



FINAL ENVIRONMENTAL IMPACT REPORT

1 Hamilton Drive Affordable Housing Development

City of Mill Valley, California

SCH#2022120597



wra
Environmental
Consultants

PREPARED BY WRA, INC.
JANUARY 2024



1 Hamilton Drive Affordable Housing Development (SCH #2022120597)

Final Environmental Impact Report

City of Mill Valley, Marin County, California

Prepared for:

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January 2024

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1.0 INTRODUCTION

1.1 Purpose

Before approving a project, the California Environmental Quality Act (CEQA) requires the lead agency to complete environmental review of the project, and in some cases, prepare and certify a Final Environmental Impact Report (Final EIR). The contents of a Final EIR are specified in Section 15132 of the CEQA Guidelines, as follows:

The Final EIR shall consist of:

- a) The Draft EIR or a revision of the Draft.
- b) Comments and recommendations received on the Draft EIR either verbatim or in summary.
- c) A list of persons, organizations, and public agencies commenting on the Draft EIR.
- d) The responses of the lead agency to significant environmental points raised in the review and consultation process.
- e) Any other information added by the lead agency.

1.2 Organization of the Final EIR

Pursuant to Section 15132 of the CEQA Guidelines, this document includes the following sections, which when combined with the Draft EIR, constitutes the Final EIR for the Project:

- Section 1. Introduction: This section provides an introduction to the Final EIR and the list of persons and agencies that submitted comments on the Draft EIR.
- Section 2. Responses to Comments: This section includes responses to each of the significant environmental points raised in the comments submitted.
- Section 3. Changes to the Draft EIR: This section provides corrections and additions to the Draft EIR, based on and in response to comments received as well as miscellaneous errata.
- Section 4. Mitigation Monitoring and Reporting Plan: This section includes all of the Mitigation Measures that have been identified to reduce or avoid the Project's environmental impacts. This section also notes the monitoring phase, the enforcement phase, and the applicable department or agency responsible for ensuring that each mitigation measure is implemented.
- Appendices: The appendices to this document include meeting minutes from the City's Planning Commission Meeting on November 28, 2023, in which verbal comments on the Draft EIR were received (Appendix A); the revised Geotechnical Engineering/Geologic Hazards Investigation prepared by Krazan & Associates, Inc. (Appendix B), and previous City correspondence to issues raised by Friends of Hauke Park regarding the proposed Project (Appendix C).

1.3 Final EIR Process

As defined by Section 21067 of CEQA, the City of Mill Valley (City) is the lead agency for the 1 Hamilton Affordable Housing Development Project (Project). In accordance with CEQA, the lead agency issued a Notice of Preparation on December 22, 2022, and prepared a Draft EIR. A Notice of Completion and Availability (NOC) of the Draft EIR was released on November 1, 2023, and

the public review period on the Draft EIR took place from November 1, 2023, to December 15, 2023.

Comments on the Draft EIR were received during the public review period. In addition, oral public comment on the Draft EIR was provided during the November 28, 2023, meeting of the Mill Valley Planning Commission. The responses to these comments are set forth in this Final EIR. The Draft EIR and this Final EIR will be submitted to the Mill Valley City Council for certification in connection with action on the Project.

1.4 Review and Certification of the Final EIR

Consistent with State law (Public Resources Code 21092.5), responses to agency comments are being provided to each commenting agency more than 10 days prior to certification of the EIR.

The Final EIR is available for public review at the following locations:

Steven Ross, Senior Planner
Building and Planning Department
City of Mill Valley
26 Corte Madera Avenue
Mill Valley, California 94941
Telephone: (415) 384-4805
Email: sross@cityofmillvalley.org

Mill Valley Public Library
375 Throckmorton Avenue
Mill Valley, CA

The Final EIR is also available online at <http://www.cityofmillvalley.org/Hamilton>.

1.5 List of Commenters on the Draft EIR

The Building and Planning Department received a total of 27 comment letters on the Draft EIR. Each comment letter has been assigned a corresponding number, and distinct comments within each comment letter are also numbered. No comment letters from public agencies or organizations were submitted; all of the comments were from private individuals or associations. These comment letters are denoted with the prefix “A”. Each comment letter has been divided into individual comments, which are numbered “A-1a”, “A-1b”, etc., with the first portion (“A-1”) indicating the comment letter number and the last letter indicating the individual comment number within that letter. Verbal comments provided during public testimony at the November 28, 2023, Mill Valley Planning Commission meeting are denoted with the prefix “B”. These verbal comments are not reproduced verbatim but are instead summarized and addressed in a more general manner following the responses to written comments.

1.5.1 Written Comments from Private Individuals and Associations

The persons listed below provided written comments on the Draft EIR to the City during the formal public review period. Copies of these comments are included in Section 2.0, Comments on the Draft EIR.

- A-1 Simone Adams
- A-2 Nancy McDaniel

- A-3 Rod Eshelman
- A-4 Paula Weaver
- A-5 Barbara Lenehan
- A-6 David Kennedy
- A-7 Ann Mannheimer
- A-8 Denise Libien
- A-9 Toni Brayer
- A-10 Kristi Duchon
- A-11 Cherie Whitmore
- A-12 Paul Jensen
- A-13 Kevin McGrath
- A-14 Carolyn Heyder
- A-15 Elena McClain
- A-16 Gary Batroff
- A-17 Marilyn Bush
- A-18 Maria Scott
- A-19 Simin Batroff
- A-20 Gail Katz
- A-21 David Scott
- A-22 Anita Scott
- A-23 Elizabeth O'Donnell
- A-24 Pei Chin Chiang
- A-25 Friends of Hauke Park
- A-26 Loretta Figueroa
- A-27 Lisa Edson

1.5.2 Oral Commentors at Planning Commission Meeting

The 27 persons listed below provided oral comments on the Draft EIR during the November 28, 2023, meeting of the Mill Valley Planning Commission.

- B-1 Elizabeth O'Donnell
- B-2 Carolyn Heyder
- B-3 Dave Wygant
- B-4 Eileen Fisher
- B-5 Nona Dennis (Marin Conservation League)
- B-6 Nanette Zavala

- B-7 David Kennedy
- B-8 Mark Breitbard
- B-9 Delia Murillo
- B-10 Jeralyn Seiling
- B-11 Regina Bianucci Rus
- B-12 Marta Viela and Judith Loumberg
- B-13 Margaret Fisher
- B-14 Jennifer Silva (Marin Environmental Housing Collaborative)
- B-15 Paula McGrath
- B-16 Ruth Holly
- B-17 Nicole Champagne
- B-18 Kathleen Foote
- B-19 Katy Butler
- B-20 Victoria Holdridge (Marin Conservation League and Union Marin)
- B-21 Kate McGerity
- B-22 Betsy Bikle
- B-23 H. Rosentein¹
- B-24 Dennis Klein (Mill Valley Affordable Housing Committee)
- B-25 Brian Donoghue
- B-26 Tay Franklin
- B-27 Janet O.

¹ Name was not provided via comment letter but estimated from the audio recording of the Planning Commission meeting.

2.0 COMMENTS ON THE DRAFT EIR

2.1 CEQA Requirements

Section 15088(a) of the State CEQA Guidelines states that “The lead agency shall evaluate comments on environmental issues received from persons who reviewed the draft EIR and shall prepare a written response. The Lead Agency shall respond to comments that were received during the noticed comment period and any extensions and may respond to late comments.” In accordance with these requirements, this section of the Final EIR provides responses to each of the written comments received during the Draft EIR public comment period. Copies of the comment letters (with the individual sub-comments shown in brackets) are presented in the following section.

A key purpose of the public review of the Draft EIR is to allow the public to evaluate the adequacy of the environmental analysis in terms of compliance with CEQA. Section 15151 of the CEQA Guidelines states the following regarding standards from which adequacy is judged:

An EIR should be prepared with a sufficient degree of analysis to provide decision-makers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among experts. The courts have not looked for perfection but for adequacy, completeness, and a good faith effort at full disclosure.

The purpose of each response to a comment on the Draft EIR is to address the significant environmental issue(s) that are raised by each comment. This typically requires clarification of the analysis contained in the Draft EIR. Section 15088(c) of the CEQA Guidelines describes the standards required for an adequate response to public comments:

The written response shall describe the disposition of significant environmental issues raised (e.g., revisions to the proposed project to mitigate anticipated impacts or objections). In particular, the major environmental issues raised when the lead agency’s position is at variance with recommendations and objections raised in the comments must be addressed in detail giving reasons why specific comments and suggestions were not accepted. There must be good faith, reasoned analysis in response. Conclusory statements unsupported by factual information will not suffice.

Section 15204(a) of the CEQA Guidelines provides guidance to the public and public agencies to help focus their review and comments on the Draft EIR. The lead agency is not obligated to undertake every suggestion given to them, provided that the agency responds to significant environmental issues and makes a good faith effort at disclosure. Section 15204(a) of the CEQA Guidelines clarifies this for public and public agency reviewers and states:

In reviewing draft EIRs, persons and public agencies should focus on the sufficiency of the document in identifying and analyzing the possible impacts on the environment and ways in which the significant effects of the project might be avoided or mitigated. Comments are most helpful when they suggest additional specific alternatives or mitigation measures that would provide better ways to avoid or mitigate the significant environmental effects. At the same time, reviewers should be aware that the adequacy of an EIR is determined in terms of what is reasonably feasible, in light of factors such as the magnitude of the

project at issue, the severity of its likely environmental impacts, and the geographic scope of the project. CEQA does not require a lead agency to conduct every test or perform all research, study, and experimentation recommended or demanded by commenters. When responding to comments, lead agencies need only respond to significant environmental issues and do not need to provide all information requested by reviewers, as long as a good faith effort at full disclosure is made in the EIR.

As stated above, the CEQA Guidelines encourage the public and public agencies to examine the sufficiency of the environmental document, particularly regarding significant effects, and to suggest specific mitigation measures and project alternatives. Section 15204(c) advises the public and public agencies that comments should be accompanied by factual support:

Reviewers should explain the basis for their comments, and should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments. Pursuant to Section 15064, an effect shall not be considered significant in the absence of substantial evidence.

2.2 Written Comments on the Draft EIR and Responses to Comments

Written comments provided on the Draft EIR are included below. Responses to CEQA and environmental-related comments and questions are provided after each comment. Please note that written comments submitted during the Draft EIR's public comment period included comments relevant to the Project's approval/disapproval along with comments relevant to the adequacy of the environmental review. The responses to comments acknowledge the comments which address Project approval but focus responses on the comments that raise potential environmental impacts or the adequacy of the environmental review. Pursuant to CEQA Guidelines, Section 15088(c), the focus of the responses to comments is on "the disposition of significant environmental issues raised." Therefore, detailed responses are not provided to comments that do not relate to environmental issues. Note that there may be spelling and/or grammar errors in the comments.

LETTER A-1. SIMONE ADAMS



Comment Letter A-1

From: [Simone Adams](#)
To: [Steven Ross](#)
Subject: [External] Hamilton Project Comment
Date: Wednesday, November 1, 2023 11:26:41 AM

Hello Steven,

The Hamilton housing project under review would best serve the future occupants and Mill Valley only if bi-directional traffic lanes on Hamilton were made permanent.

Thank you,
Simone
Mill Valley resident (29Yrs)

A-1a

RESPONSE TO COMMENT A-1a

This comment identifies policy concerns about the Project but does not state a specific concern or question regarding the sufficiency of the Draft EIR in identifying and analyzing environmental impacts of the Project and ways to reduce or avoid these impacts. Transportation impacts of the Project are discussed in Section 5.9 of the Draft EIR (pages 197 through 233). The transportation analysis does not recommend changes to the existing roadway configuration and restrictions on Hamilton Drive. No further response is warranted.



LETTER A-2. NANCY MCDANIEL



Comment Letter A-2

From: [Nancy McDaniel](#)
To: [Steven Ross](#)
Subject: [External] 1 Hamilton, Mill Valley
Date: Thursday, November 2, 2023 1:25:32 PM

Hamilton Housing plan by City of Mill Valley, has not given ample time for notifications, Environmental Impacts Report has not been approved yet.

Please allow EIR, water district, sewerage authority, flood zone impact studies to continue collecting data for this project.

Proper analysis of statistics, is required. This has not been completed.

Your attention to the above details would be appreciated.

Resident of Shelter Hill Apartments
Mrs. Nancy McDaniel
30 Miwok Way
Mill Valley, CA

A-2a

RESPONSE TO COMMENT A-2a

This comment identifies concerns that the City has not given ample time for notifications and that the EIR has not been approved yet. The City’s Draft EIR was circulated for 45 days between November 1, 2023, and December 15, 2023, in accordance with CEQA Guidelines Section 15105(a), which states, “The public review period for a draft EIR shall not be less than 30 days nor should it be longer than 60 days except under unusual circumstances. When a draft EIR is submitted to the State Clearinghouse for review by state agencies, the public review period shall not be less than 45 days, unless a shorter period, not less than 30 days, is approved by the State Clearinghouse.” The City filed a Notice of Availability of the Draft EIR with the State Office of Planning and Research on October 30, 2023.²

The City also provided notices via two methods as identified in Section 15087(a) of the CEQA Guidelines, which include “(1) Publication at least one time by the public agency in a newspaper of general circulation in the area affected by the proposed project. If more than one area is affected, the notice shall be published in the newspaper of largest circulation from among the newspapers of general circulation in those areas, (2) Posting of notice by the public agency on and off the site in the area where the project is to be located, and (3) Direct mailing to the owners and occupants of property contiguous to the parcel or parcels on which the project is located. Owners of such property shall be identified as shown on the latest equalized assessment roll.” The City published a notice in the local newspaper, the Marin Independent Journal, on October 30, 2023, and posted the Notice of Availability on the project site and Mill Valley City Hall on October 31, 2023. In addition, the City also mailed public hearing notices to residents within 1,200 feet of the Project site on November 8, 2023. The comment does not identify which notifications were not given ample time; however, as described above, the City has provided all required notices in accordance with the CEQA Guidelines.

The comment states that the EIR has not been approved yet, which is correct. The public review period for the Draft EIR closed on December 15, 2023. The City has evaluated the comments received on the Draft EIR and has prepared written responses, which are presented in this section of the Final EIR. The City has published the Final EIR in accordance with CEQA Guidelines Section 15132, which states that the Final EIR shall include responses to comments received on the Draft EIR as well as any changes to the information contained in the Draft EIR. Following publication of the Final EIR, the City may consider Final EIR certification in accordance with CEQA Guidelines Section 15090.

Various technical studies were completed to inform preparation of the Draft EIR, including an Air Quality Analysis Report, a Biological Resources Technical Report, a Cultural Resources Study, a Geotechnical Engineering/Geologic Hazards Investigation, Noise Analysis Calculations, and a Transportation Impact Assessment. No additional technical reports related to the water district, sewerage authority, or flood zone are required for the Project.

² City of Mill Valley. 2023. Notice of Availability, Draft Environmental Impact Report (“EIR”), 1 Hamilton Drive Affordable Housing Development (“Project”). https://files.ceqanet.opr.ca.gov/284117-3/attachment/Zq2u92ScXVpNZ9jmpZTIUDXeIWzpuqyJCKVwvNqW7xidsiCAU1Vzu4aAEd1DMllysuFQ2F4-kXasBJe6_0.

LETTER A-3. ROD ESHELMAN



Steven Ross

From: Rod Eshelman <rod45@comcast.net>
Sent: Sunday, November 19, 2023 9:47 AM
To: Steven Ross
Cc: Hannah Politzer
Subject: [External] Hamilton

A-3a

I sincerely hope that in reviewing this project the Planning Commission will use common sense rather than just accept what is put in front of them. For example, the EIR for Hamilton performed no analysis of the parking and traffic problems that will be created, by merely “presuming” that the project would result in a “less than significant transportation impact” on the community. That conclusion is absurd as anyone who has been near Hawke park when the fields are in use knows.

A-3b

Common sense also tells you that this four story project does not fit in the surrounding community and just further impacts East Mill Valley when many other and better sites were overlooked. I hope you will reject or at least severely restrict the size and scope of this eyesore.

Sincerely,
Rod Eshelman
80 Millay Place
Mill Valley

RESPONSE TO COMMENT A-3a

The comment identifies concerns related to parking and traffic within the vicinity of the Project site. The comment asserts that the Draft EIR “performed no analysis of the parking and traffic problems that will be created,” which is incorrect. A Transportation Impact Assessment (TIA) was prepared for the Project to analyze parking and traffic conditions which would result from implementation of the proposed Project, information from which was included in Section 5.9, Transportation, of the Draft EIR. The TIA was also included in Volume II of the Draft EIR as Appendix H. As described in Section 5.9, Transportation, of the Draft EIR, the Project would not create a significant traffic impact. The TIA analyzed the anticipated vehicle trips generated by the proposed Project in combination with existing and future cumulative traffic conditions, and found that even with implementation of the Project, all intersections in the Project area would continue to operate at allowable Level of Service (LOS) standards per the City’s General Plan Mobility Element. The conclusion of the Draft EIR that the Project would result in a “less than significant impact” related to transportation is based on the analysis of existing conditions, traffic data, and parking supply and demand data collected in the TIA.

RESPONSE TO COMMENT A-3b

This comment identifies concerns about the Project but does not state a specific concern or question regarding the sufficiency of the Draft EIR in identifying and analyzing the environmental impacts of the Project and ways to reduce or avoid these impacts. Impacts related to aesthetics are discussed in Section 5.1, Aesthetics, of the Draft EIR and were found to be less than significant. Refer to response to comment A-6a for a more detailed response to concerns related to the City’s selection of housing sites.



LETTER A-4. PAULA WEAVER



Steven Ross

From: Paula Weaver <paula@weavermcgrath.com>
Sent: Saturday, November 25, 2023 10:56 AM
To: Steven Ross
Cc: Paula Weaver
Subject: [External] MV Planning Commission Meeting 11/28/23 Agenda Item No. 1

Dear Mr. Ross and Planning Commission Members:

I am a 36 year resident of the Enchanted Knolls neighborhood where my husband and I raised our family. I am writing to address the deficiencies in the DEIR for 1 Hamilton as set forth in the staff report.

The staff report recommends that the City Council certify the Final EIR for 1 Hamilton, approve the rezoning of the northern portion of 1 Hamilton Drive (APN 030-250-01), from “Open Area” (O-A) to “Residential Multi-family Bayfront” (RM-B) and update the Zoning Map; and approve the design review and tree removal permit for 45 trees.

A-4a

The City staff recommends the approval of these resolutions by the Planning Commission **before the period for public comment closes on December 15, 2023.** The Planning Commission cannot make an informed decision on whether to approve the DEIR and the resolutions without reviewing all public comments first. The City is jamming this project through without the participation of local residents who are preoccupied with the holidays.

Environmental Impacts Unfairly Burden One Neighborhood

1 Hamilton across from Hauke Park will be the tallest and most dense project built in Mill Valley’s history, destroying views, generating more traffic and raising safety concerns for children who use the Hauke Park playing fields. The DEIR does nothing to ensure the safety of children and others crossing the street from the proposed relocated parking spots.

A-4b

The project will remove an additional 45 trees from a neighborhood that has already suffered the loss of hundreds of trees clear cut from around the PG&E substation and those removed to build the PG&E “twin towers”. Yet, the DEIR reaches the conclusion that there are no environmental impacts to the removal of additional trees and if there are, those impacts can be mitigated. This will be the seventh publicly supported housing project east of Camino Alto. The wealthier neighborhoods west of Camino Alto remain

A-4c

A-4c

unchanged. The loss of trees and burden of dense housing is not shared among Mill Valley neighborhoods because the City has manipulated the site selection process. Here are the facts:

City’s Removal of Viable Alternative Sites to 1 Hamilton

The DEIR violates CEQA in that it failed to consider alternative sites to 1 Hamilton through its manipulation of the site selection process. In fact, the City removed sites for consideration of affordable housing which were considered preferable to the 1 Hamilton site to protect the wealthier neighborhoods west of Camino Alto.

The “Linda Vista” site was effectively removed by the City Council from the list for rezoning to “single-family residential” after the wealthy residents of Scott Highlands objected and threatened a lawsuit claiming the inclusion of the site was an “unfair burden” on their neighborhood. The pressure campaign worked and the City took no action with respect to the Linda Vista site.

Then Mark Polite, a Mill Valley resident in Census Tract 1261, provided direction to the City from Mill Valley former mayor Dennis Fisco (another Census Tract 1261 resident) to abandon the Linda Vista Site in favor of the 1 Hamilton site, suggesting the 1 Hamilton site would engender “minimal neighborhood opposition” from the residents of Census Tract 1262. As the City well knows, the residents of Census Tract 1261 have significantly more income and are less diverse racially than those in Census Tract 1262.

A-4d

The City thereafter contracted with The Housing Workshop, which prepared a memorandum setting forth its analysis on or about February 10, 2021 (“Housing Workshop Inventory”). That report concluded that the best site was Boyle Park and that the golf course tee across from Linda Vista could be reconfigured as a housing site. Despite those conclusions, the City removed both sites from the site inventory.

Failure of City to Analyze all Potential Sites

The Housing Workshop Inventory was further flawed in that it claims to have evaluated “approximately 75 City-owned parcels,” yet it only identifies four parcels that it considered potentially feasible for development and seven additional parcels that were identified as infeasible for development. Thus, only 11 of the claimed 75 parcels were analyzed for development.

