

Ms. Rebecca Tolentino, Senior Planner
Development Services Center
17575 Peak Avenue

Re: Comments on the Draft EIR for the Citywide Agriculture Preservation Program and Southeast Quadrant Land Use Plan

Dear Ms. Tolentino,

Thrive! Morgan Hill appreciates the opportunity to comment on the Draft Environmental Impact Report (EIR) for the Citywide Agriculture Preservation Program and Southeast Quadrant Land Use Plan. Thrive! Morgan Hill (TMH) has been engaged in this issue for several years, providing written and public comments to the City on a number of occasions. As a grassroots group taking part in issues that affect the quality of life in our community, this project has been of particular concern to us due to its potential to negatively impact (1) the orderly growth of our city and (2) the preservation of farmland and open space on the immediate fringes of our city.

SPACE BETWEEN THESE TWO PARAGRAPHS IS MISSING

Altogether, 840 acres of the 1290 acre Southeast Quadrant are proposed to be within city boundaries that define future areas of urbanization. This includes 329 acres of the area the City is designating as the 'Agricultural Priority Area'. The Citywide Agriculture Preservation Program (CAPP) is intended to serve partly as an instrument to lessen the impact of the loss of farmland that will occur as a direct result of the implementation of this project (and others within the City's jurisdiction). Any purchase of agricultural lands to mitigate for the loss of farmland within Morgan Hill's jurisdiction can take place anywhere within Santa Clara County as long as it meets certain criteria of the CAPP.

The DEIR identifies significant unavoidable impacts to traffic and air quality as part of the implementation of the project. These impacts are cause enough for concern, yet after having reviewed the EIR to the best of our ability, we feel that the DEIR fails to sufficiently identify and analyze many other impacts of the project. In fact, TMH is deeply disappointed with the **EIR's** lack of **reasonable and adequate** analysis ~~contained in this EIR~~.

Due to our organization's resource constraints, TMH could not address all the concerns it had with this document's questionable content, but respectfully submits the following comments on the California Environmental Quality Act (CEQA) analysis contained in this EIR.

Adequacy of Project Description

The purpose of CEQA is not to generate paper, but to compel government at all levels to make decisions with decisions with environmental consequences in mind (CEQA Guidelines §15003 (g)). Thus, it is imperative that sufficient information is provided to adequately analyze the project.

As per the DEIR, the project encompasses a number of substantial parts: the Citywide Agriculture Preservation Program, annexation of County lands into City limits, expansion of three **of city** boundary lines – the Urban Service Area (USA), the Urban Growth Boundary (UGB), the Urban Limit Line (ULL) -, the creation of the Sports-Recreation-Leisure (SRL) land use designation

and zoning district (with two sub-districts), amendments to the text of the General Plan and the Zoning Ordinance to establish rules and regulations for the new land use designation and zoning district, four projects (Craiker Sports Retail/Restaurant project, Puliafico SRL project, Jacoby SRL project, Chiala Planned Development) to be analyzed at a Program level, and the private high school which will be analyzed at the Project level.

CEQA doesn't require sweeping details of a project, but necessitates that an EIR define a proposed project with enough detail and accuracy to allow for informed decision making (CEQA Guidelines § 15124). To meet this basic standard, the EIR should:

1. Define the location of the CAPP, the physical conditions of the location, and a map identifying the boundaries and land uses of the location. These were not included in the project description. In actuality, the location of the CAPP was erroneously given as the SEQ Area Project (ES-3 of the Executive Summary).
2. The description of the Chiala Planned Development includes the use of a private water system and septic systems. However, no information is provided as to who would build, maintain, and operate this private water system. Would it be under the jurisdiction of the California Public Utilities Commission? Would it be available for other property owners in the immediate area? Why amend the RDCS to allow for the extension of all urban services into city limits (versus only USA), if the Chiala Planned Development has no intention of **'burdening' the City with water and sewer services? Is the City concerned these systems will fail or is it the intent of the City to provide these services once the Residential Development Control System is modified (and approved by the voters) or sunsets?**

BE CAREFUL IN THIS AREA: THE SENTENCE ABOVE WAS TRUNCATED AND THE SENTENCE BELOW WAS SPLICED INTO THE SENTENCE ABOVE. THE TWO SENTENCES SHOULD BE SEPARATED BY A SPACE.

To understand the potentially significant physical impacts of this portion of the project, more information is required.

