

February 5, 2025

Planning Commission  
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Merced Civic Center  
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**Re: Public Hearing on General Plan Amendment #24-17 and Zone Change #436**

Dear Planning Commission, City Council, and Mayor Serratto,

Leadership Counsel for Justice and Accountability (“LCJA”) and Western Center on Law and Poverty (“WCLP”) write in collaboration to respond to the City of Merced’s (“City”) proposed General Plan Amendment and Zone Changes. WCLP’s mission is to end poverty and secure housing, health care, a strong safety net, and racial and economic justice for all low-income Californians. LCJA advocates for sound policy and to eradicate injustice as we work alongside communities like South Merced that are disproportionately affected by the legacies of segregation and redlining; and who are severely cost burdened and at risk of displacement and eviction.

As the City proceeds with the process of approving rezone sites to meet its Regional Housing Needs Allocation (“RHNA”), we remind the City of its duty to Affirmatively Further Fair Housing (“AFFH”) based on statutory requirements (Gov Code §§ 65583.2(c)). After an assessment of the City’s proposed rezone sites from various documents, there are discrepancies in the total number of units by income category and an inadequate number of sites to sufficiently meet the RHNA for very low and low income categories. Additionally, the City failed to AFFH based on the concentration of low income housing in low-resourced areas and areas of high segregation and poverty. We urge the City to comply with its duty to AFFH and address the following deficiencies before approving the rezone sites.

- I. The City fails to clearly identify the capacity of housing units that will be built by including units from the rezone.**

The City of Merced provides multiple documents identifying inconsistent numbers of units in the opportunity sites, and inconsistent number of units that address the shortfall through the rezone sites.

**A. The City fails to clearly identify the capacity of housing units through the opportunity sites.**

There are discrepancies between multiple City documents that identify varying housing unit capacities on the opportunity sites. The City’s Sixth Cycle Draft Housing Element from August 2024 (“August 2024 Draft”) identifies 3,781 units as the total capacity on the opportunity sites included in the Sites Inventory (August 2024 Draft, Pg G6-20). It identifies 1,141 lower-income capacity, 831 moderate-income capacity, and 1,821 above moderate-income capacity, with a total capacity of 3,781. However, as seen in Table 1 below, the sum amounts to 3,793 units.

**Table 1**

*Opportunity Site units per income category for each City document*

<b>Opportunity Sites</b>			
	PDF Sites Inventory	Electronic Sites Inventory	August 2024 Draft
Low	1,234*	1,141*	1,141*
Moderate	772	831	831
Above Moderate	1,821	1,821	1,821
<b>Total in Document</b>	3,802	N/A	3,781
Calculated Total**	3,827	3,793	3,793
<b><i>Lower Incomes + Moderate Income Sum**</i></b>	<b>2,006</b>	<b>1,972</b>	<b>1,972</b>

**Note:**

\* Combined figure of Very Low and Low Income units based on document.

\*\* Figure determined by sum of figures in document; not figure written as total in document.

The City’s [PDF Sites Inventory Breakdown](#)<sup>1</sup> (“PDF Sites Inventory”) located on the Merced County Multijurisdictional Housing Element Website, which is currently available to the public, identifies 3,802 total units for the opportunity sites, but the sum of

<sup>1</sup> Merced County. (2024, July 2). *City of Merced Site Inventory Breakdown*. Merced County Multi-Jurisdictional Housing Element. <https://mercedmjhe.com/>

the identified 1,234 lower income units, 772 moderate income units, and the 1,821 above moderate income units totals 3,827 units.<sup>2</sup> Similarly, the Electronic Sites Inventory available on the Merced County Multijurisdictional Housing Element Website identifies different capacities for the opportunity sites. Table A of the Electronic Sites Inventory's sum of lower income capacity equates to 1,141 units, moderate income capacity units total 831, and the above moderate income units total 1,821.<sup>3</sup> This results in a total of 3,793 units. The City must resolve these discrepancies and clarify which number is the accurate capacity for housing units through the Opportunity Sites.

