

**Via Email**

Ms. Lily Cha  
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Dear Ms. Cha:

On behalf of our client Desiree Martinez, Central California Legal Services, Public Interest Law Project, and Patience Milrod, submit these comments on the City's March Draft Housing Element (Draft or Draft Element). We appreciate the opportunity to review the draft and provide comments to ensure the Draft complies with state law. Below are our comments that address where the Draft must be revised to comply with state law. In general, our comments address:

- The need for additional programs to address the contributing factors identified in the AFFH analysis
- Factual and analytic gaps in the required Needs Analysis
- Deficient Constraints analysis
- The lack of specificity in Programs
- The lack of an adequate inventory of sites for all income groups
- Immediate actions required to preserve at-risk units as required by the City's current Housing Element Program 9. (See page 2)

**AFFH**

Since Clovis' last submittal, Housing Element Law has been amended to include new obligations to implement the City's duty to affirmatively further fair housing. As you are aware the City was found to have acted inconsistently with that duty pursuant to Government Code section 8899.50. in the recent *Martinez v. Clovis* opinion, based on its failure to zone for high density housing in the manner required by law. Notwithstanding the Draft Housing Element's suggestion otherwise, it is the City's long history of failing to zone for units to accommodate affordable housing (which resulted in a carryover in the first place) that contributes to the housing patterns and lack of economic and racial integration in Clovis, which in turn trigger the City's duty to affirmatively further fair housing. The City's AFFH obligation requires that its 6<sup>th</sup> Cycle Housing Element examine its decades-long failure to zone for multi-family housing as a contributing factor to the patterns in Clovis, and further requires programs not to just adequately zone for the current need but to address these past failures to follow the Housing Element Law. See the attached Fresno Bee article, Thousands of homes, and not a single one affordable: Clovis moves forward on expansion, January 2, 2023.

Overall, the data included to satisfy the new Housing Element requirements looks complete, but questions remain. The Draft indicates that the Housing Needs for people experiencing homelessness were assessed prior to the opening of Butterfly Gardens, a permanent supportive housing development (p. 4-58, pdf p. 123). Is there information about whether residents at Butterfly Gardens are from Clovis, or from surrounding areas? It would be useful information to know whether that development has helped to reduce the number of people in need of emergency shelter in Clovis. Also, needed is information about whether families or single adults are residents there, to know if the needs of families experiencing homelessness are being met within the City.

Also, the difficulties the Draft identifies in accessing the rent hearings for mobile home park owners should be addressed in the program section of the Draft. (p. 4-63, pdf p. 127). In addition, a program to help preserve these parks, such as zoning them exclusively for mobile home use or adopting a mobile home preservation ordinance, should be part of the Draft. The City has had record growth since 1990 (p 4-4-, pdf. p. 73) and since at least 2008 has not zoned adequately for lower income households.<sup>1</sup> In addition, the maps in the Draft, such as Figure 4-37, clearly indicate where new affordable housing should be located to prevent concentrating all affordable housing in close proximity. Statements by City Councilmembers promising that new planning areas will not have affordable housing run counter to the City's duty to further fair housing, and the requirements of Housing Element Law. Every effort should be made to identify parcels for high density residential development in older neighborhoods that will ensure that multi-family sites are distributed throughout the city as much as possible. Figure 4-43 indicates that there are sites for above-moderate income housing in those older neighborhoods; to meet the City's AFFH obligations, those sites should instead be identified and zoned for potential multi-family housing, as there are already an oversupply of housing for above-moderate income households in that area.

#### **Section 4.9 Summary, Factors and Actions**

Table 4-15 (p. 4-94, pdf p. 159) must acknowledge the City's own failure to zone for high density housing—resulting in an excess supply of single-family development—as a contributing factor to the segregated housing patterns in Clovis. The Housing Element's description of this growth as occurring without city action undermines the requirements of AFFH, and makes it impossible to address the factor in a meaningful way. This means that to undo the absence of any subsidized housing in many areas of the city, the city cannot be a passive observer of development that undermines fair housing goals, but must prioritize those neighborhoods for multi-family housing now, before the very last sites are developed for more single-family homes. The efforts to preserve at-risk housing should be started immediately, as the Draft indicates that 37 units have recently-expired subsidies, although it is unclear whether the owner provided state-

