providing reasonable certainty to landowners and developers.

Unfortunately, the work was cut short as the City indicated its intent to complete City Council action on the project by December 2014.

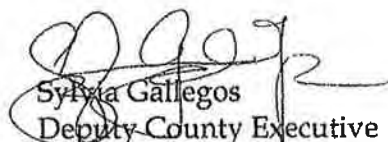
A More Balanced Approach to Preserving Agricultural Lands in SEQ


We urge the City Council to not approve the project as proposed, and to consider an alternate vision to achieve a successful outcome – significantly reducing the amount of agricultural land planned for conversion in the SEQ and delineating a meaningful and stable urban growth boundary. Such actions by the City Council would confirm the City's commitment to long-term agriculture in the SEQ and enable the Group to resume developing and implementing an effective, workable agricultural preservation program in the SEQ that includes specific programs, such as easement acquisitions and TDR programs.

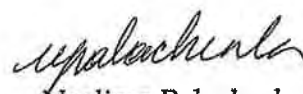
Importantly, this would be more in alignment with statewide and regional goals for building sustainable communities; specifically it would prevent urban sprawl, encourage more compact urban form, and enable the city to focus its budgetary resources on existing neighborhoods. It would allow the partner agencies to jointly support the City in applying for California Strategic Growth Council planning grants and for other potential future grants for developing conservation easement projects and for critical agricultural infrastructure needs planning.

Thank you for considering our request.

Sincerely,


Sylvia Gallegos
Deputy County Executive
County of Santa Clara


Andrea Mackenzie
General Manager
Open Space Authority


Neelima Palacherla
Executive Officer
Santa Clara LAFCO

c: OSA Board Members
LAFCO Members
Mike Wasserman, Supervisor District One

Attachment 1: Partner Agencies' Concerns with the Proposed SEQ Plan, Citywide Agricultural Lands Preservation Plan and Associated CEQA

Attachment 1:

PARTNER AGENCIES' CONCERNS WITH THE PROPOSED SOUTHEAST QUADRANT (SEQ) PLAN, CITYWIDE AGRICULTURAL LANDS PRESERVATION PLAN AND ASSOCIATED CEQA

The following summarizes some of the key concerns identified by the County of Santa Clara, LAFCO of Santa Clara County and the Santa Clara County Open Space Authority (OSA) with regard to the City of Morgan Hill's proposed plan for the SEQ and the associated CEQA review and process. Please note that the three agencies have previously raised these and other concerns in their various separate letters to the City and in their discussion with City staff.

A. INCONSISTENCIES BETWEEN STATED GOAL OF AGRICULTURAL PRESERVATION IN SEQ AND PROPOSED ACTIONS

1. Proposed Project Involves Premature and Unnecessary Conversion of Agricultural Lands in the SEQ

Even though the City has indicated that it is their goal to have permanent agricultural preservation in the SEQ and declared the SEQ as their Agricultural Priority area, the proposed plans depict that nearly half of the prime agricultural lands in the SEQ will be converted to urban uses. Out of a total of 597 acres of prime farmland, over 251 acres of prime farmland are slated for conversion to Sports Recreational and Leisure (SRL) and public facility uses. The purpose of the conversion is to allow four separate development proposals initiated by private property owners / developers on 106 acres of prime farmland. Since these four development proposals are not contiguous and are spread out in the SEQ, the City is proposing to re-designate the intervening 192 acres of prime farmland for urban use in order to simply establish contiguity. Thus the proposed urban growth (UGB) and urban limit line (ULL) boundaries, (which are proposed to include these lands) seem driven by the desire to facilitate private applicant initiated proposals rather than by the public benefit interest of farmland preservation.