The Housing Workshop Inventory analyzed approximately 37 sites “for potential sale” and not development, but without any explanation as to why these parcels were not analyzed for potential development. This disparate treatment is significant because many parcels were dismissed for “sale” due to

↑ their O-A zoning designation, while parcels with the same O-A zoning designation were deemed feasible for development, i.e., 1 Hamilton.

Summing the 11 parcels analyzed for potential development and the 37 parcels analyzed for potential sale results in 48 parcels. While the Housing Workshop Inventory claims to have analyzed 75 City-owned parcels, approximately 27 parcels were not even identified, much less analyzed for their suitability for development.

Criteria Used for Site Selection Is Flawed

The Housing Workshop Inventory relied on arbitrary site criteria such as minimum parcel size of 0.75 acres, maximum of ten percent average slope, and other criteria based on “Council direction” that is non-specific, subjective and unsupported by City planning policies and guidelines such as “vital downtown space” or “alley-style parking abutting other building.”

Although the 2015 Housing Element Update (HEU) program objective was to create an “inventory of publicly-owned land that is not already zoned for open space,” the Housing Workshop Inventory failed to comply with this direction and instead included sites such as 1 Hamilton that were zoned O-A and therefore should not have been included.

By its misuse of the Housing Workshop Financial Analysis and flawed Housing Workshop Inventory, the City achieved its politically-motivated goal of switching to 1 Hamilton as the only City-owned site for a public affordable housing project in the City.

The DEIR violates CEQA for all the reasons outlined above. I urge the Planning Commission to vote “no” on the resolutions set forth in the staff report.

Respectfully submitted,

Paula McGrath

154 Kipling Drive

A-4d

RESPONSE TO COMMENT A-4a

The comment suggests that the City erred in holding a public hearing during which comments on the Draft EIR were solicited on the same date as the Planning Commission's consideration of the Project. However, the CEQA Guidelines (Section 15089) merely require that lead agencies prepare a Final EIR prior to approving a project. Section 15025(c) of the CEQA Guidelines states "where an advisory body such as a planning commission is required to make a recommendation on a project to the decision-making body, the advisory body shall also review and consider the EIR or negative declaration in draft or final form". The Planning Commission was not asked to approve the Project or certify the EIR; that is the role of the City Council. The City Council has not yet considered approval of the Project and will not do so until after this Final EIR has been published. The Planning Commission considered the public comments provided on the Draft EIR during the public hearing prior to making its recommendation to the City Council regarding the Project. The City Council will consider all of the comments on the Draft EIR as well as the City's responses to the comments during its deliberations on Project approval and EIR certification. Therefore, the City has complied with applicable CEQA requirements concerning the consideration of public input on the Draft EIR and will continue to do so throughout the remainder of the process.

RESPONSE TO COMMENT A-4b

This comment identifies concerns about the Project related to aesthetics, suggesting that the Project will "destroy views" and be the tallest, most dense project built in the City. Impacts related to density and height of the Project are discussed in Section 5.1, Aesthetics, of the Draft EIR. The Project was found to have a less than significant impact related to aesthetics.

The comment also identifies concerns related to traffic and pedestrian safety near the Project site. As stated in Section 4.0, Project Description, of the Draft EIR (page 40), "the Project would also include pedestrian facility safety upgrades to the three existing crosswalks across Hamilton Drive between the Project site and Hauke Park, such as updated high-visibility crosswalk markings, advanced pavement warning markings, and reflective cross warning signs." Crosswalk improvements are further described in Section 4.3.4, Crosswalk Improvements, of the Draft EIR (page 43).

In addition to pedestrian safety improvements, as stated on page 43 of the Draft EIR, "the Project would install continuous sidewalk on Hamilton Drive along the Project frontage, including new ADA-compliant curb ramps for Crosswalk 1 and Crosswalk 2 on the east side of Hamilton Drive." As stated in the TIA (Appendix H, Volume II of the Draft EIR, page 52), "this configuration would have an increased offset from the proposed driveway entrance to the southern pedestrian crosswalk across Hamilton Drive, which would result in greater (improved) reaction time for motorists exiting the Project driveway and public parking lot to yield to pedestrians crossing Hamilton Drive."

The proposed crosswalk improvements were recommended in the TIA in accordance with the Federal Highway Administration's *Guide for Improving Pedestrian Safety at Uncontrolled Crossing Locations*, based on the expected conditions along Hamilton Drive in the Cumulative Plus Project Scenario. The implementation of these pedestrian safety features as part of the proposed Project is in accordance with nationally recognized standards and will better ensure pedestrian safety as compared to existing conditions along Hamilton Drive. As such, the Draft EIR's conclusion that the Project would result in a less-than-significant impact with regard to transportation-related hazards (page 232) is correct and is based on substantial evidence.

Transportation impacts of the Project are discussed in Section 5.9, Transportation, of the Draft EIR and were found to be less than significant. The TIA analyzed the anticipated vehicle trips generated by the proposed Project in combination with existing and future cumulative traffic conditions, and found that even with implementation of the Project, all intersections in the Project area would continue to operate at allowable LOS standards per the City's General Plan Mobility Element. Refer to response to comment A-9a for a more detailed response to concerns related to traffic.

RESPONSE TO COMMENT A-4c

The comment does not state a specific concern or question regarding the sufficiency of the Draft EIR in identifying and analyzing environmental impacts of the Project and ways to reduce or avoid these impacts. The Draft EIR analyzes impacts related to tree removal in Section 5.3.8, Discussion of Impacts, pages 125 through 127. See response to comments A-4d and A-6a below regarding comments about site selection.

RESPONSE TO COMMENT A-4d

This comment identifies policy concerns about the process utilized by the City to identify the 1 Hamilton Drive site as the preferred location for an affordable housing development. These concerns are outside of the scope of CEQA as they do not relate to the Project's environmental effects. The comment does not state a specific concern or question regarding the sufficiency of the Draft EIR in identifying and analyzing environmental impacts of the Project and ways to reduce or avoid these impacts. The Alternatives analysis presented in the Draft EIR (Section 7.0) includes a discussion of potential alternative sites for the development of affordable housing within the City, but primarily focuses its evaluation on environmental concerns rather than other factors, consistent with the purpose of CEQA. Refer to response to comment A-6a for a more detailed response to concerns regarding the City's selection of housing sites.

LETTER A-5. BARBARA LENEHAN



Steven Ross

From: Barbara Lenehan <balenehan@gmail.com>
Sent: Saturday, November 25, 2023 1:33 PM
To: Steven Ross; Hannah Politzer
Subject: [External] One hHamilton

11/25/23

Good morning,
Please seriously consider markedly decreasing the number of units proposed for one Hamilton and the redoing the environment impact study. The number of vehicles that a building housing 40 or more households could easily exceed 40 to 50 cars/trucks - coupled with service trucks -will over run the neighborhood roads. The sense of a quiet neighborhood will be gone and the traffic and resulting air pollution will be horrendous.

A-5a

Thank you

Barbara Lenehan
14 Eucalyptus Knoll
M V

941-258-3913

Sent from my iPad

RESPONSE TO COMMENT A-5a

This comment identifies policy concerns about the Project but does not state a specific concern or question regarding the sufficiency of the Draft EIR in identifying and analyzing environmental impacts of the Project and ways to reduce or avoid these impacts. Air Quality and Transportation impacts are discussed in Sections 5.2 and 5.9 of the Draft EIR, respectively. Air Quality impacts were found to be less than significant with the implementation of Mitigation Measure AQ-1, which requires the implementation of an Asbestos Dust Mitigation Plan (ADMP) during project construction. Transportation impacts were also found to be less than significant, and no mitigation measures would be required. The TIA analyzed the anticipated vehicle trips generated by the proposed Project in combination with existing and future cumulative traffic conditions, and found that even with implementation of the Project, all intersections in the Project area would continue to operate at allowable LOS standards per the City's General Plan Mobility Element. Refer to response to comment A-9a for a more detailed response to concerns regarding traffic.



LETTER A-6. DAVID KENNEDY



Steven Ross

From: David Kennedy <davidbkennedy@hotmail.com>
Sent: Sunday, November 26, 2023 1:52 PM
To: Steven Ross
Cc: Hannah Politzer
Subject: [External] Hamilton Drive Draft EIR

To: Steven Ross and City Clerk
From: David Kennedy, 26 Keats Dr, Mill Valley
Re: Hamilton Drive Draft EIR
Date: 11/26/2023

Below is feedback on the Draft EIR for Hamilton Affordable Housing project. The issues below should be addressed and corrected in the EIR before moving forward with the project.

7.3 Alternatives Considered but Rejected (Portion of Mill Valley Golf Course)

According to the EIR, a portion of the Mill Valley Golf Course was rejected by the City Council because it would involve removal or displacement of a portion of the city golf course, which is an actively used recreation area. However, the description in the EIR is incomplete and misleading.

A-6a

On September 30, 2020, the Housing Advisory Committee reviewed a preliminary analysis of city-owned sites suitable for affordable housing. The staff report for that HAC meeting noted two city-owned and undeveloped sites on either side of Linda Vista Drive in West Mill Valley as the best opportunity to support affordable housing, explaining, "Upon further review and discussion, the subcommittee determined that the parcels off Vista Linda Drive near the 7th tee of the golf course provided the best opportunity to subdivide and rezone the land (currently zoned as Open Area) to Single-Family Residential." Lot 1 at Vista Linda is the largest lot adjacent to a kiddie playground. Lot 2 is a smaller, steeper parcel across the street from Lot 1 and adjacent to the golf course. Lot 1 has the best potential for residential development. However, Lot 1 was inexplicably excluded from any analysis in the Housing Workshop Inventory. It is evident that Lot 1's omission was based on the public opposition generated from West Mill Valley residents.

If Lot 2 on Vista Linda Drive could be considered for affording housing development, then Lot 1 should also be considered since it is not an active recreation area and would not impact the golf course. The draft EIR should be corrected to address this important point.

7.4.2 Alternative 2: Reduced Density (Table 7-1 Example of Financial Analysis Feasibility)

The amounts in line "Bank Loan" are overstated by orders of magnitude. Below is a recreation of the EIR chart:

	20 UNITS	30 UNITS	40 UNITS	50 UNITS
Annual Rent Collected (\$1,000 per month)	240,000	360,000	480,000	600,000
Salaries	150,000	150,000	150,000	150,000
Net Operating Income (NOI)	90,000	210,000	330,000	450,000
Annual Supportable Debt Payment	78,261	182,609	286,957	391,304
Income (Cash Flow)	11,739	27,391	43,043	58,696
Bank Loan*	13,833,586	32,278,368	70,723,150	69,167,932

* Assumes Debt Service Coverage Ratio (DSCR) of 1.15, 30-year loan at 4.25%

A-6b

Corrected bank loan amounts are shown below:

Bank Loan Recalculated at 4.25% **1,325,721** **3,093,349** **4,860,977** **6,628,588**

In fact, if a current interest rate, say 8.8%, is substituted for 4.25% the bank loan amounts would be:

Bank Loan Recalculated at 8.8% **825,252** **1,925,587** **3,025,922** **4,126,247**

According to the EIR, the bank loan needs to cover a minimum of approximately 15% of the total development costs to be financially feasible. Using a conservative assumption of \$800,000 development costs per unit, the project does not appear to be financially feasible at any size using an 8.8% interest rate and \$1,000 per month average rent.

A-6b

	20 UNITS	30 UNITS	40 UNITS	50 UNITS
Development Cost at \$800,000 per unit	16,000,000	24,000,000	32,000,000	40,000,000
Bank Loan Required (15% of Cost)	2,400,000	3,600,000	4,800,000	6,000,000
Bank Loan Achievable based on NOI & 8.8%	825,252	1,925,587	3,025,922	4,126,247
Loan Amount Deficiency	(1,574,748)	(1,674,413)	(1,774,078)	(1,873,753)

The EIR uses financial analysis to demonstrate that the project is only viable at 40+ units. However, using the EIR's own analysis, the feasibility of the project appears to be in question at any unit size given current interest rates and construction costs. The EIR should correct the financial analysis to address this important issue.

If the financial feasibility does not actually depend on 40+ units then the EIR should explain why. Also, the alternative for a reduced project size should be further considered. There is no reason why the city couldn't build a smaller project at Hamilton and build additional affordable units in other identified sites in the city.

A-6b

RESPONSE TO COMMENT A-6a

The comment is referring to a portion of the Mill Valley Golf Course along Linda Vista Drive. Draft EIR Section 7.0 discusses CEQA requirements for considering alternatives, which notes that pursuant to CEQA Guidelines Section 15126.6(a), “[a]n EIR need not consider every conceivable alternative to a project. Rather, it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation. An EIR is not required to consider alternatives which are infeasible.” The City notes that Public Resources Code Section 21094.5(b)(1) expressly provides that “alternative locations, densities, and building intensities to the project need not be considered” in the context of qualified infill project. Furthermore, as noted in Draft EIR Section 7.1.1, pursuant to CEQA infill requirements (CEQA Guidelines Section 15183.3. CEQA Guidelines Section 15183.3 (e)), the analysis of alternatives in an infill EIR need not address alternative locations, densities, or building intensities. As is discussed in Section 1.2.4 of the Draft EIR, the proposed Project qualifies as an infill project under CEQA and the EIR prepared for the Project therefore constitutes an infill EIR. As such, the description provided in the Draft EIR is adequate for the purposes of analysis of alternatives under CEQA.

Nonetheless, although the discussion of alternative locations for a project is not required in an infill EIR, the Draft EIR (at Section 7.3) further describes those alternatives considered but rejected, which includes alternative sites. Section 7.3 states that the golf course site, among other sites, was rejected for near-term housing development as it would remove or displace active recreation activities in the City, which is a policy decision. Thus, the Draft EIR’s review of the off-site alternatives described as having been rejected for further detailed analysis, including the golf course, were provided for context.

The analysis of other City-owned parcels that was undertaken prior to the selection of the 1 Hamilton site is available in The Housing Workshop Memos: “Analysis of Tax-Exempt Sites for Affordable Housing Development”, dated February 10, 2021, and “Financial Analysis of Affordable Housing Projects” dated March 12, 2021. These memos are available on the City of Mill Valley website: <https://www.cityofmillvalley.org/749/Housing-Advisory-Committee>.

RESPONSE TO COMMENT A-6b

While the financial or economic feasibility of a project is not normally a CEQA issue, this information was presented in the discussion of the Reduced Density Alternative in the Draft EIR in order to share pertinent information about the questionable viability of a scaled-down affordable housing development. CEQA does not require (or encourage) the analysis of alternatives that are infeasible for one reason or another. This information was presented to illustrate why the City did not evaluate a smaller reduced density project as an alternative (e.g., 20 units).

The Project is not economically feasible below 40 to 50 units because, at a smaller scale, the property does not produce sufficient income to cover operating expenses or allow sufficient debt leverage (a bank loan). There are fixed baseline operating expenses, including items such as property staffing and property insurance. The income produced by rents after operating expenses are paid for is called net operating income (NOI), which is used to leverage debt in the form of a bank loan. For financial feasibility the bank loan needs to cover roughly a minimum of 15% of the total development costs.

The smaller the bank loan, the more funding that must be provided by government sources. Each government funding source has caps on funding on a per unit basis and/or per project basis. Most of these funding sources are competitive and come with their own regulatory agreements.

Income, often referred to as cash flow from the property, is what is left after operating expenses and debt payments are made. The cash flow is restricted under the [HCD UMR 8314](#), which means cash flow can only be used for specified uses such as repayment of deferred developer fees, repayment of soft loans from the government, or for property reserves.

The comment correctly identifies errors in the “Bank Loan” row of Draft EIR Table 7-1. These errors have been corrected in this Final EIR. The corrected Table 7-1 is shown below.

Table 7-1. Example of Financial Analysis Feasibility

	20 UNITS	30 UNITS	40 UNITS	50 UNITS
Rent Collected (\$1000 per month)	\$240,000	\$360,000	\$480,000	\$600,000
Salaries	\$150,000	\$150,000	\$150,000	\$150,000
NOI	\$90,000	\$210,000	\$330,000	\$450,000
Annual Supportable Debt Payment	\$78,261	\$182,609	\$286,957	\$391,304
Income (Cash Flow)	\$11,739	\$27,391	\$43,043	\$58,696
Bank Loan*	\$13,833,586	\$32,278,368	\$50,723,150	\$69,167,932
	<u>\$971,142</u>	<u>\$2,265,999</u>	<u>\$3,560,855</u>	<u>\$4,855,712</u>

*Assumes DSRCDSCR 1.15, 30-year loan at 4.25% percent

The numbers shown in Table 7-1 demonstrate the impact of unit count on NOI and how NOI in turn impacts the amount of debt that can be leveraged. These numbers do not reflect actual rents for the property, salaries, or debt amounts. If a project has decreased debt leverage, the differential would increase the project gap, which would result in the need to pursue additional government funding sources for the capital cost to build the project. However, the property is required to have sufficient income to cover operating expenses which is not viable on a smaller scale without operating subsidies which are nearly exclusive to special needs populations.

Of all new construction projects funded with Low-Income Housing Tax Credits in the last year (both Round 1 and Round 2) (<https://www.treasurer.ca.gov/ctcac/2022/application.asp>), of the 85 projects awarded, only 6 are smaller than 50 units, and of those, 4 are developments serving formally homeless households, which have different funding options than the proposed Project.

LETTER A-7. ANNE MANNHEIMER



Comment Letter A-7

Steven Ross

From: Ann Mannheimer <annmann84@hotmail.com>
Sent: Sunday, November 26, 2023 10:00 PM
To: Steven Ross
Cc: Hannah Politzer
Subject: [External] 1 Hamilton Drive

A-7a

Dear Mr. Ross,

I read +the Environmental Impact Report and the mitigation of the asbestos that will be stirred up is totally inadequate. This is our neighborhood and we live and breath here. Asbestos caused problems take years to manifest and when they do, they are deadly. This is a very unwise project. I know that often times thing are promised in proposals that they will be mitigated and builders just push though the work without doing all they promised. Our neighborhood will be unhealthy and unfit for people and even pets during and after site preparation. Even the measures they proposed are inadequate even in the unlikely event they will be adhered to. I am ashamed of our city for ramming this through with no regard for the people who live here.

Ann Mannheimer
#117 Eucalyptus Knoll

RESPONSE TO COMMENT A-7a

The Draft EIR includes Mitigation Measure AQ-1 which addresses air quality impacts related to naturally occurring asbestos (NOA), which is present throughout the region. In accordance with California Code of Regulations (CCR), Title 17, Section 93105, Mitigation Measure AQ-1 requires implementation of an ADMP, which is subject to review and approval by the Bay Area Air Quality Management District (BAAQMD). The Project shall implement all requirements of the Final ADMP as approved and finalized by the BAAQMD, including monitoring and reporting requirements. Implementation of Mitigation Measure AQ-1 will be ensured through the Project Mitigation Monitoring and Reporting Program (MMRP), presented in Section 4.0 of this Final EIR. The BAAQMD was provided with the Draft EIR and did not submit any comment on the analysis, including Mitigation Measure AQ-1.



LETTER A-8. DENISE LIBIEN



Steven Ross

From: Denise Libien <deniselibien@gmail.com>
Sent: Sunday, November 26, 2023 6:18 PM
To: Steven Ross
Subject: [External] 1 Hamilton Drive Project

A-8a

Dear Mr. Ross,
I reside very close to the proposed project at 1 Hamilton Drive and am very concerned about the lack of parking and the traffic this project will create for residents in the area.
45 units means a considerable amount of people and cars.
This does not seem like responsible planning.
Denise Libien
Eucalyptus Knoll
Mill Valley

RESPONSE TO COMMENT A-8a

This comment identifies policy concerns about the Project but does not state a specific concern or question regarding the sufficiency of the Draft EIR in identifying and analyzing environmental impacts of the Project and ways to reduce or avoid these impacts. Transportation impacts of the Project are discussed in Section 5.9 of the Draft EIR (pages 197 through 233) and were found to be less than significant. The TIA analyzed the anticipated vehicle trips generated by the proposed Project in combination with existing and future cumulative traffic conditions, and found that even with implementation of the Project, all intersections in the Project area would continue to operate at allowable LOS standards per the City's General Plan Mobility Element. Refer to response to comment A-9a for a more detailed response to concerns regarding traffic.



LETTER A-9. TONI BRAYER



Steven Ross

From: Toni Brayer <almom2@comcast.net>
Sent: Monday, November 27, 2023 10:21 AM
To: Steven Ross
Cc: Hannah Politzer
Subject: [External] EIR for Hamilton Project

A-9a

Dear Mr. Ross,
Thank you for authorizing the EIR study for the Hamilton project. I read it in detail (long!) and it certainly looked like they addressed all potential risks of the project. The conclusions, however, mystified us. It's hard for us to understand that there would not be significant traffic and safety concerns with a project of this size. The parking, while meeting relaxed standards, is inadequate for the residents, their visitors and citizens that use Hauke Park and the city services located there. The traffic back up on Hamilton and Blithedale is already untenable at certain times, yet the EIR said there would be no impact to adding a large project like this.

I know the City and Cal Trans already times the freeway lights on Blithedale, yet the back up can stretch almost to downtown. I'm imagining the Camino Alto project traffic, coupled with 45-50 units on Hamilton and the stress this will put on the entire community. Downtown merchants already suffered when PG&E had Blithedale torn up. That was temporary and residents accepted it for the better good. This project is permanent and cannot be reversed.