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<sup>1</sup> Before the requirement to address a carryover was enacted it is not clear that the City identified adequate sites within the individual 5-year planning periods; therefore the history of not identifying adequate sites may extend well before 2008.

required notices to qualified entities or to tenants. The City should launch efforts immediately to preserve these units. Other than a proposed fee deferral program (program H4 which does not include the amount of any fee reduction), all of the incentives identified in Program H5 already exist in state law. The City must do more than just follow existing law to facilitate affordable housing production in high opportunity areas: the City should develop and implement a method to help fund affordable housing, such as a linkage fee, an inclusionary ordinance, or a housing bond.

### **Needs Analysis**

**Jobs/Housing Fit** – The Draft indicates that 75% of the people working in Clovis are commuting from another city, most from Fresno (pdf p. 38). But the Draft does not indicate what types of jobs people are commuting to, which would tend to indicate what types of housing those commuters would need to live in closer proximity to their work. And if projections for future job growth are correct (pdf p. 40), there is not currently not enough housing for workers in Clovis. Producing housing to meet the needs of workers thus becomes even more important with anticipated job growth

**SROs** - The Draft indicates that Single Room Occupancy developments are necessary to meet the needs of people with extremely-low income, and yet the City only allows SROs in one zone, and a conditional use permit is required in that zone. This would very likely be a constraint on the development of SROs—a needed use—and should be analyzed in the constraints section.

**People with Disabilities** – the City’s reasonable accommodation ordinance must be amended to ensure the confidentiality of any information related to a person’s disability. The City’s ordinance as it currently stands requires an accommodation request with respect to a project that also needs a discretionary approval; as a result, the accommodation request and the discretionary approval request go together to the planning commission, a public hearing where confidential information should not be disclosed. Municipal Code section 9.94.030 (D).

**Seniors and Large Households.** There is a need for accessible housing due to number of senior residents, 17.3% of households (pdf p. 47). There should be a program in the Draft that increases the number of accessible units in the City.

Also, 38% of large families rent and multi-bedroom rentals (5,442 units) are scarcer than the for-sale units with 3 bedrooms or more. The Draft should include a program that prioritizes affordable units with multiple bedrooms.

**Mobile homes** – As addressed above in the AFFH section, and in Figure 3-16 (pdf p. 55) the increase in multi-family units since 1990 was *de minimis* as compared to single family development. Over the same period, there was almost no increase in the number of mobile homes, which are often an important resource for lower income households. The City should include a preservation ordinance for mobile homes, urgently needed to preserve this scare resource for lower income households.

**At-Risk Units** –State law provides robust protections for units at risk of converting to market rate, and yet the Draft states that 37 units of affordable housing have likely been lost due to the owner’s potential failure to follow state noticing requirements and the City’s failure to act consistently with its current housing element program to preserve at -risk units. Possible statutory violations include the owner’s failure to notify the City and qualified entities, and the owner’s apparent failure to provide legally required notice to tenants of its intention to allow a valuable subsidy to expire.

In addition to a program in this Draft to preserve as affordable units at risk of conversion to market rate rents, the City should take immediate action to preserve the 37 units described in the Draft. The cost of developing 37 new affordable units is so much higher than the possible costs to preserve these units, it is shocking that the City casually mentions that these units are not counted as at-risk because they may have already converted to market rate without following the law (which includes notifying the City *in advance* of the conversion). See Government Code section 65853.10.

### **Constraints**

**Parking** - The Draft Element indicates that there are significant citywide parking requirements varying by housing type, as well as requirements specific to Central Clovis and Loma Vista. However, the Housing Element draft proposes no substantive measures to address this issue. Whilst the 2018 amendment to the Development Code that removed guest parking requirements for multi-family residential units was a positive step, other significant issues in the parking requirements remain unaddressed in this plan, a fact which the Element itself notes. The only proposed actions are “reviewing” and “modifying” the parking requirements, without details as to specific standards or timelines.