**B. The City fails to clearly identify the capacity of housing units through the rezones.**

The August 2024 Draft and the Electronic Sites Inventory both identify a total capacity of 2,813 lower income units and 1,253 moderate income units from the proposed rezone sites. However, the PDF Sites Inventory lists 2,829 lower-income and 1,237 moderate income units as seen in Table 2.<sup>4</sup> The City must also clarify the correct number of low and moderate income units for which these rezones are anticipated to create capacity.

**Table 2**

*Rezone Site units per income category for each City document*

<b>Proposed Rezone Sites</b>			
	PDF Sites Inventory	Electronic Sites Inventory	August 2024 Draft
Very Low		1,412	
Low	2,829*	1,401	2,813*
Moderate	1,237	1,253	1,253
<b>Total in Document</b>	4,066	4,066	4,066
Calculated Total**	4,066	4,066	4,066

**Note:**

\* Combined figure of Very Low and Low Income units based on document.

\*\* Figure determined by sum of figures in document; not figure written as total in document.

**II. The City fails to clearly identify sufficient sites to meet the lower income RHNA**

<sup>2</sup> LCJA. (2025). *Table 1*.

<sup>3</sup> City of Merced. (May 2025). *Electronic Sites Inventory*. <https://mercedmjhe.com/project-resources/>

<sup>4</sup> LCJA. (2025). *Table 2*

The City has a total RHNA obligation of 10,517 units for all economic segments of the community. This includes 6,123 very low, low, and moderate income units (2,543 very low income units, 1,742 low income units, and 1,838 moderate income units).

The opportunity sites in the August 2024 Draft and in the powerpoint presentation shared with stakeholders during the Housing Element Rezone Study Sessions (“Study Sessions”) on January 21st and January 22nd fail to identify how many units will serve the very low income category versus the low income category. As seen in Table 1, the City fails to identify site capacity for the very low income category in the opportunity sites. Therefore in Table 3, it is unclear how many units with the opportunity sites and rezone sites combined will accommodate for the very low income category.<sup>5</sup> The City must indicate how many units the opportunity sites and the rezones will accommodate each income category to accurately capture how many more sites need to be rezoned or identified in order to meet the RHNA. That information should be updated across all platforms in which the draft and its materials are made publicly available.

**Table 3**

*Opportunity Sites and Rezone Sites units per income category for each City document*

<b>Opportunity Sites &amp; Proposed Rezone Sites</b>			
Low	4,063*	3,954*	3,954*
Moderate	2,009	2,084	2,084
Above Moderate	1,821	1,821	1,821
<b>Total in Document</b>	7,868	N/A	7,847
Calculated Total**	7,893	7,859	7,859
<b><i>Lower Incomes + Moderate Income Sum</i>**</b>	<b>6,072</b>	<b>6,038</b>	<b>6,038</b>

\* Combined figure of Very Low and Low Income units based on document.

\*\* Figure determined by sum of figures in document; not figure written as total in document.

### **III. The City fails to Affirmatively Further Fair Housing (“AFFH”)**

The City of Merced fails to Affirmatively Further Fair Housing (“AFFH”), as required by State law. AFFH requires that the City complete an analysis to identify racially or ethnically concentrated areas of poverty (“R/ECAPs”) and racially concentrated areas of affluence (“RCAAs”), challenges and disparities in access to resources and opportunities, and disproportionate housing needs for special housing needs populations (Gov. Code §§ 8999.50

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<sup>5</sup> LCJA. (2025). *Table 3*

and 65583). With regards to the rezone sites, the City failed to provide an analysis identifying the assessor parcel number, size of each property with the zoning of the site, a description of the existing use, environmental constraints, and a description of existing or planned infrastructure (Gov. Code §§ 65583.2(a, b)). The Sites Inventory, which includes the rezone sites, should identify sites that would make housing feasible, promote more inclusive communities with proper infrastructure, and avoid City growth patterns that perpetuate R/ECAPs and RCAAs. The City should make a diligent effort to identify sites to accommodate the housing need for lower income households, not exacerbate segregation.