2. Annexation Not Necessary for Preservation of Agricultural Lands in the SEQ

Another problematic aspect of the SEQ proposal is that it will require eventual city annexation of unincorporated lands located outside the City's urban service area (USA). First, such an annexation would directly conflict with the joint urban development policies, LAFCO policies and County General Plan which call for urban development and services within USAs; and resource conservation and rural uses outside the USA. Importantly, in keeping with the joint urban development policies, the County has established a long standing record for maintaining rural land uses and not providing public water and sewer services in the unincorporated county whereas the City has established no such record and has provided no assurances for conserving these lands. Further, it seems to be a misunderstanding amongst some people that the area would be better protected for agriculture under City jurisdiction and that annexation of the SEQ would prevent further rural residential development in the SEQ. Given that a single family home may be constructed by right on every legal lot whether it is in the County or City provided it meets the underlying building regulations, it is unclear

how the City would have the ability to somehow prohibit the construction of single family homes on recognized legal lots.

3. Designating Unincorporated Lands “Agriculture” in City General Plan Provides No Additional Protection for Unincorporated Agricultural Lands in the SEQ

Further, the City claims that by its proposal to designate unincorporated lands as Agriculture, the City would implement its General Plan policies related to agriculture and communicate its commitment for agricultural preservation within the SEQ. It is misleading and inaccurate to assume that the City’s designation offers any further protection from development for these lands, than their remaining in the County. These lands are currently designated Agriculture Medium Scale under the County General Plan. Since these lands are not proposed for annexation to the City at this time, they will continue to remain unincorporated and be subject to the County General Plan and its land use regulations. Therefore, the City’s General Plan designation would not apply to these lands and it would have no direct land use jurisdiction over these unincorporated lands.

4. Proposed Funding in the City’s Agricultural Lands Preservation Program Is Insufficient to Achieve 1:1 Mitigation

As a number of agencies have previously commented, the City’s proposed Agricultural Land Preservation Program designates the SEQ as the Agricultural Priority area within which mitigation should occur, however, it underestimates the land/easement costs and in-lieu fees necessary to preserve land in the SEQ by using lower land values more appropriate in other parts of the County. So therefore, even though the Program calls for a 1:1 mitigation, the funding generated by the proposed mitigation fees would not be sufficient to cover the 1:1 mitigation in the SEQ. It is very unlikely that the City’s program will result in any actual preservation of agriculture in the SEQ.

While the four agencies share a common goal of viable agriculture and agricultural preservation in the SEQ, the City’s project and process continue to directly conflict with these goals and with existing policies.

5. Proposed Clustering Program within Unincorporated Area is Infeasible

The City has indicated its interest in continuing to work with the three agencies to establish a Transfer of Development Rights (TDR) and clustering program *in the County only* for a specific landowner (Chialas) located within the SEQ.

With regard to establishing a clustering program within the unincorporated county for existing legal lots, the agencies have had extensive discussions and have identified significant concerns with such a program; these concerns range from inconsistencies of such development with the current County General Plan to potential lack of public benefit value of developing such a program in the County and include issues such as likely conflict between urban densities and rural character of unincorporated lands, environmental and service provision concerns, and the undesirable precedent setting nature of such a proposal on other parts of the unincorporated county. An effective TDR program in balance with other preservation strategies will need to address transferring development rights to receiving sites within the City.

**B. INADEQUATE ENVIRONMENTAL ANALYSIS AND SEGMENTED REVIEW /
APPROVAL PROCESS UNACCEPTABLE FOR SUCH A MAJOR LAND USE DECISION**

1. City's Environmental Analysis is Deficient and Does Not Meet the Intent or Requirements of CEQA

As you know, the CEQA process is designed to identify and disclose to decision makers and the public the significant impacts of a proposed project prior to its consideration and approval. LAFCO, the County of Santa Clara, and the Santa Clara County Open Space Authority have each provided previous comments to the City on the City's environmental review process and documentation. In February 2014, these agencies identified significant deficiencies in the Draft EIR, including that the project description is unclear; the Draft EIR segments the environmental analysis; improperly defers environmental analysis by conducting programmatic review of project-level proposals; fails to sufficiently mitigate significant impacts to agricultural resources, air quality, public services and utilities, and utility systems; and also fails to analyze a reasonable range of alternatives. Subsequently, the City prepared a Final EIR which attempted to address the abovementioned comments. Rather than clarifying the issues raised by LAFCO, the County of Santa Clara, the Santa Clara County Open Space Authority, and others, the City's Final EIR neglects to adequately respond to the comments, and in many cases adds to the confusion identified in the comments concerning the scope of the project and the analysis of its environmental impacts.