**Site improvements** - A number of site improvements are required by the Clovis Development Code for all residential developments as noted by the Draft Element, of which the street width requirements have posed an additional issue. The Element states that developers have faced increased project costs by developing private streets in an effort to work around the street-width requirements. However, the only proposal to address this constraint is to “review” the minimum street requirements, despite already including clear details of these in the Element, and to *possibly* make modifications. To meet the standards of the Housing Element Law, Clovis’ draft must identify not only the constraint, but the corrective action. This draft has not met that requirement.

**Fees** - The Draft Element states that the City of Clovis collects various fees from developments to cover the processing permits, which vary from a flat rate of \$19 for plumbing to \$17,900 + \$55/unit for a Master Plan Community Overlay District. The Element also details the City’s development impact fees, acknowledging that these fees can have a substantial financial impact on the development of affordable housing. Finally, the Element includes details of example fees

for two typical residential developments, totaling \$901,237 for an 18-lot single family project and \$4,290,318 for a 216-unit multi-family project.

The Draft concludes that development fees in Clovis are high in comparison to other jurisdictions, and that feedback from local developers indicates these fees likely serve as a constraint to the development of affordable housing. Despite this evidence, there is no program in the Element to address the constraint of fees beyond “reviewing” their impact and “considering” a fee deferral program for affordable housing projects. Having identified the constraint, the Draft must propose specific, concrete, enforceable correctives to ensure that it does not interfere with the City’s efforts to facilitate construction of lower-income housing units commensurate with the City’s RHNA obligations. (See Programs, H4, *infra*.)

### **Programs**

As the plan itself indicates, all Housing Elements must quantify their objectives for meeting their housing needs in the programs they propose. This should include clear and specific details of each program, including metrics and milestones that will allow for accountability and an assessment of results.

The Draft largely fails to provide details of programs that meaningfully address Clovis’ housing needs with accountability, specificity, and a clear explanation of how the proposed programs will solve existing problems. Multiple programs contain vague language with no metrics or specific goals, are based around ‘informing’ or ‘outreach’ as the solution to critical issues with no justification as to why this is sufficient, and continue previous programs from the last Element without clearly indicating they have succeeded in the past.

The Draft Element notes that some of its programs are difficult to quantify as they have general objectives of reducing barriers and creating opportunities for affordable housing. However, the difficulty in quantifying these proposals comes from their lack of specificity, and not the topic they address in itself.

**H4 Affordable housing fee reduction program** - This program should address the impact housing fees have on developers’ ability or willingness to construct affordable housing, provide clear information about what funding, waivers, or deferrals will be provided, and indicate the likely outcome of such a program.

**H5 Affordable housing incentives and support** - This program needs to specifically address how incentives will ensure housing developers provide more affordable housing. It needs to be clear on which incentives have been proven to be useful in the past and how they created desired outcomes, why incentives will address the issues Clovis faces, and a quantified account of the expected impacts. This program must also provide some means of accountability.

**H9 Preserve at-risk affordable housing** - This program needs to provide more meaningful information about exactly how at-risk affordable housing will be preserved, through clear and specific proactive measures, and accountability for landlords and developers. Preservation of existing affordable housing and production of new affordable housing is necessary to meet the City's housing needs. However, the only measure proposed in the Draft is "communicate with property owners." Even if the who/when/where/how were defined—which the Draft does not—such an effort would be utterly insufficient to forestall the consequences of losing valuable existing affordable housing units.

**H10 Mobile home rent review and stabilization** - If the City intends to continue its existing program, the Draft must explain how the Program has or will specifically address the systemic reasons mobile home residents continue to be displaced. The Draft must either explain why the Mobile Home Rent Review and Stabilization Ordinance has been successful in the past, or why expanding outreach to residents will measurably help more successfully enforce it in the future.

**H11 Code Enforcement** - This program needs to address how Code Enforcement has been successful at addressing systemic issues of substandard housing conditions in the past, and what existing issues remain. It needs to explain how expanding the use of Code Enforcement will tackle these issues, preserve affordable housing units, and describe specific accountability measures.

**H12 Housing rehabilitation** - This program needs to provide the data supporting a claim that it was successful in the last Housing Element, and explain how and why continuing the program will also be successful—including funding needed and funding sources for rehabilitation and administration, and numbers and types of units to be rehabilitated.

**H15 Resources for special needs households** - This program needs to provide specific information as to how it will provide housing resources for extremely low-income residents, and the quantified impact this will have on addressing Clovis' housing needs. It needs to provide specifics of the financial support that will be provided, and an enforceable commitment to protecting this program amongst other competing needs of the City.