Please look at downsizing this massive build. As we have stated before, the neighborhood is in favor of low income housing (we certainly have it already here) but not a project of this size. It needs to be scaled back to be safe for the entire community and visitors to Mill Valley. The builders, consultants and people who would profit from a large build should not be influencing your decisions.

A-9b

Thank you,
Toni Brayer, MD
Craig Patterson
Alexander Patterson
Lisa Brayer

RESPONSE TO COMMENT A-9a

As described in the response to Comment A-3A, a TIA was prepared for the Project to analyze parking and traffic conditions which would result from implementation of the proposed Project, information from which was included in Section 5.9, Transportation, of the Draft EIR. A discussion of existing parking conditions is provided on pages 23 through 26 of the TIA (pages 506 through 509 of Draft EIR Volume II), and an analysis of Project parking impacts is provided on pages 46 through 50 of the TIA (pages 529 through 533 of Draft EIR Volume II). A summary of this analysis in the TIA is provided on page 208 of the Draft EIR.

A detailed discussion of parking needs and proposed facilities for the Project is provided on page 222 of the Draft EIR. As described on page 222, the Project will provide 63 residential parking spaces on the ground floor podium-level of the proposed housing building and will also reconfigure the PSB parking lot to accommodate 50 public parking spaces to replace the 38 existing public spaces that will be removed from the Housing Site. As such, the Project would result in a net increase of 12 public parking spaces that can be used by Hauke Park visitors. As discussed on page 222 of the Draft EIR, the TIA determined that the residential characteristics of the Project and the daytime public use of Hauke Park are complimentary land uses in terms of parking demand. This is to mean that the periods of high public parking demand for Hauke Park occur at times when residential uses of the reconfigured PSB lot would be low. From page 222 of the Draft EIR:

“Results from the TIA’s parking analysis indicate that during the overnight period when residential parking demand is highest, there would be an estimated shortfall of five parking spaces in the first-floor parking lot underneath Project residences. At this same time, at least 40 unoccupied and publicly available parking spaces in the upgraded Hauke Park / PSB Public Parking Lot would be available to meet residential parking demand. During Saturdays when soccer games are being hosted at Hauke Park, which would represent the highest overall parking demand hours for all land uses combined, there would still be over 10 parking spaces empty in the Hauke Park / PSB Parking Lot (Parisi 2023a). As such, the parking spaces being constructed as part of the Project will be sufficient to meet Project generated residential and public parking demand.”

The Draft EIR provided an analysis of anticipated traffic impacts in accordance with the City’s LOS standards. Existing LOS conditions are discussed on pages 213 through 214 of the Draft EIR, which indicate that all signalized and unsignalized intersections in the Project area operate at acceptable LOS standards during all peak periods. A discussion of cumulative LOS conditions, which accounts for buildout of approved, proposed, and future development projects through the year 2040, is included on pages 214 through 221 of the Draft EIR. The results of the analysis in accordance with the City’s LOS standards is provided on page 229 of the Draft EIR, which state that although average vehicle delay at all study intersections would slightly increase due to Project operation, all study intersections would continue to operate at acceptable levels per the City’s standards.

RESPONSE TO COMMENT A-9b

This comment identifies policy concerns about the Project but does not state a specific concern or question regarding the sufficiency of the Draft EIR in identifying and analyzing environmental impacts of the Project and ways to reduce or avoid these impacts. No further response is warranted.

LETTER A-10. KRISTI DUCHON



Steven Ross

From: Kristi Duchon <kduchon@mac.com>
Sent: Monday, November 27, 2023 9:37 AM
To: Steven Ross
Cc: Hannah Politzer; Kristi Duchon
Subject: [External] 1 Hamilton Development

A-10a

To Whom it May Concern,

I am resending an email that I wrote over two years ago.

In those two years the city has failed miserably to produce a reasonable EIR to evaluate the risks to Hauke Park, the surrounding neighborhood, and the vibrant community of Mill Valley.

We remain strongly opposed to the development as currently proposed.

Sincerely,
The Duchon Family
151 Kipling Drive

From: Kristi Duchon <kduchon@mac.com>
Subject: 6/21/21 Agenda Item #3 - 1 Hamilton Development
Date: June 16, 2021 at 11:23:11 AM PDT
To: Danielle Staude <dstaude@cityofmillvalley.org>

As a resident of Enchanted Knolls, and 17 year homeowner on Kipling Drive, I strongly oppose use of the Hauke Park site at 1 Hamilton for a 40+ unit building. I am very familiar with the traffic patterns in the neighborhood as well as the use of the fields for sports and recreation. Each year, thousands of southern Marin children use the park for soccer, lacrosse, softball, summer camps and other recreational activities, especially on Saturdays. Due to insufficient parking at Hauke Park, parents sometimes stop in the middle of Hamilton and block traffic while unloading children and sports gear, and parents regularly park on neighboring streets, particularly near our home. In 2006 our dog was run over in front of our house on Kipling by a car racing up the block from the park. There were three adults and a toddler that witnessed the event. The car did not stop. Thank goodness it was not a child. Hundreds of elementary, middle & high school students bike & walk to school, games and practices using these neighborhood streets which overlaps with the heaviest commuter time.

A 40-unit apartment building will greatly increase the existing parking and traffic problem. Somewhere between 60 cars (1.5 cars per unit assumed by Consultant) and 100



cars (2.25 cars per unit assumed for current MV residents) will be forced to use the same narrow road and small lot that are now used for the Park, obstructing access to the Park and the route used by emergency vehicles. It would also congest Mill Valley's primary emergency evacuation site. Please reconsider the Hauke Park proposal. Use of the site for such a high density project is an ill-conceived idea that will create a serious safety hazard for children using the Park, especially during the construction period. It negatively impact one of the most precious recreational resources Mill Valley has - the open space at Hauke Park. Worse, use of the site is totally unnecessary when there are other solutions closer to public transit and retail shops.

Thank you for your thoughtful consideration,
Kristi Duchon
Kipling Drive, Mill Valley

A-10a

RESPONSE TO COMMENT A-10a

A TIA was prepared for the Project to characterize existing pedestrian, bicycle, and vehicle traffic and parking conditions, and to analyze potential traffic and parking changes which would result from implementation of the proposed Project. The TIA includes assessment of pedestrian and bicycle volumes and usage of intersection crosswalks, vehicle traffic, and parking demand associated with sports and recreational activities that take place at Hauke Park, including on Saturdays. Information from the TIA was included in Section 5.9, Transportation, of the Draft EIR.

As described in response to Comment A-9A, the Draft EIR provided an analysis of anticipated vehicle traffic and parking impacts. The results of the analysis stated that all study intersections would continue to operate at acceptable levels per the City's standards, and that parking spaces provided for the Project residences and for public users of Hauke Park would be sufficient to meet Project generated residential and public parking demand. A discussion of the Project's potential impacts to pedestrians and bicyclists was included on pages 51 through 53 of the TIA (pages 534 through 536 of Draft EIR Volume II). The TIA includes an improvement recommendation for pedestrian safety upgrades to the marked pedestrian crossings across Hamilton Drive in front of the Project site.

The Draft EIR provided an evaluation of anticipated Project impacts to emergency vehicle access on pages 65 through 66 of the TIA (pages 548 through 549 of Draft EIR Volume II). This evaluation concluded that the Project would not result in additional emergency response delay. The Draft EIR also included an assessment of anticipated traffic impacts during Project construction on pages 54 through 57 of the TIA (pages 537 through 540 of Draft EIR Volume II). This assessment reviewed the Project's plans and provisions for minimizing public safety hazards and disturbances along public roadways during construction and determined that construction truck trip generation and routing would not adversely impact surrounding roadways.

LETTER A-11. CHERIE WHITMORE



Steven Ross

From: drckw@yahoo.com
Sent: Monday, November 27, 2023 12:09 PM
To: Steven Ross
Cc: Hannah Politzer
Subject: [External] Hauke Park

A-11a

City of Mill Valley:

My concerns regard the stability of the soil, erosion patterns and potential impact on slope instability.

This site is located downhill from shifting soil patterns in the elevations above on Kipling, already documented in a geological report in 2002 where the geological engineer observed seepage and piping (subsurface erosion) which had created two sinkholes beneath a rock wall at the upslope edge of a yard on Kipling. The engineer also observed seepage extending over a modular rock wall and sediment accumulation at the base of the modular wall and the northern side yard of the property. This was due to several factors, notably the presence of large natural surface runoff and shallow groundwater seepage from a large sloped area above Kipling. Attention in 2002 required uphill adjustment of drainage systems. The proposed site for the 1 Hamilton project is located below a large surface runoff area to the north and east of the site, where there is a 45-50° slope.

Your environmental report states that vegetated slopes may not be protected from unusual flow conditions such as flood events or over-topping of the development's storm drainage system. What about the impact of drainage systems uphill? What about run-off from uphill? This development is at the lowest elevation that is described in the report with "Minor slope instability, predominately related to erosion, was observed at various locations throughout the slope." If it is already unstable, the elevations above it are also unstable, how does the cascading effect impact erosion? Your report states that while "no significant slope failures were noted during our site visits, evidence of prior cut and grading is visible in the southeastern slope of the site." I would not expect a slope failure to dramatically appear during a site visit, so the fact that one was not observed is completely irrelevant. Because your report notes that "minor slope instability, predominately related to erosion, was observed at various sites throughout the slope," it must be noted in the if there is already instability, what happens if a neighbor on the upward slope changes their landscape, or garden and impacts erosion?

Additionally, how will disruption of the soil patterns in this area impact flow conditions uphill? This was not addressed in your report. Your report describes remedies as to address "soft soil, assuming that loose surface soil and fill material on the site are removed and recompacted....." what if that isn't done properly or results are not as predicted when this site is on a major geological seismic fault line/s? Does that further impact erosion of the properties up the hill from this site and create a slide situation? There have been fatal mudslides in Mill Valley, I can't see the wisdom of creating a hazard.

There are potential dangers here that may not have been considered.

Sincerely,
Cherie Whitmore
1 Byron Circle
Mill VALley

RESPONSE TO COMMENT A-11a

The comment notes apparent similarities between the hill slope on the Project site and one at a different site located on Kipling Drive. The comment suggests that drainage and seepage issues may not have been adequately addressed in the Project geotechnical investigation. Firstly, slope stability issues at one location are not generally relevant to those at another site. The Geotechnical Report that was prepared by Krazan & Associates, Inc. for the Project (and was included as Appendix F of the Draft EIR) contains evaluations of the site's geologic setting, the full range of potential geologic hazards, a soil profile and subsurface conditions analysis, and groundwater. Additionally, the study presents a series of conclusions and recommendations regarding the influence of groundwater on the proposed structures, site preparation, slope construction/reconstruction, slope protection, engineered fill, drainage and landscaping, foundations and floor slabs, lateral earth pressures and retaining walls, compacted materials, and applicable seismic parameters.

Specific to the concerns raised in the comment, the Project Geotechnical Report states (at page 22):

During our recent field investigation groundwater was encountered at approximately 5 to 13 feet below existing site grade. In addition, shallow weathered Franciscan Complex mélange or serpentinite rock is located throughout portions of the site which may result in a perched water condition. Therefore, dewatering and/or waterproofing may be required should structures or excavations extend into the weathered rock. If groundwater is encountered, our firm should be consulted prior to dewatering the site. Installation of a standpipe piezometer is suggested prior to construction should groundwater levels be a concern.

In addition to the groundwater level, if earthwork is performed during or soon after periods of precipitation, the subgrade soils may become saturated, "pump," or not respond to densification techniques. Typical remedial measures include discing and aerating the soil during dry weather; mixing the soil with dryer materials; removing and replacing the soil with an approved fill material; or mixing the soil with an approved lime or cement product. Our firm should be consulted prior to implementing remedial measures to observe the unstable subgrade conditions and provide appropriate recommendations.

One aspect in the preparation of this property for construction is the determination of areas of possible seasonal springs and the placement of subsurface drainage systems to intercept groundwater away from the planned area of construction. It is recommended that the site be observed by a member of our engineering staff following completion of the site clearing and stripping to evaluate the need for subdrainage systems. Evaluation should also be performed following completion of rough site grading. This is particularly important for use in evaluating the need for subdrains for pavements. This office should be contacted regarding any future seepage on the property so appropriate mitigation measures can be recommended.

As the comment notes, the Geotechnical Report acknowledges that vegetated slopes may not be protected from unusual flow conditions such as flood events or overtopping of the Project's storm drainage system. However, this is not an unusual occurrence and would also apply to most locations containing hill slopes. The Project's plans (see Figure 4-8 of the Draft EIR) include hill slope drains. These plans will be fleshed out as they undergo review by the Project's soils engineer and the City. If warranted, additional erosion protection measures such as grouted

cobble slope facing or manufactured slope protection would be employed, as recommended by the geotechnical study.

Mitigation Measure GEO-1 requires that the Project incorporate the recommendations of the geotechnical engineering study into final design plans. These recommendations include modifications made as needed during final plan development and even during construction if unanticipated conditions are encountered on-site. Although the risk of slope failure during or in response to extreme rainfall or flooding events can never be eliminated entirely, implementation of the best professional recommendations of qualified professionals as required under Mitigation Measure GEO-1 will reduce the potential for slope failure to occur and thus reduce potential impacts to a less-than-significant level.

Based on review of the California Geological Survey map titled “Zones of Required Investigation” and “Fault Activity Map of California,” no active faults are located on Project site. The nearest active fault is the San Andreas fault located more than 6 miles to the west of the site. Research of prior developments in the area also shows that no active faulting concerns have been observed.



LETTER A-12. PAUL JENSEN



Planning Commission

City of Mill Valley

c/o: Danielle Staude

dstaude@cityofmillvalley.org

A-12a

SUBJECT: PUBLIC COMMENT – ONE HAMILTON RESIDENTIAL DEVELOPMENT

Dear Chair Yolles and Planning Commissioners:


Thank you for the opportunity to submit comments on the Draft EIR and the merits of the One Hamilton affordable housing project. By way of background, my name is Paul Jensen, and I am a 43-year resident of Marin County. I am a retired Community Development Director/City Planner with over four decades of experience in administering the planning and CEQA/environmental review process for projects like One Hamilton. I am also a housing advocate and serve as a board member with Marin Environmental Housing Collaborative (MEHC) and Marin Conservation League (MCL). However, I am not representing these organizations in the comments summarized below.

First, I would like to express my wholehearted support for the One Hamilton housing development project. This project presents one of the best opportunities for the City of Mill Valley to do its part in providing needed housing for Mill Valley and Marin County. The One Hamilton site is one of a handful of sites in the City of Mill Valley that is suitably sized, and relatively constraints-free to accommodate higher density housing. Approving this project will go far in the City of Mill Valley addressing its Regional Housing Need Allocation (RHNA) through this next eight-year Housing Element cycle.

Further, One Hamilton presents a rare opportunity to approve and develop a 100% affordable housing project. Being 100% affordable, the housing units will be available to many people in the Marin workforce that currently travel afar for affordable rents, resulting in exhaustive commutes and increased traffic and greenhouse gas emissions.

Second, I had an opportunity to complete a review of the One Hamilton Draft EIR. I can comfortably say that the document is thorough, adequately covers key topics, complies with the CEQA Guidelines, and provides information and data that goes beyond the minimum requirements. The Draft EIR:

- Adequately covers the key topic areas that are critical to the site and area.
- Includes studies and assessments of two topic areas no longer mandated by the CEQA Guidelines, which are: a) a traffic assessment of local intersection review of level of service (LOS) operations; and b) adequacy of parking. Regarding LOS, the project impacts on the local intersections would not cause traffic to fall below the City's adopted LOS intersection standards.
- Concludes that all potentially significant impacts can be mitigated to acceptable levels through the implementation of reasonable and doable mitigation measures.
- Concludes that the project would result in environmental impacts that are significant and unavoidable for which there is no mitigation to reduce the impacts.

- 
- Has been prepared by WRA, which is a reputable, local environmental consulting firm that is knowledgeable of the Marin landscape, as well as local environmental issues and policies.

Please do the right thing for the Mill Valley community and Marin by moving forward with a recommendation to prepare a Final EIR and a recommendation to the City Council to approve this project.

Thank you again for the opportunity to comment on this important project.

Paul A. Jensen, AICP
San Rafael, CA

A-12a

RESPONSE TO COMMENT A-12a

This comment expresses support for the Project but does not state a specific concern or question regarding the sufficiency of the Draft EIR in identifying and analyzing environmental impacts of the Project and ways to reduce or avoid these impacts. No further response is warranted.



LETTER A-13. KEVIN MCGRATH



Steven Ross

From: Kevin McGrath <kevin@weavermcgrath.com>
Sent: Monday, November 27, 2023 10:55 AM
To: Steven Ross
Cc: Hannah Politzer
Subject: [External] Nov. 28 Planning Commissions Meeting - Agenda Item No. 1

A-13a

Hello Mr. Ross:

I live on Kipling Drive. I wish to comment on the sections of the Draft EIR for the 1 Hamilton Drive Project that relate to parking and traffic. These sections overlook potentially dangerous conditions.

In the discussion of parking facilities that begins on page 207, the Draft EIR states that excess on-street parking exists in the Project vicinity (page 208). Figure 5.9-3 on page 209 and Table 5.9-5 on page 210 indicate that excess parking is available on the first 500 feet of Kipling Drive north from Roque Moraes. This discussion overlooks the fact that Kipling Drive becomes a one-lane street when cars are parked on either side. When parked cars are present, Kipling is too narrow to allow cars to pass each other in opposite directions.

The discussion of traffic data collection that begins on page 211 likewise is incomplete. Although it summarizes traffic volumes and collision history near the Project, it does not consider the issue of excessive speed. This has been a problem for many years on Kipling Drive which has only grown worse with the passage of time. The problem is particularly acute during peak evening commute hours when drivers seeking to bypass congestion on East Blithedale use Kipling as a shortcut to Highway 101 – often at a high rate of speed.

The interaction of more street parking and excessive speed on Kipling Drive could be lethal. The City added a double yellow line on Kipling several years ago in response to neighborhood complaints after a dog was run down and killed by a speeding driver – an event that I witnessed personally. It is easy to imagine a scenario in which the driver of a massive SUV charging up Kipling fails to see a dog or a small child that emerges between parked cars in time to avoid a tragedy.

I urge the Planning Commission not to recommend approval of the Draft EIR by the City Council until these issues are given further study.

Respectfully submitted,
[Kevin J. McGrath](#)

RESPONSE TO COMMENT A-13a

The roadway width of Kipling Drive from Roque Moraes Drive to 500 feet north of Roque Moraes Drive is 30 feet between curbs. Based on average vehicle widths, two-way traffic is accommodated under existing conditions when vehicles are parked on both sides of the street. Two-way vehicle traffic would continue to be facilitated in a similar manner after implementation of the proposed Project.

The posted speed limit along Kipling Drive north of Roque Moraes Drive is 25 miles per hour (mph). According to the City of Mill Valley's 2019 Engineering and Traffic Surveys, the average speed recorded on Kipling Drive was 24 mph, and the 85th percentile speed was 28 mph. It is not anticipated that traffic generated by the Project will result in an increase in prevailing speeds along the roadway.³

³ Information provided by transportation consultant, Jimmy Jessup, of Parametrix on January 3, 2024.



LETTER A-14. CAROLYN HEYDER



Steven Ross

From: Carolyn Heyder <csheyder@gmail.com>
Sent: Monday, November 27, 2023 12:54 PM
To: Steven Ross; Hannah Politzer
Subject: [External] Comments on EIR - 1 Hamilton - PC Meeting on November 28, 2023

A-14a

Dear Mr. Ross:

I am writing you concerning the draft EIR of 1 Hamilton that will be discussed at the Planning Commission's meeting tomorrow, November 28, 2023.

I have written previously to express my concern that this project is too large for the site. I anticipated that there would be notable environmental impacts.

In fact, the EIR did identify several areas of potentially significant environmental impacts.

Perhaps this is why, for the first time I am aware of, two alternate plans to reduce density were considered. Although these scenarios were dismissed on the grounds that the recommended mitigation would reduce these impacts, I disagree, and you should reconsider these alternates.

In Section 2.4.2 on page 28, the two alternatives are discussed.

(1) The first would be to reduce the overall height . The alternate would **reduce the units from 50 to 32**. It would **reduce the height from 4 – 3 stories**. It would **reduce the amount of necessary cut into the hillside**, and **reduce** the developable net floor area **from 65,000 sf to 51,500 sf**.

(2) The second would be to eliminate the East Wing. This alternate would **reduce the units from 50 to 34**. It would result in a **32 percent decrease** over the proposed project. It also would **reduce the amount of necessary cut into the hillslope**, and **reduce** the net floor area for development **from 65,00 sf to 54,800 sf**.

Furthermore, and more importantly, the report states that either alternative would “**reduce** the Project’s **air quality, cultural resources and geology/soils impacts** as compared with the proposed Project.”

Just what are these impacts?

Air quality: these include “potential exposure to sensitive receptors to substantial pollutant concentrations” (page 16), potentially significant greenhouse gas emissions (page 25) and identified asbestos (page 162.) And what would have a significant impact on disturbing the naturally occurring asbestos? **Geological and soil conditions:** (1) rupture of known earthquake fault (2) strong seismic ground shaking (3) seismic related ground failure, including liquefaction, (4) soil erosion, and (5) soil that is unstable or expansive (page 162). These geological and soil conditions have been identified as potentially significant on the 1 Hamilton site. (page 24) (and Appendix F).