2. Separation of the SEQ Land Use Plan from the City's General Plan Update Process is a Violation of Rational Planning Practices and CEQA

The City is currently in the midst of conducting a comprehensive update of its General Plan, which among other things, is considering various land use alternatives, including further outward expansion of city boundaries to accommodate anticipated growth. However, the SEQ project which requires major amendment to the City's General Plan is not part of the Comprehensive General Plan update. This is contrary to City/ County General Plan policies which require that UGB be only amended in conjunction with a comprehensive General Plan review /update. It is our understanding that the City intends to complete decisions on the SEQ by December 2014 in order to establish the SEQ project as a pre-existing condition for the Comprehensive General Plan Update EIR analysis, in clear violation of sound planning principles and CEQA Guidelines.



VIA EMAIL

February 4, 2015

Honorable Mayor Tate and City Council Members
City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037

**RE: SOUTHEAST QUADRANT (SEQ) LAND USE PLAN AND CITYWIDE AGRICULTURAL
LANDS PRESERVATION PROGRAM**

Honorable Mayor Tate and City Council Members:

Thank you for your time and further consideration of LAFCO's concerns.

I am writing to respectfully request that the City Council delay consideration of the proposed General Plan Amendments. City staff has indicated that there is further opportunity to refine the Agricultural Lands Preservation Program and the General Plan, and proposes to continue to work with LAFCO, Santa Clara County Open Space Authority (OSA) and the County of Santa Clara (County) on potential refinements. However, the proposed General Plan amendments will prematurely establish the expectation for significant agricultural lands conversion in the SEQ thus making it more difficult for the City and the partner agencies to pursue their common goal and certain strategies for permanent agricultural land preservation in the SEQ.

On November 5, 2014, the County, OSA, and LAFCO sent a joint letter to the City in which we identified significant concerns with the City's Agricultural Lands Preservation Program and the SEQ project. These issues are yet to be resolved and continue to remain a concern. We urge the City to carefully consider and address these issues before moving forward.

One of the issues we identified in the letter is the lack of sufficient funding to implement an agricultural preservation plan in the SEQ. You may be aware of the new funding opportunities that have recently become available from the Strategic Growth Council for agricultural preservation planning and agricultural conservation easements. We urge the

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COMMISSIONERS: Cindy Chavez, Sequoia Hall, Johnny Khamis, Linda J. LeZotte, Cat Tucker, Mike Wasserman, Susan Vicklund Wilson

ALTERNATE COMMISSIONERS: Ash Kalra, Yoriko Kishimoto, Tara Martin-Milius, Terry Trumbull, Ken Yeager

EXECUTIVE OFFICER: Neelima Palacherla

City to pursue a SEQ plan that better aligns with local and regional policies/ goals – a plan that the partner agencies could support and that would qualify for the new funding opportunities.

It is LAFCO's mission and mandate to preserve agricultural land. The SEQ is an important agricultural resource in the County. We would like to reiterate our interest in working with the City and partner agencies and encourage the City to allow for a constructive, meaningful and collaborative resolution of the identified issues.

We look forward to a successful collaboration with the City and partner agencies.

Thank you.

Sincerely,



Neelima Palacherla
LAFCO Executive Officer

**Attachment: LAFCO Staff Report (February 4, 2015): Update on the Southeast
 Quadrant Project**

Cc: LAFCO Members
 Sylvia Gallegos, Deputy County Executive
 Andrea Mackenzie, OSA General Manager