**H16 Housing choice vouchers** - This program needs to provide evidence that its use in the previous Housing Element cycle was successful, as it is a repeat of that initiative. It needs to address why Housing Choice Voucher participation is not currently maximized, how the City intends to correct that problem, and a quantified goal of the program's positive impact. Additionally, it needs to provide accountability measures beyond "disseminating information."

**H18 Distribute fair housing information** - This program needs to provide quantified specifics on whom it will reach, and how it will meaningfully impact fair housing in Clovis, together with accountability measures.

**H19 Fair-housing tests** - This program needs to be significantly more specific about how it will operate—with what staff, what funding, under the aegis of which City department, etc—to ensure compliance with fair housing laws.

**H20 Homebuyer assistance program** - This program needs to provide evidence that its use in the previous Housing Element cycle was successful, as it is a repeat of that initiative. It needs to address why Homebuyer Assistance program participation is not currently maximized, and explain how the program will operate differently in order to achieve a quantified positive impact during this planning period. Additionally, it needs to provide accountability measures beyond disseminating information.

**H21 Multilingual outreach on affordable housing opportunities** - This program needs to provide quantifiable goals, and an explanation of how the City will conduct such outreach in order to meaningfully address Clovis’ housing needs.

**H22 Actions to address homelessness** - This program needs to provide specifics of where the funding will be directed and how the City will ensure accountability for this funding amongst other financial needs.

**Failure to plan and zone to create housing capacity to accommodate the RHNA**

Clovis’ current, 6th Cycle, RHNA requires zoning and planning for the following units:

Very low income	Low income	Moderate Income	Above-Moderate Income
2926	1549	1448	3054

As noted below, carryover from its 4<sup>th</sup> Cycle RHNA requires zoning for several thousand<sup>2</sup> additional units of lower-income housing.

**General Concerns**

**R-3 zones** At numerous points (e.g., p. 5-3), the Draft commits the City to increasing maximum density in R-3 zones to 30 units/acre. However, there is no firm commitment to make this change by December 31, 2023, and it should therefore not be the basis for calculating density in R-3 zones for purposes of this Housing Element.

**RHN Overlay site capacity** In light of the Fifth District Court of Appeal’s ruling in *Martinez v. Clovis*, the City’s general reliance on an RHN Overlay zoning mechanism to increase per/acre development capacity is problematic. The Draft offers no objective basis for its assumption that RHN Overlay sites will develop at 75% of a “minimum density” of 35 units/acre—especially given that a far lower density is also permitted on each of these sites. The Draft does not

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<sup>2</sup> The unaccommodated carryover from the 4th Cycle RHNA was 4,425. Due to actions since the carryover calculation and the inclusion of several P-F sites in the amended inventory, the remaining carryover is over 3,500 units.

disclose the basis for this calculation; revisions should provide information on how many RHN sites have developed for lower density housing in order to provide a realistic assessment of the density at which such sites are likely to develop<sup>3</sup>.

**4<sup>th</sup> Cycle RHNA Carryover** In addition, in its *Martinez v. Clovis* ruling on April 7, the Fifth District Court of Appeal re-imposed the obligation to zone—immediately—for an additional three to four thousand units carried over from the 4<sup>th</sup> Cycle RHNA, which must be accommodated using the criteria set forth in Government Code § 65583.2, subd. (h). As the court points out, in rezoning for those units, the City may not rely on its RHN Overlay zoning scheme to calculate per-acre capacity.

### **Very Low Income (VLI) Housing**

Clovis' VLI RHNA for its 6th Cycle planning period is 2,926. Table 5-1, p. 5-1. The Housing Element as drafted incorporates no plan or program to accommodate 2,886 of those units. Table 5-14, (Forty ADUs are the only anticipated very low-income housing planned for in the Housing Element.). The Draft must reflect which of the parcels in its inventory will accommodate VLI, and what programs will do the same.