And would not all these **impacts** be **significantly greater** on a large **50 unit** project (as proposed) than on a **32-34 unit** project that has a smaller building footprint, has a smaller hillside cut, and involves "less earthwork on site"?

A-14a

↑ The EIR report dismissed density reduction alternates claiming that the mitigation it proposes would be significant enough to reduce the impacts of the proposed project to the point where it should proceed.

↑ Once again, I disagree with the EIR. I am not reassured by the proposed mitigation. From what I understand reading the mitigation paragraphs and the Geological Krazan Report (Appendix F), the contractor would bear the sole responsibility for the mitigation, and the final approval would be subject to one man: the Soils Engineer.

With such substantial impacts at stake, where is the necessary and appropriate mitigation?

In conclusion, the fact that 2 alternate density reduction plans were even considered demonstrates that reducing the size and scale of this project **is possible and necessary**.

↑ Sincerely,
Carolyn Heyder

A-14b

RESPONSE TO COMMENT A-14a

The comment summarizes information contained in the Draft EIR but does not state a specific concern or question regarding the sufficiency of the Draft EIR in identifying and analyzing environmental impacts of the Project and ways to reduce or avoid these impacts. No further response is warranted.

RESPONSE TO COMMENT A-14b

The comment identifies concerns related to mitigation measures, specifically for impacts related to geology and soils. Mitigation Measure GEO-1 requires that “the Project shall incorporate into design and implementation the recommendations of the *Geotechnical Engineering/Geologic Hazards Investigation* prepared by Krazan (Appendix F). The purpose of these recommendations is to stabilize the surface soils on the housing development site to reduce risks associated with geologic hazards.” Some recommendations, such as the construction of cut and fill slopes and depth of concrete footings, shall be verified by the Soils Engineer. Other recommendations, such as inspection of footing excavations and an inspection of excavations before backfilling, shall be inspected by a member of Krazan & Associates, Inc. Although the Soils Engineer shall be responsible for verifying and/or providing further, more specific recommendations for some site preparation practices, the Project contractor and developer shall ultimately be responsible for designing the site plans in accordance with recommendations of the Geotechnical Report and all applicable City codes and regulations. This means that the Soils Engineer would not bear the sole responsibility for the proposed mitigation; the recommended mitigation would be incorporated into site plans by the builder and implemented during construction. As shown in the Mitigation Monitoring and Reporting Program (MMRP; see Chapter 4.0 of this Final EIR), the City is responsible for ensuring that the adopted mitigation is shared with the builder so that it can be incorporated into final plans and construction specifications for the Project.

RESPONSE TO COMMENT A-14c

A discussion of two Project alternatives, including a Reduced Density Alternative and a Reduced Parking Alternative, was included in the Draft EIR in accordance with CEQA Guidelines Section 15126.6(a), which states, “An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives.” The Reduced Density Alternative and Reduced Parking Alternative were considered in the Draft EIR and evaluated for their comparative merits. While it is correct that either Alternative would have a less substantial impact than the proposed Project, neither Alternative would fully satisfy the Project objectives. In addition, the Draft EIR concluded that all impacts of the proposed Project could be reduced to a level that is considered less than significant under CEQA with the implementation of mitigation measures. Therefore, as the proposed Project would not have any significant and unavoidable impacts, neither Alternative was concluded to substantially lessen the severity of impacts of the proposed Project.

LETTER A-15. ELENA MCCLAIN



Steven Ross

From: Elena McClain <elenamclain@comcast.net>
Sent: Monday, November 27, 2023 2:26 PM
To: Steven Ross
Cc: Hannah Politzer
Subject: [External] One Hamilton

To: City of Mill Valley

From: Elena McClain
16 Tennyson Drive
Mill Valley, Ca. 94942

A-15a

I wish to comment on the two issues below from the EIR report:

1. One such glaring deficiency in the report states “Minor slope instability”, predominately related to erosion, was observed at various locations throughout the slope”, but no significant slope failures were noted during the site visits. How can anyone judge the stability of slopes based “just” on site visits – has anyone tested these slopes during/or after a torrential rainy season?

2. Traffic: The EIR table of contents 3.3.2 Project Site Access states: “There is no existing public transit service immediately adjacent to the project line”, which means that residents who are incapable of walking to the closest transit line, will have to drive their cars to East Blithedale. Is it realistic that older residents of One Hamilton will be on foot and carrying bags of groceries from Whole Foods or Safeway? Anyone who drives on East Blithedale already knows it’s a disaster. The whole idea of affordable housing is to build it along convenient transit routes, and One Hamilton is not. The City of Mill Valley continues to promote fire evacuation drills to vacate the city, when it is obvious that East Blithedale will be a choke point for residents trying to flee, and now the city will add more traffic to an already dangerous situation, by building One Hamilton.

In sum, the City of Mill Valley is not listening to the objections of the majority of MV residents regarding the One Hamilton Project. There will be no turning-back once a project like One Hamilton is built, which will change the face of the Hauke Park area are forever.

A-15b

RESPONSE TO COMMENT A-15a

The comment identifies concerns related to slope instability on the Project site. It is correct that “minor slope instability” was observed on the Project site during a site visit, however, as described in Appendix F of Volume II of the Draft EIR, the Geotechnical Investigation also included:

- A review of available data for evaluation of subsurface conditions at the Project site,
- Aerial photograph interpretation,
- A search of geologic and seismologic literature pertaining to the area of the Project site,
- A field investigation consisting of drilling five borings to depths ranging from approximately ten to 34 feet for evaluation of the subsurface conditions at the Project site, and
- Performing laboratory tests on representative soils samples obtained from the borings to evaluate the physical and index properties of the subsurface soils (page 416 through 417 of the Draft EIR Volume II).

The recommendations provided in the Geotechnical Report are based on information collected from the above-listed procedures, including, but not limited to, a site visit. The analysis of slope stability and potential for slope failure was determined through an evaluation of the Project site topography, the existing conditions of the surface soil, and the physical and chemical properties of the subsurface and surface soils. A full description of the field and laboratory investigations and the soil surface and subsurface conditions can be found on pages 19 through 20 of Draft EIR Appendix F (pages 432 through 433 of the Draft EIR Volume II).

Slope instability will be further addressed during the design phase of the Project, which will include future geotechnical investigation and retaining wall design recommendations. This concern will also be monitored during the grading and earthwork phase of the Project as a part of standard construction methods and practices.

RESPONSE TO COMMENT A-15b

The comment expresses concerns related to public transit near the Project site. The comment misquotes the Draft EIR, which states, on page 34, that “there is no existing public transit service immediately adjacent to the Project site.” It is correct that there is no existing public transit service immediately adjacent to the Project site. Residents may choose to walk or bike to grocery stores approximately one-half mile northwest of the Project site or walk/bike approximately 0.40 miles north along Kipling Drive to the public transit stop located at the intersection of Kipling Drive and East Blithedale Avenue. The Draft EIR acknowledges that residents who are not able to walk or bike may choose to drive to nearby shopping centers, as described in Section 5.9, Transportation. This would not create a significant traffic impact. The TIA analyzed the anticipated vehicle trips generated by the proposed Project in combination with existing and future cumulative traffic conditions, and found that even with implementation of the Project, all intersections in the Project area would continue to operate at allowable LOS standards per the City’s General Plan Mobility Element.

LETTER A-16. GARY BATROFF



Steven Ross

From: Gary Batroff <gbatroff@hotmail.com>
Sent: Monday, November 27, 2023 6:36 PM
To: Steven Ross
Cc: Hannah Politzer
Subject: [External] Planning Commission Meeting Comments: Nov. 28

A-16a

Dear Planning Commissioners,

Despite years of promises by the City to do a proper Environmental Review of the 1 Hamilton site, it seems they have taken multiple shortcuts, particularly in regard to the care of wildlife, the health of residents breathing the air of the construction site, and in the safety of children using the park. There is also an abundance of errors that will no doubt come to light should this shoddy piece of work come to light. I trust you will use your best judgement to ensure a better version is created before approving what is very much of a "draft" EIR.

Sincerely,

Gary Batroff
90 Keats Drive
Mill Valley

RESPONSE TO COMMENT A-16a

This comment identifies general concerns about the Draft EIR but does not point out specific errors of fact or analysis requiring correction. Impacts to wildlife are discussed in Section 5.3, Biological Resources, of the Draft EIR and were found to be less than significant with mitigation incorporated. Refer to response to comments A-25q through A-25u for a more detailed response to concerns related to biological resources. Air quality impacts are discussed in Section 5.2, Air Quality, of the Draft EIR and were found to be less than significant with mitigation incorporated. Refer to response to comment A-23a for a more detailed response to concerns regarding air quality. Impacts related to pedestrian safety are discussed in Section 5.9, Transportation of the Draft EIR and were found to be less than significant. Refer to response to comments A-4b and A-10a for a more detailed response to concerns regarding pedestrian safety.



LETTER A-17. MARILYN BUSH



Comment Letter A-17

Steven Ross

From: Marilyn Bush <m.w.bush@ieee.org>
Sent: Monday, November 27, 2023 5:33 PM
To: Steven Ross
Subject: Fwd: [External] Strongly Object to 1 Hamilton Drive PL23-5167/APN:030-250-01

A-17a

Subject: Strongly Object to 1 Hamilton Drive PL23-5167/APN:030-250-01

We strongly object to this proposed development on 1 Hamilton Drive. There are a number of reasons but based on the environmental report cutting into the Serpentine Rock that will emit asbestos in the neighborhood is really unconscionable. It will affect all of us who walk in that area everyday and the outdoor activities that take place on the fields and at Hauke Park. We are surprised at the lack of environmental consciousness for this project.

A-17b

Parking which is a problem now will be even more limited if this project goes through. Not to mention the traffic that will be generated in this area. The homes that are already in place will be affected and probably devalued.

A-17c

One other point is that most affordable housing has been placed on this side of Mill Valley. It would be only fair to distribute the housing in other areas of Mill Valley.

Sincerely,
Marilyn Bush

65 Eucalyptus Knoll St
Mill Valley, CA 94941
Tel: 1 267 258 5151

RESPONSE TO COMMENT A-17a

This comment identifies concerns about the Project but does not state a specific concern or question regarding the sufficiency of the Draft EIR in identifying and analyzing environmental impacts of the Project and ways to reduce or avoid these impacts. Impacts and mitigation measures related to naturally occurring asbestos at the Project site are discussed in Section 5.2, Air Quality, of the Draft EIR. Refer to response to comment A-22a and A-23a for a more detailed response to concerns regarding air quality. As described in responses to Comment A-22a and A-23a, implementation of Mitigation Measure AQ-1 will ensure that airborne asbestos impacts are reduced to a less-than-significant level.

RESPONSE TO COMMENT A-17b

This comment identifies concerns about the Project but does not state a specific concern or question regarding the sufficiency of the Draft EIR in identifying and analyzing environmental impacts of the Project and ways to reduce or avoid these impacts. Transportation impacts of the Project are discussed in Section 5.9, Transportation, of the Draft EIR and were found to be less than significant. The TIA analyzed the anticipated vehicle trips generated by the proposed Project in combination with existing and future cumulative traffic conditions, and found that even with implementation of the Project, all intersections in the Project area would continue to operate at allowable LOS standards per the City's General Plan Mobility Element.

RESPONSE TO COMMENT A-17c

This comment identifies policy concerns about the Project but does not state a specific concern or question regarding the sufficiency of the Draft EIR in identifying and analyzing environmental impacts of the Project and ways to reduce or avoid these impacts. Refer to response to comment A-6a for a more detailed discussion of concerns related to the City's selection of housing sites.

LETTER A-18. MARIA SCOTT



Steven Ross

From: D & M Scott <mdscott1966@att.net>
Sent: Monday, November 27, 2023 4:39 PM
To: Steven Ross; City Clerk
Subject: [External] Opposed to 1 Hamilton

A-18a

My name is Maria Scott and I have lived at 86 Kipling Drive for 41 years. I am supportive of affordable housing, but not the current 1 Hamilton proposal as planned.

Before committing public funds and entering a binding legal contract with a developer the City should address the neighborhood concerns as to the location and density. The proposed up to 40 units on the small site is excessive. Mill Valley has reached its carrying capacity. I am a walker and I see close calls with speeding cars and young soccer players, dogs running after balls, cyclists, and emergency response. The 1 Hamilton project will cause more congestion that will affect our safety and quality of life.

Thank you.

Maria D. Scott
86 Kipling Drive

RESPONSE TO COMMENT A-18a

This comment identifies policy concerns about the Project but does not state a specific concern or question regarding the sufficiency of the Draft EIR in identifying and analyzing environmental impacts of the Project and ways to reduce or avoid these impacts. Impacts related to emergency access and pedestrian safety are discussed in Section 5.9, Transportation, of the Draft EIR and were found to be less than significant. No further response is warranted.



LETTER A-19. SIMIN BATROFF



Steven Ross

From: Simin Batroff <sbatroff@hotmail.com>
Sent: Monday, November 27, 2023 8:40 PM
To: Steven Ross
Cc: Hannah Politzer
Subject: [External] EIR for 1 Hamilton and November 28th Meeting

A-19a

Dear Mr. Ross: The city of Mill Valley's long awaited EIR is deficient ignoring health issues relating to Asbestos at 1 Hamilton site. It's a scientifically proven fact that asbestos can cause mesothelioma cancer if disturbed. Please think about people's health before you take the next steps.

Sincerely,

Simin Batroff (90 Keats Drive)

RESPONSE TO COMMENT A-19a

This comment identifies concerns about the Project but does not state a specific concern or question regarding the sufficiency of the Draft EIR in identifying and analyzing environmental impacts of the Project and ways to reduce or avoid these impacts. Impacts related to naturally occurring asbestos on the Project site are addressed in Section 5.2, Air Quality, of the Draft EIR. Sufficient mitigation has been identified in the Draft EIR to reduce air quality impacts related to asbestos to a less-than-significant level. As stated in Mitigation Measure AQ-1, the Project will prepare an Asbestos Dust Mitigation Plan that will be subject to final review and approval by the Bay Area Air Quality Management District and will be implemented and enforced throughout Project construction (page 101 through 103 of the Draft EIR). The Draft Asbestos Dust Mitigation Plan is provided in Appendix D of Draft EIR Volume II.



LETTER A-20. GAIL KATZ



Steven Ross

From: Gail Katz <gkatz00@yahoo.com>
Sent: Monday, November 27, 2023 4:52 PM
To: Steven Ross; City Clerk
Subject: [External] EIR Comments for 1 Hamilton Drive

A-20a

Hello,

I would like to express my dissatisfaction with the EIR in regards to parking, traffic, safety. It is totally inadequate and does not address the impact to Hauke Park and the surrounding neighborhood.

Regards,
Gail Katz

RESPONSE TO COMMENT A-20a

This comment identifies policy concerns about the Project but does not state a specific concern or question regarding the sufficiency of the Draft EIR in identifying and analyzing environmental impacts of the Project and ways to reduce or avoid these impacts. Impacts related to parking, traffic, and pedestrian safety are addressed in Section 5.9, Transportation, of the Draft EIR and were found to be less than significant. No further response is warranted.



LETTER A-21. DAVID SCOTT



Steven Ross

From: D & M Scott <mdscott1966@att.net>
Sent: Monday, November 27, 2023 4:55 PM
To: City Clerk; Steven Ross
Subject: [External] EIR 1 Hamilton

A-21a

My name is David Scott and I live at 86 Kipling Drive, Mill Valley. I am supportive of affordable housing, but not the current 1 Hamilton proposal as planned. The EIR is inadequate.

Before committing public funds and entering a binding legal contract with a developer the City should address the neighborhood concerns as to the location and density. The proposed up to 40 units on the small site is excessive. I am a walker and I see close calls with speeding cars and young soccer players, dogs running after balls, cyclists, and emergency response. The 1 Hamilton project will cause more congestion that will affect our safety and quality of life.

Thank you.

David Scott

RESPONSE TO COMMENT A-21a

This comment identifies concerns about the Project but does not state a specific concern or question regarding the sufficiency of the Draft EIR in identifying and analyzing environmental impacts of the Project and ways to reduce or avoid these impacts. Impacts related to emergency access and pedestrian safety are discussed in Section 5.9, Transportation, of the Draft EIR and were found to be less than significant. No further response is warranted.



LETTER A-22. ANITA SCOTT



Steven Ross

From: Anita Scott <anita.scott@gmail.com>
Sent: Tuesday, November 28, 2023 2:16 PM
To: Steven Ross
Cc: Hannah Politzer
Subject: [External] Inadequate EIR

A-22a

November 28, 2023

Dear Mr. Ross,

I would like to voice my concerns, along with others that have gone on record, to the geology and soils hazard regarding the asbestos found in the serpentine rock on the 1 Hamilton building site.

ISSUE AREA AND SUMMARY OF EFFECTS DETERMINED TO NOT BE SIGNIFICANT in the EIR actually states there is a cause for concern.

"The Initial Study found that the proposed Project would have a potentially significant impact related to the upset and release of hazardous materials into the environment due to the presence of NOA on the Project site. These impacts were further discussed and characterized in Section 5.2, Air Quality, of this Draft EIR "

The World Health Organization, the federal Department of Health and Human Services, and the U.S . EPA have determined asbestos is a human carcinogen. No "safe" level of exposure to asbestos has been established. Any exposure to asbestos fibers involves some risk of disease.

I live directly above the building site at 149 Roque Moraes. Disturbing the soils while excavating the site will create dust that contains asbestos fibers.

I worry for my health as a 72 year old and the health of my 4 & 6 year old grandsons who I watch on a regular basis. My concerns are also for the hundreds of young athletes that play on the sports fields directly across the street from the site, along with the younger children at the playground twenty-five feet away.

Environmental health scientists suggest children are at higher risk of asbestos disease due to their faster breathing rates. Taking into consideration the faster breathing rates of athletes, our young athletes are doubly cursed with the possibility of asbestos contamination. It is the city's responsibility to be upfront with the citizens of MV and southern Marin who use these fields to the asbestos issue. In addition, the city of Mill Valley and EAH should be responsible for safety training and air monitoring by hiring a dedicated environmental and industrial hygiene firm prior to any excavation of the site. I was unable to find mention of the percentage of asbestos found in the initial samples taken in relation to the regulatory levels of .25%.

Additionally, I'm confused by the following statement under Hazards and Hazardous Materials pg.247

"The Initial Study found that the proposed Project would have no impact regarding the use of hazardous materials or release of hazardous emissions within one quarter mile

A-22b

A-22b

of an existing or proposed school because there are no schools located within one quarter mile of the Project site.”

The Mill Valley Middle School would fall within a quarter mile of the Project. Please provide context for this statement error.

Changing the land use designation for 1 Hamilton is premature. A full project EIR needs to be completed first to assess the environmental impacts. The EIR you have submitted is inadequate. The citizens of Mill Valley deserve a comprehensive EIR that addresses the air quality concerns we raised over the past 3 years!

Thank you,
Anita Scott

A-22c

A-22b

RESPONSE TO COMMENT A-22a

The comment identifies concerns related to NOA on the Project site and the impact it may have on elderly citizens and children in the Project area, particularly children who play sports at Hauke Park. Page 18 of the Initial Study (Draft EIR Volume II, Appendix A) states that “the BAAQMD facilitated the collection of bedrock samples from the project site to be tested for NOA particles in January 2023. The results of the sampling from SGS Forensic Laboratories confirmed a sample from the site to be Chrysotile Type asbestos with a percent asbestos of 0.50.” To address the impact of NOA from the Project site, Krazan-VEIR prepared an ADMP to address the potential release of NOA on the Project site during construction activities. Mitigation Measure AQ-1 requires the implementation of an ADMP which contains institutional controls and BMPs to reduce air particulate emissions resulting from ground disturbing activities at the Project site, as well as monitoring and reporting requirements. The ADMP must be reviewed and approved by the BAAQMD, the regional air quality control agency, prior to any soil disturbance on the Project site. The BAAQMD is the air quality control agency responsible for determining the adequacy of mitigation measures proposed in the ADMP. If the measures contained in the ADMP are not sufficient to mitigate potential NOA air quality impacts, the BAAQMD will require revisions to the ADMP until the mitigation is satisfactory. As such, the ADMP will contain adequate mitigation measures to ensure that the release of NOA will be minimized and would not endanger elderly residents and children at Hauke Park or nearby residences.

The analysis of air quality impacts determined that, with implementation of Mitigation Measure AQ-1, the impact of the Project related to the release of NOA would be less than significant (page 104 of the Draft EIR).

RESPONSE TO COMMENT A-22b

According to a map analysis, Mill Valley Middle School is located approximately 0.26 mile from the proposed Housing Site (direct distance, not via streets). However, even if the proposed Housing Site were located within one-quarter mile of Mill Valley Middle School, Project construction activities would have a less-than-significant impact on the school and its students and staff with respect to hazards and the use of hazardous materials. Specifically, compliance with applicable regulations concerning the use of hazardous materials and equipment is a standard requirement in construction bid documents. The intervening distance between the school and the Project site ensures that any accidental releases of hazardous materials would not affect the school and would be halted and cleaned up before they could affect off-site properties. With respect to Project operation, residential land uses such as the Project typically do not raise hazardous materials concerns as the storage and use of such materials is normally limited in scope (cleaning, painting, and minor routine maintenance).