**A. The City fails to AFFH by concentrating moderate and above moderate-income units in high resource areas.**

The opportunity sites in the August 2024 Draft indicate that District 6 will have 92% of the above moderate-income capacity, thus concentrating above-moderate income units in the highest resourced area. In order to AFFH and better integrate R/ECAPs and RCAAs in Merced, the City must ensure that the rezone sites and sites inventory equitably distribute units for all income categories throughout the City (e.g. proposing lower-income units in higher resourced areas and dispersing moderate and above-moderate units throughout Merced).

**B. The City fails to AFFH by concentrating lower-income units in low resource and high segregation and poverty areas.**

Rezone sites identified in the August 2024 Draft concentrate lower income units in low resource or high segregation and poverty areas. For instance, the two sites with the highest number of lower income units, site 44 and 76 in District 5 are placed in low resource areas. These are sites near industrial development, existing affordable housing developments, train tracks, and are within a R/ECAP in South Merced.

Further, the City's changes to the site inventory, as presented in the January Study Sessions, reveal a *less* effective and *more* inequitable distribution of sites among higher and lower resourced districts than the August 2024 Draft. For instance, the August 2024 Draft included six rezone sites in District 5 (with a total of 275 lower income units), but the list presented in January includes just three sites in District 5 (with a total of 145 lower income units). Similarly, District 4 saw a reduction in sites from four to just one between the August 2024 draft and the January list (producing a decline in lower income units from 268 to 172). District 3 did not lose sites but reduced lower income units from 444 in the August 2024 Draft to 395 in the January list. Meanwhile, the City removed a site from District 2 and increased the lower income units in this lower resourced area from 211 to 303. This demonstrates a problematic pattern of (a) reducing the number of

lower income units in the higher resourced areas of the City, and (b) concentrating and densifying lower income units in lower resourced areas of the City that fails to meet AFFH standards.

### **C. The City fails to provide a description of existing or planned infrastructure.**

The Electronic Sites Inventory states that the infrastructure is “current”<sup>6</sup> for every site included in the opportunity sites and the rezone sites. The document fails to describe the type(s) and condition of the infrastructure and whether this infrastructure is currently available on the parcel, is nearby the parcel but currently unconnected, or whether a connection is planned, as required by Gov. Code §§ 65583.2.(b)(5)(A). According to outreach we conducted on January 23rd, 2025 in South Merced, sites 44, 80, 98, and 99 are also *not* connected to critical infrastructure, including (but not limited to) water, sewer, stormwater drainage, public lighting, and sidewalks. At the January 22nd Study Session and the January 23rd Housing Element Input Community Meeting, City staff shared that these sites likely were not currently connected to infrastructure as they were undeveloped sites. These statements contradict the information on the Electronic Sites Inventory. The City must therefore provide an accurate and detailed description on the availability of infrastructure and associated key services at the proposed sites.

### **IV. The City must modify the list of rezone sites in the following ways**

First, the City must clearly identify the number of very low income, low income, moderate income, and above moderate income units in the opportunity sites. This will assist in determining how many sites need to be rezoned. Second, the City must clearly identify the number of very low, low, and moderate income units that can be produced per rezone site. In order to AFFH, the City must ensure that the sites inventory clearly describes the infrastructure available on the parcels being considered in both the opportunity sites, as well as the rezone sites. This will assist in narrowing down a large list of sites to the most feasible options. Third, the City must make a diligent effort to provide very low and low income housing in high resource areas, rather than placing lower income units in low resource and high segregation and poverty areas. The City is responsible for taking meaningful actions to overcome the history and legacy of segregation and eliminate barriers to fair housing, including the action of making place-based decisions of where to rezone sites for the future development of housing, and this includes equitable distribution of sites by income category across the City.

### **V. Conclusion**

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<sup>6</sup> City of Merced. (May 2025). *Electronic Sites Inventory*. <https://mercedmjhe.com/project-resources/>

As currently drafted, the proposed rezone sites and sites inventory overall fail to comply with the City's duty to AFFH, necessitating the changes outlined in this letter. Please do not hesitate to reach out with questions regarding this letter as we welcome the opportunity to discuss these comments further.

Respectfully,

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