Moreover, Clovis' most recent APR acknowledges that a total of 7 VLI units obtained building permits over the entire duration of its 5th cycle planning period. The very small number of very low-income units achieved over the entire 5th cycle establishes failure to implement the 5th Cycle Program 7, which called for adding a total of 400 very low and extremely low income units to Clovis' housing inventory. (p. 8-5)

VLI units are likewise missing from the Housing Element's plan and programs. The City must program to create new extremely low income units in a targeted way. Table 5-14 does not even gesture toward this obligation. The Housing Element's Policies H-1.3 and H-1.10 lump in "extremely low" with other needed housing types scarce in Clovis, but offer no specifics whatsoever about how such units would be created. Program H5 proposes housing incentives and support, but aspires only to assist 100 "extremely low- or special needs" units, a number not even 1% of the total needed.

Other programs offer other kinds of assistance to VLI residents, without adding new units. For example, Program H15 offers some housing counseling, and Program H12 proposes rehabilitation loans and grants for a total of 100 ELI and VLI units—again, not new inventory.

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<sup>3</sup> The Draft effectively concedes the limitations of the RHN Overlay to create high density development at p. 5-11: "[T]he City has chosen to take a selective approach to limit the reliance on RHN Overlay sites to meet the sixth cycle RHNA. As described under 'Methodology' above, the inventory only identifies RHN Overlay sites most likely for high density residential development during the planning period and assumes only 75 percent of the realistic high density residential development potential to reflect the potential for non-residential or low density residential redevelopment."



### **Low Income (LI) Housing**

Clovis' LI RHNA for its 6th Cycle planning period is 1,549. Table 5-1, p. 5-1. However, Clovis failed to meet its 5th cycle RHNA, with only 167 units permitted out of 1,145 for that planning period. At a minimum, this current Draft must identify the errors in its prior assumptions about what conditions will best promote robust lower income housing production in the City, and its site inventory must correct for those.

### **Site Inventory Deficits**

#### **Sites labeled with APN 999-999-99XX**

We appreciate City staff's work to respond to our requests for accurate APN numbers for these sites. However, since it was apparently not possible to provide them until yesterday at close of business, we will review them and submit public comment in a supplemental letter.

#### **City-owned sites**

The inventory description of the two city-owned sites does not comply with Government Code 65583.2(b)(3), in that it fails to inform the reader whether there are any plans to sell the property during the planning period, and how the city will comply with the Surplus Land Act.

Moreover, one of the sites is in use as an animal shelter. It is therefore non-vacant, so disclosure of the city's plans to subdivide the lot and divest 6.8 acres of it for residential development would be particularly important. Otherwise, residential development on the site would create a mixed use, with environmental constraints that make lower-income residential development on the site unlikely or inappropriate. The draft neither acknowledges those constraints nor discusses how they might be removed.<sup>4</sup>

#### **Sites larger than 10 acres**

Generally, the draft has explained away the site-size problem *prospectively*, along the lines of (paraphrasing) "we have plans to subdivide," and "individual development applications will be for smaller pieces of the larger site." Pp. 5-4 – 5-6. However, the city would need to objectively justify reliance on statutorily unqualified sites. Specifically, HCD<sup>5</sup> requires evidence that the site is adequate to accommodate lower income housing, which "may include developer interest, proposed specific-plan development, potential for subdivision, the jurisdiction's role or track record in facilitating lot splits, or other information that can demonstrate to HCD the feasibility of the site for development," such as previous successes in developing *lower-income housing* on similar sites. HCD also expects that "[t]he housing element should include programs promoting,

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<sup>4</sup> The only discussion of constraints with respect to this parcel is at p.5-5, and addresses only the site's size (greater than 10 acres). If the City has in fact done the analysis required to "specify the additional development potential for each [nonvacant] site within the planning period and ... provide an explanation of the methodology used to determine the development potential" (§ 65583.2, subd. (g)(1)), the Draft must direct the reader to that analysis.

<sup>5</sup> See, *HCD Housing Element Site Inventory Guidebook*, Government Code Section 65583.2, June 10, 2020, at [https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sites\\_inventory\\_memo\\_final06102020.pdf](https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sites_inventory_memo_final06102020.pdf), p. 17.

incentivizing, and supporting lot splits and/or large lot development.” This Draft includes neither the required evidence, nor the programs, that would suggest large sites will be successfully developed as lower-income housing.