RESPONSE TO COMMENT A-22c

As described in Draft EIR Section 3.3.1, General Plan and Zoning Designations (page 34), “the land use designation for the Housing Site was changed from Community Facility to Multi-Family Residential-2 with the adoption of the Housing Element Update on May 15, 2023.” The Draft EIR serves as the project EIR for the proposed Project and addresses the environmental impacts of building multi-family housing on the Housing Site. The comment asserts that the Draft EIR is inadequate yet does not state a specific concern or question regarding the sufficiency of the Draft EIR in identifying and analyzing environmental impacts of the Project and ways to reduce or avoid these impacts. No further response is warranted.

LETTER A-23. ELIZABETH O'DONNELL



Steven Ross

From: Elizabeth O <elizabethodonnellong@gmail.com>
Sent: Tuesday, November 28, 2023 4:33 PM
To: Steven Ross
Cc: Hannah Politzer
Subject: [External] EIR 1 Hamilton comment

A-23a

Hi,

I would like to comment about the airborne asbestos mitigation plan for 1 Hamilton. As described in the EIR, The Bay Area Air Quality Management District confirmed asbestos in the rock on site after testing on January 3, 2023.

Asbestos not only causes cancer, it's an indestructible fiber that embeds in the lung and creates or worsens lung conditions like asthma.

The City's sports fields for children (soccer, lacrosse, baseball, etc.) and a toddler park are right across the street from the Hamilton site. Mill Valley Middle School is located about 1000 ft downwind from the construction site. I'm very concerned about the airborne dust with asbestos in it that will be in close proximity to the children in the park and at the school, day in and out for months. I think Mill Valley parents of children should be concerned too.

The EIR contains measures to mitigate the release of toxic airborne asbestos, however these measures are the minimum required. Considering the kids are in such close proximity, it would seem to me it would be best if a superior effort was made to prevent as much asbestos as possible from being released into the local air. The developer should be required to perform not just one but multiple actions under each mitigation category. Our children deserve better.

Also, a superior effort should be made to monitor airborne asbestos for those people who live and play nearby. Presently only the minimum air monitoring effort is outlined by the EIR.

For example, asbestos air monitors will not be operational ON WEEKENDS OR HOLIDAYS.

Huge piles of excavated dirt and rock will be on site. As we all know, the winds in the area can be very strong, with gusting speeds of 20-25 mph not infrequent. Even if the dirt piles are covered, that amount of wind is recognized as a potential threat to asbestos mitigation efforts. The winds don't keep track if it's a weekend or holiday! They don't take time off - so why should the air monitoring?

The asbestos report says if there are windblown visible dust plumes from soils during inactive periods like the weekend, they should be reported to EAH, and mitigation measures will be directed by the contractor within less than four (4) hours. That's all fine and good, but the reality is the wind gusts usually happen at night when NO ONE IS AROUND OR EVEN ABLE TO SEE DUST IN THE DARK TO REPORT IT. Therefore it is essential that air monitoring be ongoing 24 hours a day and 7 days a week.

But it's expensive to monitor air, so it's not surprising the developer wouldn't want to do this. The City needs to demand that they continue air monitoring 7 days a week and 24 hours per day.

I, for one, wouldn't want my toddler or middle schooler playing on grass and equipment laden with asbestos dust after a windy night.

The EIR report talks about people particularly sensitive to asbestos exposure, like children, the elderly and sick, and refers to them as the "sensitive receptors". It states, "The primary sensitive receptors

↑ include the nearby residents and people utilizing the two (2) public parks.” The people who utilize Hauke park and the Skate Park are children (and as dehumanizing as the label "sensitive receptor" seems), this fact should be discussed with the residents of Mill Valley.

What is the City planning on doing about kids playing in Hawke park? Are you planning on closing the park for months?

Finally, the EIR states that the developer can cease air monitoring even if excavation and earth moving isn't finished. The City shouldn't let this be allowed. Our children deserve the best.

Sincerely,

Elizabeth O'Donnell

Mill Valley resident

A-23a

RESPONSE TO COMMENT A-23a

The comment identifies concerns related to NOA on the Project site. Impacts related to NOA are discussed in Section 5.2, Air Quality of the Draft EIR, and Mitigation Measure AQ-1 is included in the Draft EIR to mitigate impacts related to asbestos to a less-than-significant level. Mitigation Measure AQ-1 requires preparation of an ADMP, which is subject to final review and approval by the BAAQMD. The commentor asserts that the mitigation measures in the Draft EIR related to asbestos are the “minimum required,” however the BAAQMD, as the lead air quality agency for the Project site, is responsible for determining the adequacy of the mitigation measures provided in the ADMP. If the measures contained in the ADMP are not sufficient to mitigate potential NOA air quality impacts, the BAAQMD will require revisions to the ADMP until the mitigation is satisfactory. As such, the ADMP will not contain the “minimum required” measures but will contain adequate mitigation measures to sufficiently control off-site migration of airborne asbestos.

Regarding the air monitoring requirements, the version of the ADMP that was included in the Draft EIR as Appendix D is a draft. As noted above, the final ADMP must be approved by the BAAQMD prior to the initiation of any ground-disturbing construction-related activity at the Project site. To provide clarity regarding the air monitoring component of the ADMP, however, the “Air Monitoring” paragraph of Mitigation Measure AQ-1 (page 101-103 of the Draft EIR) has been revised as follows:

Airborne asbestos dust monitoring is required when earth disturbing activities are active. The airborne asbestos dust monitoring network will consist of a network of high-volume air sampling instruments that are stationed around the perimeter of the Project site. If air monitoring stations detect levels of airborne asbestos above the action level, on-site work will be suspended until such time that the reported asbestos levels have declined below action levels. A detailed explanation of airborne asbestos dust monitoring is provided in Appendix D. Air monitoring shall occur on a 24-hour/7-day per week basis during all periods of Project construction when native soils are exposed to wind within the Project work zone.

The final version of the ADMP, as approved by the BAAQMD, must be implemented consistent with the specifications set forth in Mitigation Measure AQ-1.

Regarding the potential closure of Hauke Park, no closures are anticipated with implementation of the ADMP. However, if the air monitoring indicates that airborne asbestos is present during certain high-wind periods despite the dust control measures, temporary closures of portions of the park could be implemented if necessary.

LETTER A-24. PEI CHIN CHIANG



Comment Letter A-24

From: [PC CHIANG](#)
To: [Steven Ross](#); [City Clerk](#)
Subject: [External] Asbestos concern with 1 Hamilton EIR
Date: Friday, December 15, 2023 7:39:33 AM

A-24a

Dear City Planner,

There is massive concern regarding the proposed mitigation plan to address asbestos that will be released at 1 Hamilton.

Knowingly disturbing cancer-causing elements is irresponsible, and couple that with inadequate monitoring is sheer negligence (as outlined in the EIR plan).

As you know, the site hugs a much used field and toddler park, with a middle school and preschool close by. Park goers and field users may choose to stay away if they are made aware of the asbestos risk, but neighbors, school children and preschoolers have to live with the exposure daily.

We expect the city planners and city council to once again ignore the concerns raised by neighbors on this project, but we would like to have this asbestos warning documented.

There are other city sites without underlying asbestos issues. You can choose to not disturb the asbestos fibers by stopping the project now. Just because a site is available for development does not mean it is good for one's health or the environment. Any mitigation plan is an inadequate patch at best.

Thank you,
Pei Chin Chiang (Enchanted Knolls)

RESPONSE TO COMMENT A-24a

The comment identifies concerns related to NOA at the Project site and the impact airborne asbestos could have on children at Hauke Park and nearby schools. As described in responses to Comment A-22a and A-23a, implementation of Mitigation Measure AQ-1 will ensure that airborne asbestos impacts are mitigated to a less-than-significant level.



LETTER A-25. FRIENDS OF HAUKE PARK





tel: 916.455.7300 · fax: 916.244.7300
510 8th Street · Sacramento, CA 95814

December 15, 2023

SENT VIA EMAIL

sross@cityofmillvalley.org

Steven Ross, Senior Planner
City of Mill Valley
26 Corte Madera Avenue
Mill Valley, California 94941

RE: Draft Environmental Impact Report for the One Hamilton Project

A-25a

Dear Mr. Ross:

On behalf of Friends of Hauke Park (“FOHP”), this letter provides comments regarding the City of Mill Valley’s (“City”) Draft Environmental Impact Report (“DEIR”) for the One Hamilton Project (“Project”). FOHP is concerned about the potentially significant impacts on the environment associated with the Project. Additionally, the DEIR fails to meet basic requirements of the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq. [“CEQA”]) with regard to the project description and the alternatives discussion. Comments by Shawn Smallwood, attached hereto as Exhibit A, are incorporated by reference.

We have repeatedly explained to the City that its strategy of splitting the Project’s entitlements apart for purposes of CEQA review (i.e., “analyzing” One Hamilton’s change in General Plan land use designation in one EIR and all other entitlements/actions in a separate EIR) violates CEQA by thwarting meaningful public disclosure and review. (See Exhibit B, Soluri Meserve letter dated November 22, 2022; Exhibit C, Soluri Meserve letter dated January 27, 2023; Exhibit D, Soluri Meserve letter dated March 3, 2023; Exhibit E, Soluri Meserve letter dated May 15, 2023.) The EIR repeatedly demonstrates the prejudice to informed decision-making and public participation resulting from the City’s unlawful piecemealed CEQA review strategy.

The DEIR will need to be substantially revised and recirculated due to the various deficiencies identified below. Even if the DEIR is substantially revised, however, FOHP has serious concerns about the Project’s unstated fundamental goal to steer affordable housing away from Mill Valley’s most wealthy neighborhoods located in West Mill Valley. The Project would effectuate this underlying purpose by being the seventh public housing project conspicuously located in Mill Valley’s smallest and least populated, least

A-25b

↑ affluent and most ethnically diverse census tract. The majority of Mill Valley—significantly larger in area, wealthier and whiter—would remain without a single public affordable housing project.

We are aware of a public misconception, recently repeated in the Marin Independent Journal, that One Hamilton is the only open space available for affordable housing in Mill Valley. As explained more fully below, many other suitable locations exist, but have not been disclosed, much less analyzed, due to pretextual criteria that has conspicuously selected out all sites located in West Mill Valley.

City officials repeatedly disclaim that the City is steering public housing away from Mill Valley’s wealthiest neighborhoods (including the neighborhoods of the entire present Council), and yet all available evidence contradicts this rhetoric. FOHP has repeatedly demonstrated that City’s excuses for rejecting alternate sites are unsupported by law and/or fact.¹ (See, e.g., Exhibit F, Soluri Meserve letter dated July 29, 2022; Exhibit G, Soluri Meserve letter dated March 27, 2023; Exhibit H, Soluri Meserve letter dated May 15, 2023; Exhibit I, Soluri Meserve letter dated October 16, 2023.) Further, the record demonstrates that the Council determined long ago that the City would satisfy its RHNA compliance by packing even more public housing into East Mill Valley, and so this EIR is “nothing more than post hoc rationalizations” of that earlier decision. (*Laurel Heights Improvement Association v. Regents of University of California* (1988) 47 Cal.3d 376, 394 [*Laurel Heights I*]; Exhibit J, Soluri Meserve letter dated February 2, 2022; Exhibit K, Soluri Meserve letter dated February 4, 2022.) The DEIR’s violations of CEQA provide an analytical framework that casts a light on the unfortunate violation of public trust.

A-25b

1. “Infill” Streamlining Does Not Apply to the Project

The City’s attempt to rely on the “infill” provision of Public Resources Code section 21094.5 and CEQA Guidelines section 15183.3 is prejudice flowing from its improper piecemealed CEQA review for the Project. If the “infill” streamlining provisions applied, they would allow the City to avoid its duty to analyze alternative sites

A-25c

¹ As just one example, Council “direction” is that sites in the very high fire hazard severity zone (approximately 65 percent of the City) are somehow infeasible for public affordable housing even though the City’s General Plan and zoning designation in no way limit any residential development in that zone. (See Exhibit L, Soluri Meserve letter dated November 18, 2022.) This is an obvious pretext to exclude public housing from the wealthiest 65 percent of the City.

↑ for the Project. This is not an “infill” project, however, and so these exemptions do not apply.

The DEIR argues that the project is an “infill” project because “The Project site is surrounded by residential uses of single-family homes to the north and east and public institutional use of public safety facilities and Hauke Park to the north and west, respectively, and thus meets the stipulated definition.” (DEIR, p. 80.) Not so. First, the Project does not meet the requirements for an “infill” project. First the Project must adjoin “qualified urban uses” on at least 75 percent of its perimeter. Further, “adjoin” means “immediately adjacent to . . . or is only separated from such uses by an improved right of way.” Finally, “qualified urban uses” includes “any residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses.” (Pub. Resources Code, § 21072.)

Based on these clarifications, the Project is not an “infill project.” The DEIR cites no supporting authority supporting its assumption that Hauke Park is an urban “institutional use,” and we are aware of no such authority. Second, the homes located east of the Project site are neither “immediately adjacent to” the Project site or “only separated . . . by an improved right of way.” (See Exhibit L, Soluri Meserve letter dated November 18, 2022.) The DEIR tellingly fails to support this conclusion with any evidence. Application of the relevant definitions and clarifications to the record reveals that the Project is surrounded by urban uses on only 21.58 percent of its perimeter. (Exhibit M.) The interpretation most favorable to the City would result in only 63.92 percent of the perimeter surrounded by urban uses, which remains less than the required 75 percent. (Exhibit N.)

A-25c

The DEIR further argues that the Project is an “infill” project because “[T]he proposed Project is consistent with the General Plan land use designation.” (DEIR, p. 81.) This argument fails because it simply doubles down the City’s improper piecemealed CEQA review. Since the City’s argument only arises because it improperly separated the land use designation change from all other Project entitlements, a reviewing court will likely cite this as evidence of prejudice resulting from the City’s piecemealed CEQA review. Finally, the City’s attempt to rely on the “infill” streamlining provisions belies the City’s repeated public representation that it would perform “full” and “robust” CEQA review for the One Hamilton Project.

A-25d

2. Inadequate Project Alternatives

A-25e

An EIR must describe a range of reasonable alternatives to the Project, or to the location of the Project, which would feasibly attain most of the basic objectives of the

↓

project but would avoid or substantially lessen any of the significant effects of the project and evaluate the comparative merits of the alternatives. “An EIR’s discussion of alternatives must contain analysis sufficient to allow informed decision making.” (*Laurel Heights I, supra*, 47 Cal.3d at 404.) An EIR must also include “detail sufficient to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project.” (*Id.* at 405.)

CEQA requires public agencies to avoid or reduce environmental damage when “feasible” by requiring “environmentally superior” alternatives and all feasible mitigation measures. (CEQA Guidelines, § 15002, subd. (a)(2) and (3); see also, *Berkeley Keep Jets Over the Bay Committee v. Board of Port Commissioners* (2001) 91 Cal.App.4th 1344, 1354 [*Berkeley Jets*]; *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564 [*Citizens of Goleta Valley*].) The EIR serves to provide agencies and the public with information about the environmental impacts of a proposed project and to “identify ways that environmental damage can be avoided or significantly reduced.” (CEQA Guidelines, § 15002, subd. (a)(2).) If the project will have a significant effect on the environment, the agency may approve the project only if it finds that it has “eliminated or substantially lessened all significant effects on the environment where feasible” and that any unavoidable significant effects on the environment are “acceptable due to overriding concerns.” (Pub. Resources Code, § 21081; CEQA Guidelines, § 15092, subd. (b)(2)(A) & (B).) A “feasible” alternative is one that is capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social and technological factors. (Pub. Resources Code, § 21061.1; CEQA Guidelines, § 15364.)

Here, the DEIR: (i) relies upon the City’s piecemealed review of the One Hamilton project to dismiss the “no project” alternative, (ii) sets forth impermissibly narrow project alternatives in order to manipulate consideration of project alternatives, (iii) falsely claims that the reduced-density alternative is infeasible, and (iv) fails to describe a reasonable range of alternatives including offsite alternatives.

a. Project Objectives are Unreasonably Narrow and Not Supported by Substantial Evidence

An EIR’s formulation of project objectives must be supported by the record. (*Habitat & Watershed Caretakers v. City of Santa Cruz* (2013) 213 Cal.App.4th 1277, 1300.) Further, public agencies may not manipulate project objectives in order to exclude otherwise feasible alternatives. (*North Coast Rivers Alliance v. Kawamura* (2015) 243 Cal.App.4th 647, 669.) Here, however, the City does just that. No fewer than three of the eight project objectives expressly or implicitly require development to occur

at the One Hamilton site despite the City’s ownership of other properties throughout the City that are suitable for affordable development. This follows the City’s failure to justify its rejection of alternative sites in the HEU EIR. (See Exhibit E.) As with the HEU EIR’s pretextual arguments for rejecting alternative sites, a reviewing court will likely find that these objectives are manipulated in order to justify rejecting offsite project alternatives that are otherwise feasible such as Boyle Park or Mill Valley Municipal Golf Course.

A-25f

The seventh project objective, purporting to require a minimum of “at least 40 units” in order for the Project to be “financially feasible,” is also manipulated and not supported by substantial evidence. As we previously explained, The Housing Workshop never concluded that 40 units was the minimum necessary for an affordable housing project to be feasible. In the Soluri Meserve letter dated March 27, 2023 (attached hereto as Exhibit G) we explained:

A-25g

Contrary to the City’s claim, the so-called “financial analysis” in no way concludes that a parcel must be a minimum of 0.75 acres in order to be suitable for affordable housing. (See, e.g., Revised HEU, p. B-273 [“the need for parcels that are at least 3/4 of an acre that can be dedicated to affordable housing, noted in the Housing Workshop memo”].) In fact, this “financial analysis” was never intended as setting a minimum parcel size at all, but rather to determine whether development of One Hamilton, “assum[ing] a 0.75 acre (gross) development site,” would require a public subsidy. (Exh. 2, p. 6.) This distinction is critical because while the “financial analysis” estimated that the One Hamilton as proposed would require a \$100,000 subsidy, the report expressly noted that the need for a higher subsidy would not make a project infeasible, explaining in relevant part:

One key to understanding these findings is that seeking subsidy from available state and regional sources is common to affordable housing projects, and ***lack of available local subsidy dollars does not constrain project implementation.***

(Exhibit 2, p. 3, emphasis added.)

In other words, the City’s claimed third-party “financial analysis” did not find that a minimum parcel size of 0.75 acres was necessary for an

affordable housing project specifically because the potential need for a higher subsidy “does not constrain project implementation.”

(Exhibit G.)

The DEIR misrepresents the findings of the City’s own consultant. The project objective requiring at least 40 units is manipulated and not supported by substantial evidence.

In summary, the DEIR’s project objectives are manipulated and otherwise not supported by substantial evidence because they are designed to justify the City’s steadfast refusal to consider alternative sites or a reduced density alternative at One Hamilton.

A-25g

b. The EIR Failed to Consider Any Offsite Alternatives

The DEIR violates CEQA because it does not analyze any off-site alternative.² The City’s steadfast commitment to One Hamilton as the exclusive site for affordable housing (as opposed to suitable sites located in West Mill Valley) results in a DEIR that does not propose a single off-site alternative—including sites that were previously found to be more suitable for affordable housing such as Boyle Park or Mill Valley Municipal Golf Course. This violates CEQA. As explained in one authoritative CEQA treatise:

The importance of an evaluation of alternative sites for many public agency projects is readily apparent. When a public agency proposed to build a new facility, the key policy question often is not whether the project should be built, but here. . . . An evaluation of alternative sites in such situations is thus often a necessary component of an adequate environmental analysis.

(Kostka & Zischke, Practice Under CEQA, § 15.26, p. 15-34.)

In *Citizens of Goleta Valley v. Board of Supervisors* (1988) 197 Cal.App.3d 1167, 1179-80 [*Goleta I*], the court held that an EIR for a resort hotel should have considered an alternate site: “Reason requires that the agency charged with the duty to protect the environment compare impacts at feasible alternative locations.” Off-site alternatives cannot be rejected for analysis because a project proponent *does not want* an off-site project, any more than a reduced-size project can be rejected for that reason. (*Uphold Our Heritage v. Town of Woodside* (2007) 147 Cal.App.4th 587, 602 [*Uphold Our*

² As explained above, the DEIR’s claim that it need not analyze alternative locations based upon CEQA’s “infill” streamlining provisions is without merit.

A-25h

Heritage]; *Preservation Action Council v. City of San Jose* (2006) 141 Cal.App.4th 1336, 1355-56 [*Preservation Action*].) Otherwise, CEQA’s requirement for consideration and analysis of off-site alternatives is meaningless.

The DEIR expressly rejected from consideration both the Boyle Park and Mill Valley Municipal Golf Course alternative sites. (DEIR, p. 254-255.) This violates CEQA. Alternatives warrant study in the EIR process if they can reduce or avoid impacts and are “potentially feasible.” (CEQA Guidelines, §§ 15126.6, subs. (a), (c), (f); *Watsonville Pilots Association v. City of Watsonville* (2010) 183 Cal.App.4th 1059, 1087 [*Watsonville Pilots*].) An “alternative that is potentially feasible should not be excluded from an EIR simply because it may not further all of the agency’s policy objectives.” (*Id.* at 1087.) *Watsonville Pilots* found legal error when a draft EIR failed to evaluate a reduced development because it failed to meet two of twelve objectives: “The City’s argument on this issue is premised on its claim that no discussion of an alternative is required if that alternative would not meet a project objective. This premise is mistaken.” (*Ibid.*)

The DEIR’s cursory discussion of these offsite alternatives fails to demonstrate that these sites are not “potentially feasible.” Further, the record easily establishes that these sites are “potentially feasible” thereby warranting their analysis in the DEIR.