SPACE MISSING BETWEEN SENTENCE ABOVE AND TITLE BELOW

Adequacy of Project Analysis

SPACE MISSING BETWEEN TITLE ABOVE AND SENTENCE BELOW

CEQA requires discussion of inconsistencies between the proposed project and applicable local and regional plans, the consideration of all phases of a project when evaluating its impact on the environment (CEQA Guidelines § 15125, § 15126), To meet these requirements, the EIR should:

SPACE MISSING BETWEEN THIS PARAGRAPH AND THE ENUMERATED POINTS BELOW. ALSO, THE NUMBERING FOR 1 AND 2 BELOW ARE NOT THE RIGHT COLOR AND ARE INDENTED VERSUS THE POINTS NUMBERED 3 AND ONWARD

1. Evaluate the proposed SRL uses for their compatibility the City's current General Plan Open Space and Conservation Element Policy *3i., 3m., 3n., 3o.*
2. Analyze how having a private water system and septic systems for 38 new homes as part of the Chiala Planned Development would cause less of a physical impact on the environment than the extension of urban services (water, sewer)? Would water for fire suppression/protection be more reliable via this system?
3. Analyze the CAPP to evaluate its effectiveness in meeting its stated purposes and goals to preserve agricultural lands, especially in the Morgan Hill Sphere of Influence. The CAPP appears to have a number of conflicting policies and disparities such as the mitigation fee being based on cost of acquisition of an agricultural easement in the Gilroy area which is much cheaper than that of acquiring one in Morgan Hill.
4. Re-evaluate its conclusion that the private high school site is 'not inherently incompatible with agricultural land use activities' and so will not have a significant impact on the existing environment including the conversion of farmland non-agricultural uses. Thus, the DEIR concludes that no mitigation is necessary. It bases its conclusion on 'the long-standing coexistence of these land use activities around Live Oak High School, or around Sobrato High School.' (3.2-24 of the Agricultural Resources) First, the construction of a high school is inherently incompatible with agricultural land use activities. Agriculture may remain outside of the high school parcel, but agriculture activity will cease on the property at hand. The development of a high school itself will result in the loss of more than 38 acres of viable agricultural land. Second, Andy Mariani of Andy's Orchard and Gene Guglielmo of Guglielmo Winery, whose agricultural operations are located north and south of Live Oak respectively, have requested - within the Morgan Hill 2035 General Plan update process - to be considered for inclusion in the city's UGB. They cite the surrounding urban uses as a reason for this request.
5. Re-evaluate claim that no growth inducing impacts may occur due to project. The EIR claims that because the private high school and SRL uses, which is defined as 'private commercial, retail, and/or public/quasi-public uses', are non-residential in nature, they will not facilitate population growth. Simply because the proposed high school and SRL uses are non-residential in nature does not automatically preclude the reasonable possibility that the project will either directly or indirectly encourage residential development. In fact, in October 2011, a request came before City Council for a change in zoning from Commercial to Residential for the property immediately north of the City's existing Sports Complex. One of the reasons the property owner cited (during public comment) to City Council for the request was that the private high school desired 'rooftops', i.e. residential units, in close proximity. Indeed, in the Appendix for the 2005 ULL/Greenbelt Study, the SEQ Property Owners' recommendation for the SEQ Plan included 2,000 new homes. Given that 329 acres of the SEQ Area is within the ULL and

therefore assumed to eventually become urbanized, it is reasonably foreseeable that growth inducing impacts on these adjacent lands may occur and the DEIR should analyze this. (CEQA Guidelines § 15126.2 (d)).

6. Re-evaluate application of 'self-mitigation' concept that leads to the conclusion of less than significant impacts. CEQA requires that existing baseline condition be used in evaluating whether a project might cause a change in physical conditions and have a significant impact. It also requires an evaluation of whether a project would conflict with local land use plans and policies such as general plans and zoning ordinances that were approved to avoid or mitigate an environmental effect. So, the EIR cannot say that because it will amend certain (in many cases fundamental) policies or actions in the City's General Plan and Municipal Code that this will erase the conflict. This rather perplexing application of a 'self-mitigating' concept which is applied to a variety of significant impacts throughout the DEIR (i.e. beyond policy and code amendment) is contrary to CEQA. The DEIR must re-evaluate all instances of this use and use conditions as they exist at the EIR analysis was done.

Thank you this opportunity to comment. Per CEQA Guidelines § 21061 an EIR should provide decision-makers and the public with the environmental consequences of the proposed actions in order to satisfy the basic goals of CEQA. We look forward to the DEIR being addressing our comments (and others) so that this may be so.

Sincerely,