Moreover, the draft essentially concedes that dense development on such large sites is not in fact feasible: the “realistic” development potential ranges from something less than 12u/a to about 16u/a. Again, the city would need to show successful lower-income development at such reduced densities before relying on larger-size sites as part of its Housing Element site inventory.

### **Non-vacant sites**

All of the non-vacant sites but one are currently dedicated to agriculture. To support these sites’ developability, the draft relies on the farmland-to-subdivisions dynamic that has characterized Central Valley residential development over the past half century. P. 5-6. As a result, no such sites are analyzed with respect to any environmental constraints that might affect their availability or utility for lower-income housing (including distance from public transit; access to parks, services, health care facilities, or grocery stores; or locational scoring criteria for Low-Income Housing Tax Credit funding). See also, *HCD Housing Element Site Inventory Guidebook*, which calls out additional criteria that must be analyzed pursuant to Government Code § 65583.2(g)(1)<sup>6</sup>. Given these sites’ current agricultural use and rural locations—by definition removed from services and amenities—their appropriateness for lower-income housing is questionable, and their inclusion undermines claims that the new Housing Element affirmatively furthers fair housing.

In addition, with respect to multiple sites used in a prior housing element, there is no explanation why at they were once classified as “Non-Vacant,” but are now being identified as “Vacant” for purposes of the current Housing Element. To the extent a Google Earth view gives an idea of their current use, they look essentially identical to the Non-Vacant/Agriculture sites also in the inventory.

### **The sites right next to the helicopter charter business (550-260-18XX and 550-260-19SX)**

The environmental constraints on these sites include noise and dust. We must assume this information was not apparent to whomever recommended them for inclusion as potential sites for lower-income housing. These sites must be analyzed for such constraints in order to qualify for inclusion.

### **Conclusion**

Please feel free to contact us with any questions regarding these comments. We look forward to working with the City to develop a Housing Element that complies with the requirements of state law and that will facilitate much needed affordable housing.

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<sup>6</sup> *Id.*, at pp. 25-26.

Sincerely,

/s/

Natasha Spreadborough  
Central California Legal Services

/s/

Patience Milrod  
Attorney at law

/s/

Valerie Feldman  
Public Interest Law Project

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FRESNOLAND

## Thousands of homes, and not a single one affordable: Clovis moves forward on expansion

**BY GREGORY WEAVER, FRESNOLAND**

JANUARY 02, 2023 5:30 AM



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A portion of the 1,000-acre plot of land that is under consideration for homebuilding north east of Clovis.  
*Fresnoland*



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*This story was originally published by [Fresnoland](#), a nonprofit news organization dedicated to making policy public.*

Last year, the threat of an endangered salamander just beyond Clovis city limits [temporarily stopped](#) one of the region's largest developers from building a new 1,000-acre tract of suburbia.

Now, even with confirmation of the presence of the endangered animal, the city is moving forward with the developer's full plan to potentially build thousands of single-family homes on that 1,000-acre tract, salamander or no salamander.

#### TOP VIDEOS

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“We are confident we will be able to move forward as the [environmental report] identifies the scope of the [salamander] problem,” Jeffrey Harris, a top official of Wilson Homes, the real estate developer for the tract, told the Clovis City Council at its Nov. 14 meeting.

“We are assuming the presence of tiger salamanders; it seems a waste of time to fight with federal and state agencies,” he added.

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The 1,000-acre tract, which could accommodate more than 10,000 new people, is near Shepherd Avenue and the [Dry Creek dam](#) north of city limits. X

At its meeting, the Clovis City Council unanimously approved taking the first steps to accommodate this new development. With a \$600,000 [contract](#), the city commissioned the De Novo Planning Group to prepare an environmental impact report, which is required for the city's proposed northward expansion of its sphere of influence that includes the 1,000 acres.

The proposed 1,000-acre development was [cut last year](#) after an environmental report from Kathy Kinsland, a senior biologist at Argonaut Ecological Consulting, noted that a part of the tract within the proposed development area contained a potential California tiger salamander breeding habitat. The area has a combination of vernal pools and grasslands, where the salamanders can thrive.