With respect to Boyle Park, the DEIR asserts in relevant part:

[T]he existing tennis courts are located next to a creek and sensitive wetlands, and the project would need to be designed carefully to allow for a buffer around the sensitive areas. As part of evaluating city-owned sites, the City Council determined that the removal or displacement of active recreation should be avoided, if possible.

(DEIR, p. 254.)

The DEIR’s discussion does not explain how development at Boyle Park would fail to satisfy the majority of the DEIR’s stated project objectives. Further, the DEIR’s simplistic reference to early Council decision-making in a different administrative proceeding does not cure the defect. Specifically, neither the need to “design[] carefully” a buffer nor “avoid[ing], if possible” active recreation makes Boyle Park infeasible. Indeed, the City’s own consultant previously explained, “From an objective affordable housing development point of view, this is the best of the 4 identifiable sites.”

A-25h

With respect to the Golf Court site, the DEIR asserts:

Construction of affordable housing on this site would potentially impact the adjacent golf course, and any significant changes in use status of the golf course would require a separate analysis. As part of evaluating city-owned sites, the City Council determined that the removal or displacement of active recreation should be avoided, if possible.

A-25h

(DEIR, p. 254.)

As with the Boyle Park site, the DEIR makes no attempt to establish that the Golf Course site is not “potentially feasible” by reference to the DEIR’s asserted project objectives. Further, neither an unexplained “potential[] impact [to] the adjacent golf course” nor the need for an unspecified “separate analysis” makes this site infeasible. Also, the Council’s preference to “avoid if possible” active recreation does not make the offsite alternative infeasible. The City’s own consultant addressed these generalized concerns, explaining, “Research indicated that 9-hole courses typically require 20 – 48 acres of land, so at 45 acres, the Mill Valley course may well be reconfigurable [*sic*] in this section to accommodate the housing plan.” The DEIR fails to demonstrate that the Golf Course site is not “potentially feasible,” which is the requirement to exclude the alternative from consideration.

A-25i

Finally, the DEIR insinuates that “approximately 75 parcels of land owned by the City were analyzed” for their feasibility, and ultimately found to be infeasible based upon “parcel size, degree of slope, recreation/open space designation, and environmental constraints.” (DEIR, pp. 253-255.) The DEIR’s discussion is both misleading and unsupported by substantial evidence. First, the record squarely contradicts the DEIR’s claim that this earlier analysis was prepared “[t]o inform preparation of the Housing Element Update.” (DEIR, p. 253.) As previously explained and expressly confirmed by the City’s then-mayor, the Housing Workshop’s analysis of City-owned sites was distinct from the City’s assessment of suitable residential sites for its Housing Element Update:

A-25j

Another thing, there is a confusion here about the idea of doing an analysis of regional housing needs authority or RHNA sites and the city site analysis that was done so as a part of the HCC hazard advisory committee we went down two paths. One path was can we find surplus land we can sell to raise money to provide the ability to develop land with another party maybe a church or whatever. The second process we had was can the city on its own find a site that we can offer to a developer, a low-income mission driven developer to create a site. That is completely different than the analysis

which is going on to find out where we are going to come up with these 865 units for RHNA which is all generally private property. ***They are completely different things, so I just want to make sure that people understand that difference.***

(Exhibit F, emphasis added; Exhibit O, Soluri Meserve letter dated January 20, 2023.) The Housing Workshop’s analysis of City-owned sites did not “inform preparation of the Housing Element Update.”

Further, we previously explained in detail how The Housing Workshop’s site-selection criteria based upon “Council direction” is arbitrary, inconsistent with state guidance, and unsupported by the City’s own land use policies. (Exhibit F, Soluri Meserve letter dated July 29, 2022; Exhibit L, Soluri Meserve letter dated November 18, 2022.)³ These analyses are incorporated by reference. The City’s criteria fail to establish that these dozens of sites are not “suitable” for residential development under the Housing Element Law, and they also fail to support a determination of infeasibility under CEQA. These criteria are instead pretext for rejecting otherwise feasible sites located in the most affluent areas of West Mill Valley.

A-25j

Finally, the DEIR asserts that the “purpose” of The Housing Workshop’s analysis “was to identify City-owned or other tax-exempt parcels that could be developed with affordable housing, and to identify any parcels that could be potentially monetized by the City to private parties to raise local funds that could help subsidize affordable housing projects.” (DEIR, p. 254.) As previously explained, the Housing Workshop failed to explain why certain properties were selected only for development and others were selected only for monetization. (Exhibit F, pp. 5 – 6.) This arbitrary distinction is critical because many sites selected for monetization were found to be unsuitable due solely to existing zoning designations that prohibited residential uses. The Housing Workshop failed to explain why those sites were not analyzed for development rather than monetization since they could have been rezoned pursuant to Government Code section 65583.2, subdivision (a)(4).) FOHP has repeatedly raised this issue, and the City has steadfastly declined to provide an explanation. In the absence of any such explanation, it is reasonable to conclude that the City’s arbitrary designation of properties to consider

³ As examples, the City’s minimum parcel size of 0.75 acres is inconsistent with the state standard of 0.5 acres, its maximum slope of 10 percent is inconsistent with the state standard of 50 percent, and the City’s wholesale exclusion of 65 percent of its area because of a fire hazard severity zone designation that is unsupported by the City’s General Plan or zoning ordinance.

A-25j only for monetization as opposed to development is simply more pretext for rejecting otherwise feasible sites located in the most affluent areas of West Mill Valley.

c. The Reduced-density Alternative Is Not Infeasible

EIR asserts that the reduced-density alternative is infeasible because it would: (i) “inhibit the City’s ability to meet the . . . RHNA target with the recommended ‘buffer’ of at least 15 percent above the RHN target,” and (ii) “jeopardizes the financial feasibility of the Project.” These claims are unsupported by substantial evidence.

A-25k The DEIR’s first argument about “inhibiting” the RHNA target is false. We are aware of no case law holding that merely “hindering” a project objective renders an alternative feasible. Indeed, the record is clear that the City may satisfy its RHNA obligations without any development at One Hamilton. (See Revised HEU Table 3.2: Mill Valley’s 2023-2031 Housing Needs Analysis.) Therefore, there is no question that a reduced-density development at One Hamilton would not “hinder” compliance with the City’s RHNA obligations. Implicitly acknowledging this, the DEIR instead focuses on the need to comply with the RHNA “buffer.” This misdirection fails because HCD documents clarify that compliance with a “buffer” is not required. (See Exhibit P, HCD documents.) The DEIR’s project objective also makes no reference to complying with the RHNA buffer. In sum, RHNA compliance is not a basis to find the reduced-density alternative to be infeasible.

A-25i The City’s claim of financial infeasibility is similarly without merit. While the DEIR refers to the “City’s previous feasibility analysis conducted by the Housing Workshop” as supporting EAH Housing’s “assumption,” the Housing Workshop report concluded that projects with either increased development costs or reduced revenue were nevertheless feasible: “One key to understanding these findings is that seeking subsidy from available state and regional sources is common to affordable housing projects, and lack of available local subsidy dollars does not constrain project implementation.” The DEIR therefore misconstrues the Housing Workshop’s conclusion. Additionally, case law is well settled that a project alternative may not be rejected simply because it is more expensive or less profitable:

The fact that an alternative may be more expensive or less profitable is not sufficient to show that the alternative is financially infeasible. What is required is evidence that the additional costs or lost profitability are sufficiently severe as to render it impractical to proceed with the project.

(*Goleta I, supra*, 197 Cal.App.3d at 1180-81; see also, *Burger v. County of Mendocino* (1975) 45 Cal.App.3d 322; *County of El Dorado v. Dept. of Transportation* (2005) 133 Cal.App.4th 1376 [agency must consider small alternative to casino project]; *Preservation Action, supra*, 141 Cal.App.4th 1336.) Alternatives are not infeasible unless they make it impractical to proceed with the project. (*Goleta I, supra*, 197 Cal.App.3d at 1181; *Uphold Our Heritage, supra*, 147 Cal.App.4th at 599; *Preservation Action, supra*, 141 Cal.App.4th 1336 [city’s finding that reduced-size alternative was infeasible due to competitive disadvantage was not supported by substantial evidence where record contained no data about the size of competing stores].) EAH Housing’s “assumptions” are inadequate to demonstrate financial infeasibility, and the City’s own consultant affirmatively concluded that the availability of state and federal subsidies means that a housing project with increased costs and/or reduced revenue would remain feasible. The DEIR’s feasibility analysis of the reduced-density alternative violates CEQA.

A-25l

d. The EIR Relies upon the City’s Unlawful Piecemealing Strategy to Dismiss a Manipulated “No Project” Alternative

The DEIR identifies Alternative 1, the “no project” alternative, as the environmentally superior alternative. (DEIR, p. 276 [“it has been determined that Alternative 1: No Project would be the environmentally superior alternative”].) Since Alternative 1 is the environmentally superior alternative, the City’s discretion to reject it is significantly constrained. (CEQA Guidelines, § 15126.6, subds. (c), (f); see also *Watsonville Pilots, supra*, 183 Cal.App.4th at 1089.)

The City attempts to rely on its piecemealing strategy for One Hamilton to side-step its duty to set forth and consider in good faith reasonable alternatives. Indeed, FOHP and its members repeatedly raised this issue, which prompted the Planning Commission to direct the question to the City Attorney, who stated:

There’s no lessened discretion for one Hamilton as a result of this general plan change because it was always and is always going to be a purely legislative city property city project.

...
[W]hen we amend our general plan with respect to a privately owned site we would be handing over some rights to that applicant to develop under the general plan designation. No question that that would hamstring the city or that a privately owned site. That’s just not the case though with this particular site. So many of the arguments that we’ve heard tonight they have some validity. If this were a privately on site, but they don’t apply here because this is a city on site where we have 100%. Yes or no, we can

A-25m

change our mind at any time. We can go through the whole process and the city council doesn't like the final result. They can just revert to a parking lot or keep it status quo.

(Exhibit Q, partial transcript of comments at the February 28, 2023, Planning Commission hearing.)

The DEIR now takes the opposite position from that previously represented by the City Attorney. With respect to whether the City may approve the "no project" alternative (i.e., "revert to a parking lot or keep it status quo"), the Draft EIR asserts:

ALTERNATIVE 1 DESCRIPTION

Under the No Project Alternative (Alternative 1), the Project site would not be re-zoned for residential uses and would thus continue to be zoned "Open Area," *which is inconsistent with the site's General Plan land use designation for multifamily housing.*

(DEIR, p. 255, emphasis added.)

Contrary to the City Attorney's earlier representations, the EIR now asserts that the "no project" alternative (i.e., "revert to a parking lot or keep it status quo") is inconsistent with the General Plan. This is an obscure, legalistic way of asserting that the City is now without discretion to approve the "no project" alternative, since a local agency cannot make land use decisions that are inconsistent with its General Plan. (*Citizens of Goleta, supra*, 52 Cal.3d at 572 ["the keystone of regional planning is consistency -- between the general plan, its internal elements, subordinate ordinances, and all derivative land-use decisions"]; Mill Valley General Plan, p. 220 ["State law requires that the actions and decisions of each local government concerning both its own projects and the private projects it approves be consistent with its adopted General Plan"].) By asserting that the "no project" alternative is "inconsistent" with the General Plan, the EIR is obliquely asserting that the City is without authority to approve it, which is the opposite from what the City Attorney previously represented to the Planning Commission and the public.

Notwithstanding the City's attempt to argue that it is now compelled to approve the Project, this is not the case. Even if the site's zoning designation is changed to be consistent with the new General Plan land use designation, no authority requires the City to affirmatively develop the site as multi-family housing. Thus, the DEIR must set forth and consider a project alternative that approves the zoning change but denies the development. This project alternative would result in consistency between the site's land

A-25m

A-25m ↑ use and zoning designation and is further consistent with the City’s repeated assertion that changing the General Plan designation does not lessen the City’s discretion regarding the proposed housing project. The recirculated DEIR will need to be revised to include this project alternative.

A-25n ↓ **3. Inadequate Analysis of Visual Impacts**

a. The DEIR Does Not Analyze the One Hamilton Project’s Impact on Scenic Vistas

Rather than perform an analysis of visual impact on a scenic vista, the EIR instead purports to defer to the “analysis” previously set forth in the HEU EIR, stating in relevant part:

Development of up to 45-50 multifamily residential units on the Housing Site was contemplated in the Housing Element Update and analyzed in the HEU SEIR. *The HEU SEIR analyzed the impacts of developing single- and multifamily housing on proposed housing sites in the City, including the Project site.* The HEU SEIR determined that, while abundant views of scenic and visual resources would remain with the development of multi-family residences, physical change and associated alteration and potential blockage of views could occur. *The City does not have any ordinances or regulations associated with protecting scenic vistas.* The HEU SEIR concluded that implementation of the policies, and programs contained in the General Plan and Housing Element Update, along with continued compliance with applicable zoning district design requirements and the City’s multi-family/mixed-use residential design guidelines would assist in mitigating the change in visual character resulting from implementation of the Housing Element Update. The HEU SEIR concluded that the impact to scenic vistas would be less than significant.

There are at least two defects in this analysis. First, that “the City does not have any ordinances or regulations associated with protecting scenic vistas” does not allow an agency to, as here, dismiss the impact as less than significant. (*Visalia Retail, LP v. City of Visalia* (2018) 20 Cal.App.5th 1, 13 [*Visalia Retail*] [EIR must analyze every issue for which the record provides a “fair argument” of significant impact]; *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, 1109 [*Amador Waterways*] [“a threshold of significance cannot be applied in a way that would foreclose the consideration of other substantial evidence tending to show the environmental effect to which the threshold relates might be significant.”].) The absence

of a City ordinance cannot be used to avoid considering evidence of a potentially significant impact. As explained more fully below, the record establishes a potentially significant impact to a scenic vista.

A-25n

Second, the HEU EIR did not, in fact, “analyze[] the impacts of developing single- and multifamily housing on . . . the Project site,” and so may not be relied upon here. We previously explained that the HEU EIR failed to comply with CEQA because its visual impacts analysis was not based upon reasonably available information about the One Hamilton Project. (Exhibit D; CEQA Guidelines, § 15144 [agency must “use its best efforts to find out and disclose all that it reasonably can” about project under review].) Specifically, we noted that the HEU EIR failed to analyze the visual impacts of the One Hamilton Project based on visual simulations that were readily available. The HEU Final EIR asserted in response that such analysis would be performed in the later One Hamilton EIR:

A-25o

Regarding story poles, the City does plan to erect story poles on the 1 Hamilton Drive site to assist with the City’s development review process. The 1 Hamilton project-level EIR will also include a visual impact assessment of the proposed development for the site.

(HEU FEIR, p. 2-7.) Consistent with its shell-game strategy for CEQA review, the EIR now fails to include any meaningful visual impact assessment for One Hamilton based on visual simulations. In sum, the HEU EIR did not provide an analysis of scenic vista impacts resulting from the One Hamilton Project, and that analysis certainly is not included in this EIR.

Further, the story poles mentioned in the HEU Final EIR were indeed constructed as represented and are conspicuously ignored in the DEIR’s visual impact analysis. This omission is understandable given that the story poles contradict the DEIR’s unsubstantiated conclusion that visual impacts would be less than significant. Pasted below are two photos taken of the story poles, which show the extent of the Project’s obstruction of scenic vistas.



This photo of the story poles reveals that the public view from Roque Moraes would be almost completely obstructed by the Project.



This photo, taken from Roque Moraes, reveals that the Project would completely obstruct views of Bayfront Park.

In summary, the DEIR's conclusory analysis of scenic vista impacts fails as an informational document. The City may not dismiss the impact simply because the City has failed to adopt an ordinance, and the City also may not ignore the results of story poles that it erected for the specific purpose of assessing impacts on scenic vistas.

A-25p

b. The EIR Fails to Analyze Whether One Hamilton Would Substantially Degrade the Existing Visual Character or Quality of Public Views

The DEIR also fails to adequately analyze whether the Project would substantially degrade the existing visual character or quality of public views of the site and its surroundings. Concluding that the impact would be less than significant without the need for mitigation, the DEIR asserts:

If approved, the building height waiver and FAR waiver would increase the height and density of the proposed housing building over what is allowed by the RM-B district. The Project site is surrounded by Hauke Park to the west, the PSB to the south, and residential neighborhoods to the north and east. The proposed housing building would be constructed against a hillside on the western side of Roque Moraes Drive. ***Due to the topography of the Housing Site, the mass and height of the housing building would be substantially obstructed from views from public streets to the north and east. In addition, public views of Pickleweed Inlet, Richardson Bay, and adjacent open space areas (including Mount Tamalpais) would not be completely obstructed by the proposed Project*** given its construction against the hillside and other intervening buildings and vegetation that limit some of these views to the public. Therefore, although the proposed housing building would be taller and denser than other buildings in the area, it would not significantly impact visual character or the quality of public views.

(DEIR, p. 72, emphasis added.)

This analysis suffers from at least two defects. First, the analysis is legal error by applying the incorrect standard. The significance criterion is whether a public view is substantially degraded, and not “completely obstructed.” Second, the EIR’s analysis is unsupported by substantial evidence. The DEIR’s analysis is not supported by any visual aids whatsoever. As explained above, the City previously erected story poles in order to inform an analysis of the Project’s visual impacts. The story poles’ significant impact on public views contradicts the DEIR’s assertion that “the mass and height of the housing building would be substantially obstructed from views from public streets to the north and east.” The DEIR’s analysis will need to be revised and recirculated to correct its legal and factual errors.

A-25q

4. The EIR Fails to Correlate the Project's Construction Noise to Health Impacts

The EIR fails to consider, much less analyze, whether construction noise will result in health impacts to nearby residents. Although acknowledging that construction will occur over approximately 21 months, the EIR incredibly relies upon a significance standard of 90 dB for construction noise impacts:

As shown in Table 5.6-3, the Project's construction noise levels were estimated at the nearest noise-sensitive receptor, a single-family residence located approximately 55 feet east of the Project site boundary and approximately 130 feet east of the closest structural wall of the proposed multifamily housing building. Based on this analysis, Project construction **would not generate noise levels above the 90 dBA Leq threshold** at the nearest noise-sensitive receptor.

(DEIR, p. 181, emphasis added.) As such, the EIR fails to analyze whether construction would result in human health impacts occurring at noise levels below 90 dBA.

An EIR must analyze every issue for which the record contains substantial evidence supporting a "fair argument" of significant impact. (*Visalia Retail, supra*, 20 Cal.App.5th at 13; *Amador Waterways, supra*, Cal.App.4th at 1109.) Here, the record supports a fair argument that construction noise would result in human health impacts notwithstanding compliance with the 90-dBA significance standard. (*Visalia Retail, supra*, 20 Cal.App.5th at 13 [agency may not deploy thresholds of significance to foreclose consideration of substantial evidence supporting fair argument of significant impact].)

CEQA requires an EIR to "identify and focus on the significant environmental effects of the proposed project . . . examin[ing] changes in the existing physical condition in the affected area," including "health and safety problems caused by the physical changes." (CEQA Guidelines, § 15126.2, subd. (a).) This section "also suggests that a connection be drawn between . . . potential project emissions and human health impacts. Such a connection would meet CEQA's requirements." (*Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 520 [*Sierra Club*].)

The DEIR completely ignores the potential health impacts to nearby neighbors resulting from the Project's construction noise. This omission makes it impossible to determine whether the Project's noise levels would create these health impacts, especially

the non-auditory effects. The California Supreme Court addressed the need to correlate air emissions to human health conditions in *Sierra Club, supra*, 6 Cal.5th at 516:

The EIR’s discussion of health impacts of the named pollutants provides only a general description of symptoms that are associated with exposure to the ozone, particulate matter (PM), carbon monoxide (CO), and nitrogen dioxide (NOx), and the discussion of health impacts regarding each type of pollutant is at most a few sentences of general information. The disclosures of the health effects related to PM, CO, and sulfur dioxide ***fail to indicate the concentrations at which such pollutants would trigger the identified symptoms.***

(*Id.* at 519, emphasis added.)

Recent case law clarifies that the duty to correlate emissions to health impacts applies to noise. (*Sierra Watch v. County of Placer* (2021) 69 Cal.App.5th 86, 107-108.) Several studies describe numerous health impacts from exposure to noise. In an evaluation of children, the World Health Organization notes that indirect effects include impacts to stress hormones, blood pressure, muscle spasms, annoyance, sleep disturbance, mental health, ability to read and concentrate, and trouble with memory and attention. (World Health Organization, *Children and Noise: Children’s Health and the Environment* (2009) [“*Children and Noise*”], Exhibit R, pdf p. 23.) The study also found that exposure to noise levels greater than 70 dBA causes “increases in vasoconstriction, heart rate and blood pressure.” (*Children and Noise*, pdf p. 24.) A different study found that “noise levels measured in this study are of sufficient intensity to be injurious. For example, a 5-dB(A) increase in noise level between 45 and 65 dB(A) has been associated with 38% increased odds for hypertension even after control for several well-known risk factors.” (King et al., The New York Academy of Medicine, *Noise Levels Associated with Urban Land Use* (2012), Exhibit S, p. 1028.)

In addition to the highest noise levels, another important factor regarding health impacts from noise is the increase in ambient noise levels. The DEIR asserts, “A 10-dBA change is perceived as a doubling or halving in loudness.” (DEIR, p. 173.) The DEIR does not measure but instead “estimates” ambient noise levels to be 55 dBA in the area. (DEIR, p. 176-177.) The Project’s construction would result in noise levels 82 – 84 dBA, an increase of ambient noise up to 29 dBA. (DEIR, p. 182.) This increase in ambient noise is well beyond the level that could trigger health impacts. In 2017, Toronto Public Health released a report that compiled studies regarding the health impacts of noise. “Seidler and colleagues (2016b) reported a statistically significant increase in odds of hypertensive heart disease for every 10dBA increase in noise over 55dBA (Leq 24).”

A-25q

(Toronto Public Health, *How Loud is Too Loud? Health Impacts of Environmental Noise in Toronto* (2017) [“TPH”], Exhibit T, p. 10.) “Sorensen and colleagues (2011a) reported that in people over 64.5 years of age, exposure to every 10 dBA (Lden) increase in residential road traffic noise was associated with a 27 percent higher risk for stroke.” (TPH, pp. 10-11.)

The DEIR estimates the duration of project construction activities to be 21 months. A significance criterion of 90 dBA fails to address whether construction noise may result in human health conditions at lower noise levels predicted to result from the Project’s construction. Rather than describe how construction noise over approximately two years might impact the human health of those in nearby neighborhoods, the DEIR instead ignores this human health impact. The DEIR therefore fails as an informational document regarding the impact of construction noise on human health.

A-25q

5. The DEIR Is Inadequate as an Informational Document Regarding Impacts to Biological Resources

A-25r

The DEIR’s analysis of biological resource impacts is woefully deficient as an informational document with respect to the Project’s biological resource impacts. Detailed expert comments by Shawn Smallwood, Ph.D., are incorporated by reference. As explained by Dr. Smallwood, the defects in the DEIR and its Biological Resources Technical Report include, but are not limited to, the following:

- The DEIR fails to adequately assess baseline conditions. The DEIR’s analysis improperly relies on the California Natural Diversity Database and inadequate onsite surveys. (See Exhibit U, California Natural Diversity Database Data Use Guidelines.)
- The DEIR fails to adequately assess the likely occurrence of special-status species and is internally inconsistent with its own findings.
- The DEIR fails to address substantial evidence of a fair argument of impacts in a variety of areas such as habitat loss, wildlife movement, bird strikes, and traffic impacts.
- The DEIR relies on improperly deferred mitigation. The DEIR fails to explain why it was infeasible to perform adequate reconnaissance surveys prior to release of the DEIR and thereby inform the DEIR’s analyses. Further, the deferred mitigation does not include adequate performance measures.
- The DEIR includes no meaningful cumulative impact analysis.

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As explained more fully by Dr. Smallwood, the DEIR fails as an informational document regarding Project impacts to biological resources. Further, the abundance of wildlife described in Dr. Smallwood's report demonstrates that the Project site is in no way an "infill" site surrounded by "urban" uses.

A-25v

* * *

The record is clear that the City continues to be myopically focused on developing the One Hamilton Project in order to effectuate the City's unwritten policy of steering all public affordable housing away from West Mill Valley. Many of the EIR's violations of CEQA as described in this letter directly result from this unfortunate violation of public trust. An EIR should be a "document of accountability." (*Laurel Heights I, supra*, 47 Cal.3d at 392.) Here, however, the EIR is "nothing more than post hoc rationalizations" to justify the City's prior actions purporting to lock in One Hamilton as the only feasible option for public affordable housing. (*Id.* at 394.)

A-25w

Very truly yours,

SOLURI MESERVE
A Law Corporation

By:



Patrick M. Soluri

Attachments:

<u>Exhibit A</u>	December 15, 2023, Shawn Smallwood comments
<u>Exhibit B</u>	November 22, 2022, Soluri Meserve letter
<u>Exhibit C</u>	January 27, 2023, Soluri Meserve letter
<u>Exhibit D</u>	March 3, 2023, Soluri Meserve letter [without attachments]
<u>Exhibit E</u>	May 15, 2023, Soluri Meserve letter
<u>Exhibit F</u>	July 29, 2022, Soluri Meserve letter
<u>Exhibit G</u>	March 27, 2023, Soluri Meserve letter
<u>Exhibit H</u>	May 15, 2023, Soluri Meserve letter
<u>Exhibit I</u>	October 16, 2023, Soluri Meserve letter
<u>Exhibit J</u>	February 2, 2022, Soluri Meserve letter
<u>Exhibit K</u>	February 4, 2022, Soluri Meserve letter
<u>Exhibit L</u>	November 18, 2022, Soluri Meserve letter
<u>Exhibit M</u>	Figure, Perimeter surrounded by urban uses: 21.58%
<u>Exhibit N</u>	Figure, Perimeter surrounded by urban uses: 63.92%

- ↑
- Exhibit O January 20, 2023, Soluri Meserve letter
 - Exhibit P October 2, 2019, and June 10, 2020, Department of Housing and Community Development memoranda
 - Exhibit Q Partial transcript of comments provided at the February 28, 2023, Planning Commission hearing
 - Exhibit R World Health Organization, *Children and Noise: Children's Health and the Environment* (2009)
 - Exhibit S King et al., The New York Academy of Medicine, *Noise Levels Associated with Urban Land Use* (2012)
 - Exhibit T Toronto Public Health, *How Loud is Too Loud? Health Impacts of Environmental Noise in Toronto* (2017)
 - Exhibit U California Natural Diversity Database Data Use Guidelines

cc (via email):

City of Mill Valley

Urban Carmel, Mayor (ucarmel@cityofmillvalley.org)
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EXHIBIT A

Shawn Smallwood, PhD
3108 Finch Street
Davis, CA 95616

Patrick Kelly, Director of Building and Planning
City of Mill Valley
26 Corte Madera Avenue
Mill Valley, California 94941

15 December 2023

RE: 1 Hamilton Drive Affordable Housing Development

Dear Mr. Kelly,

I write to comment on the Draft Environmental Impact Report (“DEIR”) for the proposed 1 Hamilton Drive Affordable Housing Development, which I understand would add 50 residential units totaling 66,000 square feet of floor space in a 57-foot-tall building and another 63 parking spaces to what is currently 1.75 acres of open space adjacent to two City parks and marsh to the west. The total project area is 3.67 acres. The site includes 82 trees, a number of shrubs and two seasonal wetlands, but that is not all, and this is why I wish to comment.

My qualifications for preparing expert comments are the following. I hold a Ph.D. degree in Ecology from University of California at Davis, where I also worked as a post-graduate researcher in the Department of Agronomy and Range Sciences. My research has been on animal density and distribution, habitat selection, wildlife interactions with the anthrosphere, and conservation of rare and endangered species. I authored many papers on these and other topics. I served as Chair of the Conservation Affairs Committee for The Wildlife Society – Western Section. I am a member of The Wildlife Society and Raptor Research Foundation, and I’ve lectured part-time at California State University, Sacramento. I was Associate Editor of wildlife biology’s premier scientific journal, The Journal of Wildlife Management, as well as of Biological Conservation, and I was on the Editorial Board of Environmental Management. I have performed wildlife surveys in California for thirty-seven years. My CV is attached.

SITE VISIT

I visited the site of the proposed project for nearly 3 hours from 07:00 to 09:55 hours on 2 February 2023, and for 2.75 hours from 07:14 to 09:59 hours on 14 December 2023. I walked the site’s perimeter, stopping to scan for wildlife with use of binoculars. I recorded all species of vertebrate wildlife I detected, including those whose members flew over the site or were seen nearby, off the site. Animals of uncertain species identity were either omitted or, if possible, recorded to the Genus or higher taxonomic level.

Conditions were partly cloudy with no wind to slight breeze and 41–49° F on 2 February, and clear skies with no wind and 44–51° F on 14 December. The site was covered by non-native grassland, trees and shrubs, and some of the soil base appeared to be serpentine (Photos 1 – 3).



Photos 1 and 2. Project site view to the south (top), 2 February 2023, and from the top of the slope to the northwest on 14 December 2023 (bottom).



Photo 3. *Project site view to the south on 14 December 2023.*

On the project site were California slender salamanders and coyote (Photos 4 and 5), lack phoebe and Say's phoebe (Photos 6 and 7), and American robin and hermit thrush (Photos 8 and 9). I also saw and photographed great blue heron and California scrub-jays (Photos 10 and 11), Anna's hummingbirds in courtship and territorial defense (Photos 12 and 13), white-crowned sparrows (Photos 14 and 15), sign of California voles and eastern gray squirrels (Photos 16 and 17) American crows (Photo 18), white-tailed kites (Photos 19 and 20), golden-crowned sparrows (Photo 21), California towhees and Townsend's warblers (Photos 22 and 23), double-crested cormorants and Cooper's hawk (Photos 24 and 25), and red-tailed hawks (Photos 26 and 27) among other species in Table 1. On 2 February 2023, I detected 39 species of vertebrate wildlife, including 4 with special status (Table 1). On 14 December 2023, I detected 46 species of vertebrate wildlife, including 11 with special status (Table 1). Between both surveys, I detected 61 species of vertebrate wildlife, including 12 with special status (Table 1). In my experience, these are a lot of species from a couple of cursory reconnaissance surveys. It is my opinion that the project site is inherently rich in wildlife species.



Photos 4 and 5. California slender salamander (L) and coyote (R) on the project site, 2 February 2023.



Photos 6 and 7. Black phoebe (L) and Say's phoebe (R) on the project site, 2 February 2023.



Photos 8 and 9. American robin (L) and hermit thrush (R) on the project site, 2 February 2023.



Photos 10 and 11. Great blue heron (L) and California scrub-jay (R) on the project site, 2 February 2023.



Photos 12 and 13. *Anna's hummingbirds displaying their gorgets on the project site, 2 February 2023.*



Photos 14 and 15. *Male and female white-crowned sparrows, 2 February 2023.*



Photos 16 and 17. California vole burrow entrance (L) and an eastern gray squirrel (R), 2 February 2023.



Photo 18. American crow on the project site, 14 December 2023.



Photos 19 and 20. *White-tailed kites over the projects site, 14 December 2023.*

Photo 21. *One of many golden-crowned sparrows on the project site, 14 December 2023.*



Photos 22 and 23.
California towhee (top)
and Townsend's warbler
(bottom) on the project
site, 14 December 2023.





Photo 24. *Double-crested cormorants over the project site, 14 December 2023.*

Photo 25. *Cooper's hawk hunting for mourning doves on the project site, 14 December 2023.*



Photos 26 and 27. One of two red-tailed hawks on the project site, 14 December 2014.



Table 1. Species of wildlife I observed during 2.92 hours of survey on 2 February 2023 and 2.75 hours of survey on 14 December 2023. All were on the project site unless noted otherwise.

Common name	Species name	Status ¹	Notes
California slender salamander	<i>Batrachoseps attenuatus</i>		Under wood debris
Canada goose	<i>Branta canadensis</i>		Just offsite
Mallard	<i>Anas platyrhynchos</i>		Just offsite
Bufflehead	<i>Bucephala albeola</i>		Just offsite
Killdeer	<i>Charadrius vociferous</i>		Just offsite
Black-necked stilt	<i>Himantopus mexicanus</i>		Just offsite
Double-crested cormorant	<i>Nannopterum auritum</i>	TWL	Flyover
Band-tailed pigeon	<i>Patagioenas fasciata</i>		Flyover
Rock pigeon	<i>Columba livea</i>	Non-native	Just offsite
Eurasian collared-dove	<i>Streptopelia decaocto</i>	Non-native	
Mourning dove	<i>Zenaida macroura</i>		Many
Anna's hummingbird	<i>Calypte anna</i>		Territory defense
Greater yellowlegs	<i>Tringa melanoleuca</i>		Just offsite
Ring-billed gull	<i>Larus delawarensis</i>		Just offsite
Western gull	<i>Larus occidentalis</i>	BCC	Just offsite
California gull	<i>Larus californicus</i>	BCC, TWL	Flyover
Great blue heron	<i>Ardea herodias</i>		Flyover
Turkey vulture	<i>Cathartes aura</i>	BOP	Flyover
White-tailed kite	<i>Elanus leucurus</i>	BCC, CFP, BOP	Interacting, foraging
Cooper's hawk	<i>Accipiter cooperi</i>	TWL, BOP	Foraging
Sharp-shinned hawk	<i>Accipiter striatus</i>	TWL, BOP	
Red-tailed hawk	<i>Buteo jamaicensis</i>	BOP	Pair just Just offsite
Red-shouldered hawk	<i>Buteo lineatus</i>	BOP	Just offsite
American kestrel	<i>Falco sparverius</i>		Just offsite
Belted kingfisher	<i>Ceryle alcyon</i>		Just offsite
Northern flicker	<i>Colaptes auratus</i>		Just offsite
Acorn woodpecker	<i>Melanerpes formicivorus</i>		Just offsite
Nuttall's woodpecker	<i>Dryobates nuttallii</i>	BCC	
Black phoebe	<i>Sayornis nigricans</i>		Foraged
Say's phoebe	<i>Sayornis saya</i>		Foraged
Oak titmouse	<i>Baeolophus inornatus</i>	BCC	
White-breasted nuthatch	<i>Sitta carolinensis</i>		
California scrub-jay	<i>Aphelocoma californica</i>		Pair courtship
American crow	<i>Corvus brachyrhynchos</i>		Flock foraging on site
Common raven	<i>Corvus corax</i>		Pair courting on site
Bushtit	<i>Psaltriparus minimus</i>		Flock
Ruby-crowned kinglet	<i>Regulus calendula</i>		
Cedar waxwing	<i>Bombycilla cedrorum</i>		Flock flew over
Northern mockingbird	<i>Mimus polyglottos</i>		Guarding likely nest site
European starling	<i>Sturnus vulgaris</i>	Non-native	Flock Just offsite

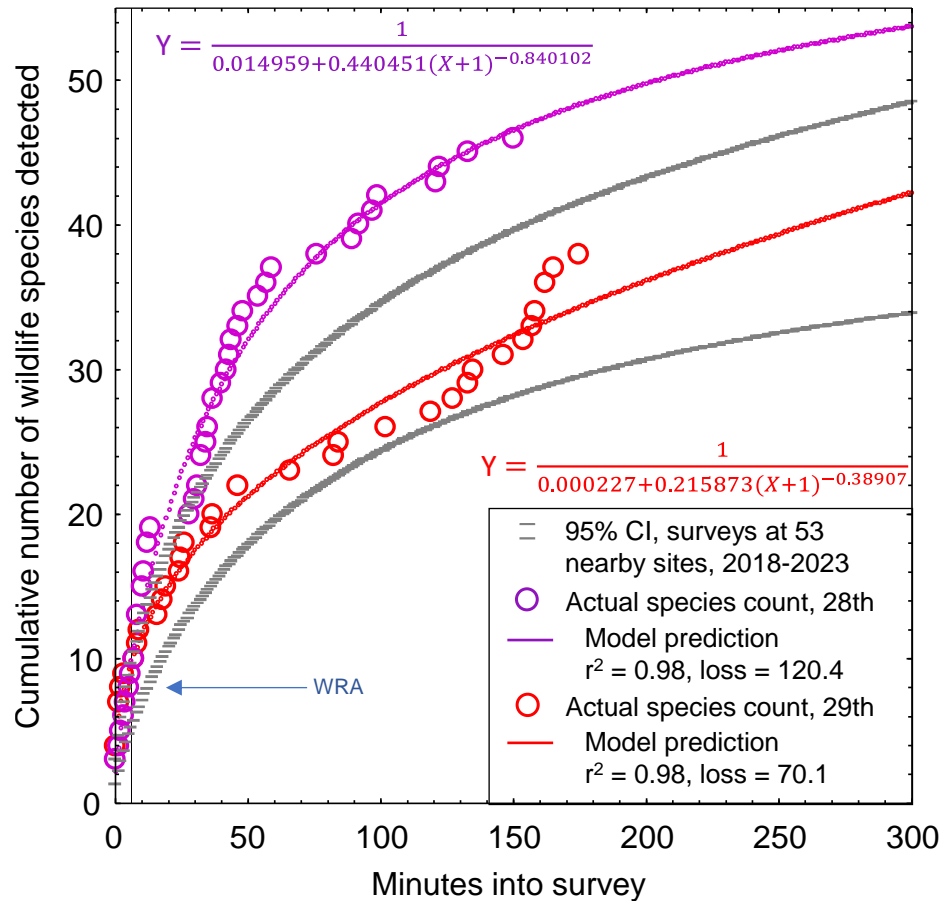
Common name	Species name	Status¹	Notes
Hermit thrush	<i>Catharus guttatus</i>		Foraged
American robin	<i>Turdus migratorius</i>		Many; social drama
House finch	<i>Haemorhous mexicanus</i>		
Pine siskin	<i>Spinus spinus</i>		
Lesser goldfinch	<i>Spinus psaltria</i>		
Dark-eyed junco	<i>Junco hyemalis</i>		Pair
Song sparrow	<i>Melospiza melodia</i>		
White-crowned sparrow	<i>Zonotrichia leucophrys</i>		Foraged
Golden-crowned sparrow	<i>Zonotrichia atricapilla</i>		Foraging
California towhee	<i>Melospiza crissalis</i>		Foraging
Spotted towhee	<i>Pipilo maculatus</i>		
Orange-crowned warbler	<i>Oreothlypis celata</i>		
Yellow-rumped warbler	<i>Setophaga coronata</i>		Offsite
Townsend's warbler	<i>Setophaga townsendi</i>		Foraging
Broad-footed mole	<i>Scapanus latimanus</i>		Burrow systems
Coyote	<i>Canis latrans</i>		
Deer mouse	<i>Peromyscus maculatus</i>		Burrows
California vole	<i>Microtus californicus</i>		Burrow systems
Botta's pocket gopher	<i>Thomomys bottae</i>		Burrow systems
Eastern gray squirrel	<i>Sciurus carolinensis</i>	Non-native	
Black-tailed deer	<i>Odocoileus h. hemionus</i>		Trail across site

¹ Listed as BCC = U.S. Fish and Wildlife Service Bird of Conservation Concern, TWL = Taxa to Watch List (Shuford and Gardali 2008), BOP = Birds of Prey (California Fish and Game Code 3503.5).

Reconnaissance surveys, such as the two I completed at the project site, cannot support species' absence determinations, but they can be useful for confirming presence of species. Such surveys can also be useful for estimating the number of species that were not detected, thereby revealing the degree to which the local wildlife community was sampled. One way to do this is to model the pattern in species detections during a survey. The cumulative number of species' detections increases with increasing survey time, but eventually with diminishing returns (Figure 1). In the case of my surveys at the project site, the patterns in the data predict that had I spent more time on site, or had I help from additional biologists, I would have detected many species of vertebrate wildlife – 66 on 14 December 2023.

The patterns in the data also indicate that my rates of species' detections at the project site either fell within the 95% confidence interval or exceeded the upper bound of the 95% confidence interval estimated from 10 surveys at other project sites I have surveyed in the Marin and Sonoma Counties since 2019 (Figure 1). In other words, wildlife species richness at the project site is greater than most other sites I have visited in the north Bay Area where projects have been proposed. Although my second survey brings my total number of species detected to 61, more surveys are needed to more completely sample the wildlife species inventory of the site.

Figure 1. Actual (large circles) and predicted (lines) relationships between the number of vertebrate wildlife species detected and the elapsed survey time based on my visual-scan surveys on 2 February 2023 (red) and 14 December 2023 (purple), and compared to the 95% CI of surveys at 10 sites I completed at proposed project sites in the North Bay Area.



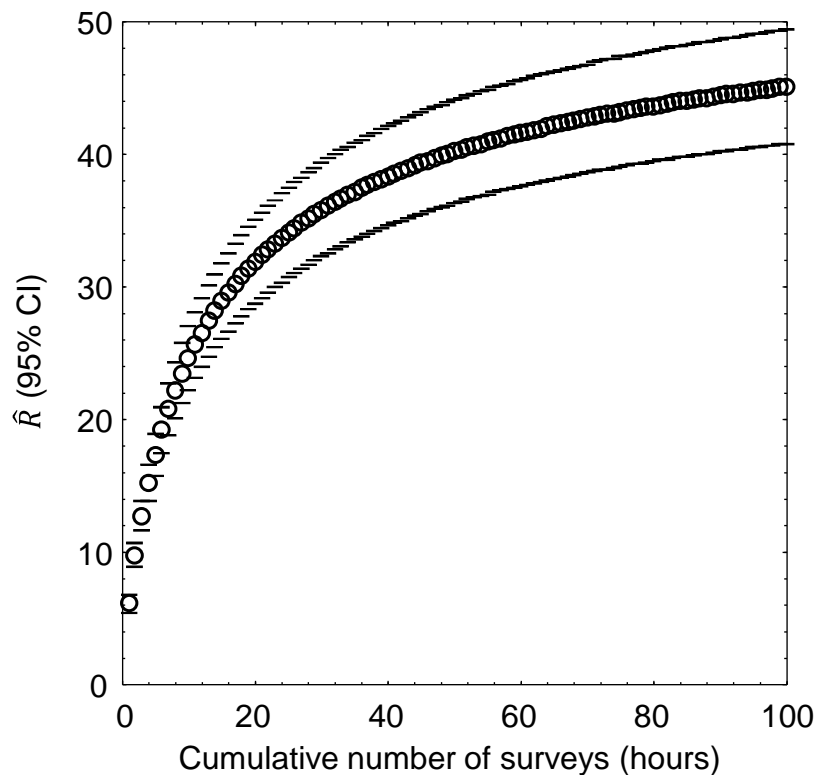
The site supports many species of wildlife, including many more than I could detect during a brief reconnaissance-level survey. However, although this modeling approach is useful for more realistically representing the species richness of the site at the time of a survey, it cannot represent the species richness throughout the year or across multiple years because many species are seasonal or even multi-annual in their movement patterns and in their occupancy of habitat. I surveyed only in winter, and therefore was unlikely to see some of the species that would use the site in spring, summer or fall.