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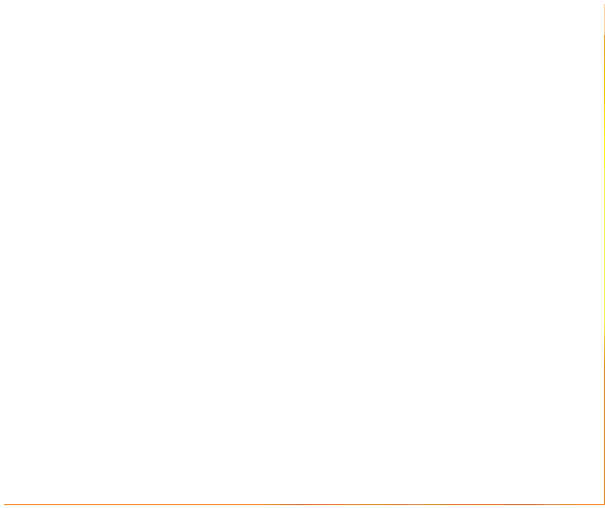
Harris confirmed the presence of the endangered salamanders in the area, near the Dry Creek dam spillway, but still encouraged council members to not pull back the growth plans like they did last year.

"We will be working with the environmental authorities on how to mitigate [the salamander problem]," said Harris about the full project; he added that he didn't know "what the mitigation will be."

### AFTER A YEAR, CLOVIS RETURNS TO ITS PATH TO GROWTH

X

In addition to the tiger salamander, the council members soothed their concerns about another type of local pest: affordable housing.



Despite the thousands of new homes that could be built in the area, Councilmember Drew Bessinger assured the council about the possibility of affordable housing being built there. He said that neighbors won't have to "worry about high-density housing being placed in any of this area."

"This is the correct way to go," Councilmember Vong Mouanoutoua said about the single-family developments. "It is smart planning."

The council's proposed 1,000-acre development has been in the works since 2016, according to [city documents](#).



The Clovis council members' comments come as the city is involved [in a lawsuit](#) with Central California Legal Services over alleged discrimination against low-income people and people of color. The lawsuit alleges Clovis has not complied with [state housing law](#) requiring proper zoning for affordable housing in the city. X



According to the lawsuit, then-Clovis Mayor Jose Flores allegedly said at a city council meeting in October 2018 that complying with state housing law would be a “burden” which would “[lower the Clovis standard](#).” At the same meeting, Mouanoutoua had asked city staff if they could look into the strategies of “cities who do not comply (with Housing Element Law).”

At the Nov. 14, 2022 meeting, even as the council members showed their support for the new market-rate developments, Councilmember Lynne Ashbeck said she was not so sure that they made economic sense, because the public will have to subsidize the proposed high-end homes.

“The property tax doesn’t cover the cost of more houses,” she added. “[The city] doesn’t make money on this at all.” [Per city documents](#), the city will have to study the fiscal impact of the developments, if they are annexed into Clovis later on. The property-tax sharing agreement between Clovis and Fresno County will also need to be renegotiated.

Still, Ashbeck’s belief that the developments were a net drain on the city did not dissuade her from supporting the project. Bessinger, who also voted for the Wilson development to go forward, [was primarily funded](#) this campaign season by the region’s top real estate developers, including Wilson Homes.

With the De Novo contract, the council gave its approval to start a 12- to 16-month environmental review process, which is needed to get permission from a [local oversight agency](#) to incorporate the plot of land into Clovis’ designated planning zone. X

Such a study would allow the city to devote planning resources to the area in the future, including how best to displace the salamanders, as well as hook up water, sewer and roads to the yet-unbuilt developments later on.

For years, Clovis city leaders hoped for growth in the area. A multi-lane expansion on Shepherd Avenue near the proposed project, in the middle of farm fields, was already built as early as 2011, Google Maps show.

The area was slated to get a [\\$33 million](#) upgrade from the version of Measure C that voters rejected last month.

If Measure C had passed, Fresno County taxpayers would have paid for state-of-the-art high-speed internet hookups for the new high-end homes in the area.

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*Via Email Only: [lilyc@cityofclovis.com](mailto:lilyc@cityofclovis.com)*

April 21, 2023

Ms. Lily Cha  
Senior Planner  
City of Clovis Planning Department  
1033 Fifth Street  
Clovis, CA. 93612  
[lilyc@cityofclovis.com](mailto:lilyc@cityofclovis.com)

**RE: Supplemental Comments regarding Clovis March Draft Housing Element**

Dear Ms. Cha:

On behalf of our client Desiree Martinez, Central California Legal Services, Public Interest Law Project, and Patience Milrod, submit these supplemental comments on the City's March Draft Housing Element (Draft or Draft Element).

Thank you for providing the APNs for the sites in the inventory that had been identified as "999-999-99XX." As you know, we'd requested them on March 20, and received them at close of business April 12, hours before close of public comment. As we'd agreed, we are now submitting supplemental comments specifically in reference to those newly-identified sites. This letter refers to, and incorporates by this reference, the comments in our April 13 letter.

**Sites 555-450-03XX, -14XX, -16XX, and -17XX—total LI capacity claimed: 956**

These sites are non-vacant, and they were used in prior housing elements. Each is assigned a Lower Income Capacity of 239 units, or about 25 units/acre. Meanwhile, each shows a minimum density of 25 units and a maximum capacity of 43, although has a different zoning (R-1, R-2, R-3, R-4), only one of which accommodates even 25 units/acre. Especially in light of the fact that these parcels were

used in at least one prior housing element, the City must explain on what basis it believes these parcels are likely to be developed at the densities identified in the inventory.<sup>1</sup>

**Sites identified as 556-020-29SX—total LI capacity claimed: 1,123**

There are four different sites with this APN, each over 30 acres: 35.9, 36.3, 37.3, and 30.3. Ms. Martinez incorporates here her concerns with respect to oversized sites outlined in our April 13 letter.

All four sites are non-vacant, with the current use being Agriculture. Ms. Martinez incorporates here her concerns with respect to non-vacant sites, including those now in agricultural use, outlined in our April 13 letter.

Finally, Clovis zoning code 9.74.010.E (Chapter 9.74, Urban Center)<sup>2</sup> appears to require a conditional use permit “for any change in use category from that approved by the Council under the development plan.” Clovis Land Use Element Tables, Table LU-4, Mixed-Use Focus Areas and Specific Plans<sup>3</sup>, specifies that undeveloped U-C projects require a Master Plan. It is therefore not clear from the inventory what use or uses the Council has already approved for these very large sites, and whether a CUP or other discretionary entitlement may be required to develop lower income housing in these locations.

Moreover, the U-C zone is assigned no residential units/acre capacity. Although each of these sites asserts capacity for housing at all income levels, the Draft is silent as to how the City calculates the LI capacity of each site, and how it will incentivize or otherwise ensure that the number of identified LI units is actually developed there.

**580-071-34XX and 580-071-32XX—total LI capacity claimed: 570**

These sites are zoned U-C—please see concerns expressed, *supra*, re: 556-020-29SX sites. They are also nonvacant (agriculture/residential). See April 13 comment letter.

**580-071-03XX, 580-071-04XX, 580-071-13XX, 580-071-16XX—total LI capacity claimed: 813**

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<sup>1</sup> See, *HCD Housing Element Site Inventory Guidebook, Government Code Section 65583.2*, June 10, 2020, at [https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sites\\_inventory\\_memo\\_final06102020.pdf](https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sites_inventory_memo_final06102020.pdf), p.13.

<sup>2</sup> <https://www.codepublishing.com/CA/Clovis/html/Clovis09/Clovis0974.html#9.74>.

<sup>3</sup> <https://cityofclovis.com/wp-content/uploads/2018/10/Table-LU-4.pdf>.

These sites are larger than 10 acres, and nonvacant (agriculture or agriculture/residential), and thus unqualified for inclusion as LI sites without analysis, which is missing from the Draft. See April 13 comment letter.

**555-031-46XX—total LI capacity claimed: 239**

This site was used in a prior housing element and is not vacant (agriculture). See April 13 comment letter.

**Conclusion**

Please feel free to contact us with any questions regarding these comments. We look forward to working with the City to develop a Housing Element that complies with the requirements of state law and that will facilitate much needed affordable housing.

Sincerely,

/s/

Natasha Spreadborough  
Central California Legal Services

/s/

Patience Milrod  
Attorney at law

/s/

Valerie Feldman  
Public Interest Law Project

cc: Desiree Martinez