However, by use of an analytical bridge, I can apply a model developed from a much larger, more robust data set at a research site to predict the number of wildlife species that would make use of the project site over the longer term. As part of my research, I completed a much larger survey effort across 167 km² of annual grasslands of the Altamont Pass Wind Resource Area, Alameda County, where from 2015 through 2019 I performed 721 1-hour visual-scan surveys, or 721 hours of surveys, at 46 stations. I used binoculars and otherwise the methods were the same as the methods I used at the project site. At each of the 46 survey stations at my research site, I tallied new species detected with each sequential survey at that station, and then related the cumulative species detected to the hours (number of surveys, as each survey lasted 1 hour) used to accumulate my counts of species detected. I used combined quadratic and simplex methods of estimation in Statistica to estimate least-squares, best-fit nonlinear models of the number of cumulative species detected regressed on hours of survey (number of

surveys) at the station: $\hat{R} = \frac{1}{1/a+b \times (\text{Hours})^c}$, where \hat{R} represented cumulative species richness detected. The models' coefficients of determination, r^2 , ranged 0.88 to 1.00, with a mean of 0.97 (95% CI: 0.96, 0.98); or in other words, the models were excellent fits to the data.

I projected the predictions of each model to thousands of hours to find predicted asymptotes of wildlife species richness. The mean model-predicted asymptote of species richness was 57 after 11,857 hours of visual-scan surveys among the 46 stations. I also averaged model predictions of species richness at each incremental increase of number of surveys, i.e., number of hours (Figure 2). On average I detected 18.6 species over the first 5.67 hours of surveys in the Altamont Pass (5.67 hours to match the number of hours I surveyed at the project site), which composed 32.6% of the total predicted species I would detect with a much larger survey effort. Given the example illustrated in Figure 2, the 61 species I detected after my 5.67 hours of survey at the project site likely represented 32.6% of the species to be detected after many more visual-scan surveys over another year or longer. With many more repeat surveys through the year, I would likely detect $61/0.326 = 187$ species of vertebrate wildlife at the site. Assuming my ratio of special-status to non-special-status species was to hold through the detections of all 178 predicted species, then continued surveys would eventually detect 34 special-status species of vertebrate wildlife.

Figure 2. Mean (95% CI) predicted wildlife species richness, \hat{R} , as a nonlinear function of hour-long survey increments across 46 visual-scan survey stations across the Altamont Pass Wind Resource Area, Alameda and Contra Costa Counties, 2015–2019.



Again, however, my prediction of 187 species of vertebrate wildlife, including 34 special-status species, is derived from a visual-scan survey during the daytime, and would not detect nocturnal birds and mammals. The true number of species composing the wildlife

community of the site must be larger. A single reconnaissance-level survey should serve only as a starting point toward characterization of a site's wildlife community, but it certainly cannot alone inform of the inventory of species that use the site.

Considering the number of wildlife species known and predicted to occur at the site of the proposed project, and considering the number of special-status species known and predicted to occur at the site, an alternative project site warrants consideration.

EXISTING ENVIRONMENTAL SETTING

The first step in analysis of potential project impacts to biological resources is to accurately characterize the existing environmental setting, including the biological species that use the site, their relative abundances, how they use the site, key ecological relationships, and known and ongoing threats to those species with special status. A reasonably accurate characterization of the environmental setting can provide the basis for determining whether the site holds habitat value to wildlife, as well as a baseline against which to analyze potential project impacts. For these reasons, characterization of the environmental setting, including the project's site's regional setting, is one of CEQA's essential analytical steps (§15125). Methods to achieve this first step typically include (1) surveys of the site for biological resources, and (2) reviews of literature, databases and local experts for documented occurrences of special-status species. In the case of this project, characterization of the existing environmental setting is poorly founded.

Environmental Setting Informed by Field Surveys

Herein I discuss several types of surveys, because WRA (2023) and the DEIR also discuss these surveys sometimes confusingly or misapplied. The types of survey I herein define are common to environmental review, but each type has its place in CEQA review and mitigation. A **reconnaissance survey**, also often referred to as a general biological survey, is intended to (1) detect as many of the species as feasible during the time of the survey, (2) search for and map the locations of approximate boundaries of wetlands and coarse representations of vegetation cover, and (3) assess the likelihood of occurrences of special-status species. The latter objective is often referred to as habitat assessment. CDFW (2018) provides guidelines for reconnaissance surveys directed toward plant species, but there are no guidelines for reconnaissance-level wildlife surveys, other than the expected use of sound scientific methodology.

The most effective methodology for **habitat assessment** is a survey of sufficient effort to determine whether each potentially occurring species truly occurs at the project site. The presence of a species confirms the existence of habitat of the species. The weakness of this approach is that undetected species might truly occur on the site, either because the survey failed to detect the species that was truly present or the habitat was unoccupied at the time of the survey. Each detection of a species provides certainty of the presence of the species' habitat whereas lack of detection provides uncertainty unless a compelling argument can be made for true absence.

A **protocol-level survey** is a survey guided by a written protocol, usually by a resource agency or professional group of biologists. Such surveys can be for various objectives, but in environmental review they are usually intended for detection surveys. **Detection surveys** are formulated by experts on a particular species to, at reasonable cost, give survey personnel the best chance at detecting members of a species if the species is indeed present. The additional purpose of detection surveys is to support absence determinations when the protocol was followed but the species was nevertheless not detected. Absence determinations made for special-status species are supportable only if the results of detection surveys were negative, or when the site is outside the species' geographic range or clearly does not provide habitat.

Whereas reconnaissance surveys habitat assessment, and detection surveys are intended to be completed in support of the CEQA review document, and therefore prior to the circulation of the CEQA review document, **preconstruction surveys** are take-avoidance surveys intended to be completed after reconnaissance surveys and detection surveys and just prior to construction ground-disturbance activities such as clearing and grubbing or grading. For some species, protocols for preconstruction surveys are included in mitigation guidelines. The preconstruction survey is a mitigation measure, and therefore not to be confused with other types of surveys. This type of survey will be discussed in the Mitigation section near the end of my comments.

One year before I first surveyed the site, WRA (2023) completed a reconnaissance survey on 4 February 2022 to document “(1) land cover types (e.g., vegetation communities, aquatic resources), (2) existing conditions and to determine if such provide suitable habitat for any special-status plant or wildlife species, (3) if and what type of aquatic land cover types (e.g., wetlands) are present, and (4) if special-status species are present.” A footnote to objective 4 includes the following: “Due to the timing of the assessment, it may or may not constitute protocol-level species surveys; see Section 5.2 if the site assessment would constitute a formal or protocol-level species survey.” The meaning of this footnote is unclear, but no detection surveys were completed by WRA (2023). There should be no ambiguity about this.

WRA (2023) reports nothing about what time the surveys began, or how long the surveys lasted. No checklist is shared of habitat components that the biologists might have used during their survey to later crosscheck against documented habitats of each special-status species. No explanation is provided of whether or how animal behavior data or other evidence contributed to the biologist's assessment of the site for its importance to animal movement. In short, WRA (2023) neglects to report the most essential methodological details the reader needs to know in order to accurately interpret WRA's survey findings.

For example, WRA (2023) reports having detected eight species of vertebrate wildlife, but again there is no reporting of how long WRA's biologists surveyed the site. I detected 39 species of vertebrate wildlife in less than three hours during my first survey, and 46 species in 2.75 hours during my second survey, or 61 species of vertebrate wildlife in 5.67 hours of survey. During my first survey, it took me three minutes to detect the first eight species of wildlife, which is the total number of vertebrate wildlife

species detected by WRA. During my second survey, it took me twice as long to detect my first eight species, but twice as long was only six minutes. Assuming the WRA biologists are competent and assuming they were committed to detecting wildlife, their survey would have lasted no longer than six minutes (see the blue arrow in Figure 1). However, WRA's biologists were tasked with about six objectives (WRA numbers four objectives, but describes six), so unless they pursued their objectives sequentially, their attention was split among multiple objectives simultaneously. Whatever the reason, WRA's survey reveals only 13% of the vertebrate wildlife species that I saw during my surveys. WRA (2023) and the DEIR incompletely and inaccurately characterize the wildlife community as part of the existing environmental setting.

WRA (2023) reports detection of Monarch butterfly, but neglects to discuss the significance of their find. Monarch is a federal Candidate for listing under the Endangered Species Act. WRA (2023) concludes that the site does not support overwintering roosting by Monarchs, even though WRA's onsite detection of Monarch was during the winter. However, even assuming Monarchs do not roost on the site through the winter, WRA's discovery of Monarch on the project site is significant. According to the conservation strategy of the Western Monarch Butterfly Conservation Plan 2016-2069, the strategy is to "Protect and restore overwintering groves, including development of site-specific grove management plans; and conserve monarch breeding and migratory habitats in natural lands, urban and industrial, rights-of-way, and agricultural habitat sectors." Migratory habitats are no less important to the conservation of monarchs than are overwintering groves, and the Plan identifies urban areas as contributive to migratory habitat. The observation of a Monarch on the project site is evidence that at minimum the site serves as part of a migration route to and from over-wintering sites. WRA's Monarch observation is significant, and warrants an appropriate analysis of potential project impacts to Monarch.

The DEIR reports that "No special-status plant species were observed in the Project site during the site assessment on February 4, 2022." Whereas this reporting might be factual, it is pseudoscientific. Most special-status plant species are much less likely to be detected outside the blooming season. And this comment goes to a larger point. WRA (2023) reports having completed a "focused protocol-level rare plant survey on July 14, 2023." WRA's characterization of this survey might give readers the impression that the survey followed the CDFW (2018) plant survey guidelines, and indeed WRA (2023) reports having followed the CDFW (2018) protocol. However, WRA (2023) does not meet the standards of describing qualifications of those who performed the surveys, nor does WRA (2023) identify them. The standards of survey preparation are not met. Insufficient information is reported on survey design and survey methods. Some of the reporting standards are not met. Only one survey was completed, and no reference site was visited. In my assessment, WRA (2023) did not follow the CDFW (2023) plant survey protocol.

The DEIR reports that "No special-status wildlife species were observed in the Project site during the site visits." This is not true, of course. Monarch was detected. That other special-status species were not detected should not be surprising, however. Reconnaissance surveys for wildlife are not designed to detect special-status species.

Special-status species can be detected during such surveys, as my surveys demonstrated with detections of 11 special-status species, but these surveys are not formulated to detect them, nor are there minimum standards to be met in these surveys to support absence determinations. For the latter purpose, protocol-level detection surveys have been formulated by species experts. WRA (2023) did not perform any detection surveys. Based on WRA (2023), the DEIR's characterization of the existing environmental setting is therefore incomplete and inaccurate.

Environmental Setting Informed by Desktop Review

The purpose of literature and database review, and of consulting with local experts, is to inform the reconnaissance-level survey, to augment it, and to help determine which protocol-level detection surveys should be implemented. Analysts need this information to identify which species are known to have occurred at or near the project site, and to identify which other special-status species could conceivably occur at the site due to geographic range overlap and site conditions. This step is important because the reconnaissance-level survey is not going to detect all of the species of wildlife that make use of the site. This step can identify those species yet to be detected at the site but which have been documented to occur nearby or whose available habitat associations are consistent with site conditions. Some special-status species can be ruled out of further analysis, but only if compelling evidence is available in support of such determinations (see below).

WRA (2023) and the DEIR list sources of information that WRA consulted to make determinations of occurrence likelihood of special-status species. The only detail about how this information was applied was that WRA queried the California Natural Diversity Data Base (CNDDDB) for occurrence records within the San Rafael 7.5-minute Quadrangle and in eight neighboring Quads. WRA's use of CNDDDB screens out many special-status species from further consideration in WRA's characterization of the wildlife community as part of the existing environmental setting. CNDDDB is not designed to support absence determinations or to screen out species from characterization of a site's wildlife community. As noted by CNDDDB, "*The CNDDDB is a positive sighting database. It does not predict where something may be found. We map occurrences only where we have documentation that the species was found at the site. There are many areas of the state where no surveys have been conducted and therefore there is nothing on the map. That does not mean that there are no special status species present.*" WRA (2023) and the DEIR misuse CNDDDB.

CNDDDB relies entirely on volunteer reporting from biologists who were allowed access to whatever properties they report from. Many properties have never been surveyed by biologists. Many properties have been surveyed, but the survey outcomes never reported to CNDDDB. Many properties have been surveyed multiple times, but not all survey outcomes reported to CNDDDB. Furthermore, CNDDDB is interested only in the findings of special-status species, which means that species more recently assigned special status will have been reported many fewer times to CNDDDB than were species assigned special status since the inception of CNDDDB. The lack of many CNDDDB records for species recently assigned special status had nothing to do with whether the species' geographic

ranges overlapped the project site, but rather more to do with the brief time for records to have accumulated since the species were assigned special status. And because negative findings are not reported to CNDDDB, CNDDDB cannot provide the basis for estimating occurrence likelihoods, either. WRA's analysis of special-status species occurrence likelihoods is fundamentally flawed.

Although it was unclear whether or how CNDDDB was used to determine occurrence likelihoods of special-status species, WRA (2023) describes criteria for assigning each species the occurrence likelihoods of No potential, Unlikely, Moderate potential, High potential, and Present. These criteria are vague. Three metrics are used, these being habitat suitability, habitat quality, and the availability of habitat components necessary for persistence. However, WRA d(2023) does not explain how these metrics were quantified, rated or implemented.

The habitat metrics leading to occurrence likelihood determinations pose additional problems. For example, there is no such thing as unsuitable habitat, ergo there is no such thing as suitable habitat (Hall et al. 1997, Krausman 2016). Habitat, by definition, is suitable for the species at issue, or it would not be regarded as habitat. Therefore, habitat cannot be unsuitable. The environment of a place is either habitat or it is not. As another example, habitat "quality is an outcome (e.g., survival, productivity) and is not a user-defined inherent property of a location" (Krausman 2016). Neither WRA (2023) nor the DEIR report the outcomes of any measurements of survival or productivity, so habitat quality is not a viable metric useful for determining species' occurrence likelihoods. As for habitat components, these are site- and season-dependent for each species, often replaceable, and usually not as clearly definable as consultants like to imply. All three metrics relied on by WRA (2023) are poorly defined and misapplied.

In the context of a desktop review, whether a site supports habitat of a species will be uncertain more times than not, so the precautionary principle in risk assessment applied to precious or rare resources, such as to special-status species, would be to assume presence unless a compelling argument can be made to determine otherwise. In fact, this is the principle underlying protocol-level detection surveys for special-status species, each of which assumes presence unless and until negative findings of surveys performed to protocol can support an absence determination. The standards common to protocol-level detection surveys for the purpose of determining absence are certainly missing from WRA's (2023) desktop review.

In my assessment based on database reviews and site visits, 124 special-status species of wildlife are known to occur near enough to the site to be analyzed for occurrence potential at one time or another (Table 2). Of these, 12 (10%) were confirmed on the site by my survey visits, and 52 (42%) have been documented in databases within 1.5 miles of the site ('Very close'), 32 (26%) within 1.5 and 4 miles ('Nearby'), and another 27 (22%) within 4 to 30 miles ('In region'). More than three-fourths (95) of the species in Table 2 have been reportedly seen within 4 miles of the project site. The site therefore likely supports many special-status species of wildlife. On any given day, one or more yet-to-be documented special-status species likely make use of the project site, but being there to document that use probably requires multiple surveys (see Figures 1 and 2).

Reconnaissance surveys are not designed to support absence determinations of any of these species. Therefore, sufficient survey effort should be directed to the site to either confirm the species in Table 2 use the site or to support absence determinations.

WRA (2023) analyzes occurrence likelihoods of only 24 of the special-status species of wildlife in my Table 2. Of these, WRA determines all 24 species to either have no potential to occur or to be unlikely to occur. However, two of these species (Monarch and white-tailed kite) were detected on site, six have been documented within only 1.5 miles from the site, eight have been documented between 1.5 and 4 miles from the site, and seven have been documented between 4 and 30 miles from the site. For example, WRA (2023) determines white-tailed kite unlikely, but eBird postings show numerous sightings very close to the site, including one seen only days ago (Figure 3). I watched a pair of white-tailed kites forage and interact for long periods over the project site on 14 December 2023. WRA (2023) determines northern harrier unlikely, but eBird postings show sightings very close to the site (Figure 4). WRA (2023) determines peregrine falcon to have no potential for occurrence, but eBird postings show numerous sightings very close to the site (Figure 5). The available occurrence records support determinations of Present, and do not support determinations of Unlikely or No potential, which is what WRA (2023) assigns them. WRA's (2023) determinations of special-status species occurrence likelihoods are too often inaccurate, and too often disagree with the evidence, and therefore are unreliable.

Figure 3. *White-tailed kite sighting records on eBird (teardrops), the closest only 81 m from the project site, and one seen within the past month (red teardrop).*



Figure 4.
Northern harrier
sighting records on
eBird (teardrops),
the closest only 230
m from the site.



Figure 5.
Peregrine falcon
sighting records on
eBird (teardrops),
the closest only 100
m from the project
site.



Table 2. Occurrence likelihoods of special-status bird species at or near the proposed project site, according to eBird/iNaturalist records (<https://eBird.org>, <https://www.inaturalist.org>) and on-site survey findings, where ‘Very close’ indicates within 1.5 miles of the site, “nearby” indicates within 1.5 and 4 miles, and “in region” indicates within 4 and 30 miles, and ‘in range’ means the species’ geographic range overlaps the site. Entries on bold font represent species I observed on the project site.

Common name	Species name	Status¹	WRA (2023) occurrence potential	Data base records, Site visits
San Bruno elfin butterfly	<i>Callophrys mossii bayensis</i>	FE		In region
Monarch	<i>Danaus plexippus</i>	FC	None	On site
Bay checkerspot butterfly	<i>Euphydryas editha bayensis</i>	FT	None	In region
Mission blue butterfly	<i>Icaricia icarioides missionensis</i>	FE	Unlikely	Nearby
Callippe silverspot butterfly	<i>Speyeria callippe callippe</i>	FE	None	In region
Myrtle's silverspot butterfly	<i>Speyeria zerene myrtleae</i>	FE		In region
California tiger salamander	<i>Ambystoma californiense</i>	FT, CT, WL		In region
California giant salamander	<i>Dicamptodon ensatus</i>	SSC	None	Nearby
Red-bellied newt	<i>Taricha rivularis</i>	SSC		In region
Foothill yellow-legged frog	<i>Rana boylei</i>	CT, SSC	None	Nearby
California red-legged frog	<i>Rana draytonii</i>	FT, SSC	None	Nearby
Western pond turtle	<i>Emys marmorata</i>	SSC	None	Nearby
Alameda whipsnake	<i>Masticophis lateralis euryxanthus</i>	FT, CT		Nearby
San Francisco garter snake	<i>Thamnophis sirtalis tetrataenia</i>	FE, CE, CFP		In region
Brant	<i>Branta bernicla</i>	SSC ₂		Very close
Cackling goose (Aleutian)	<i>Branta hutchinsii leucopareia</i>	WL		Very close
Redhead	<i>Aythya americana</i>	SSC ₂		Very close
Harlequin duck	<i>Histrionicus histrionicus</i>	SSC ₂		Nearby
Barrow's goldeneye	<i>Bucephala islandica</i>	SSC		Very close
Fork-tailed storm petrel	<i>Oceanodroma furcata</i>	SSC		Nearby
Ashy storm-petrel	<i>Oceanodroma homochroa</i>	SSC		In region
Western grebe	<i>Aechmophorus occidentalis</i>	BCC		Very close
Clark's grebe	<i>Aechmophorus clarkii</i>	BCC		Very close
Western yellow-billed cuckoo	<i>Coccyzus americanus occidentalis</i>	FT, CE, BCC		Nearby
Black swift	<i>Cypseloides niger</i>	SSC ₃ , BCC	None	Very close
Vaux's swift	<i>Chaetura vauxi</i>	SSC ₂ , BCC		Very close

Common name	Species name	Status¹	WRA (2023) occurrence potential	Data base records, Site visits
Costa's hummingbird	<i>Calypte costae</i>	BCC		Nearby
Rufous hummingbird	<i>Selasphorus rufus</i>	BCC		Very close
Allen's hummingbird	<i>Selasphorus sasin</i>	BCC		Very close
American avocet ²	<i>Recurvirostra americana</i>	BCC		Very close
Snowy plover	<i>Charadrius nivosus</i>	BCC	None	Very close
Western snowy plover	<i>Charadrius nivosus nivosus</i>	FT, SSC, BCC		Very close
Whimbrel ²	<i>Numenius phaeopus</i>	BCC		Very close
Long-billed curlew	<i>Numenius americanus</i>	BCC, WL		Very close
Marbled godwit	<i>Limosa fedoa</i>	BCC		Very close
Red knot (Pacific)	<i>Calidris canutus</i>	BCC		Very close
Short-billed dowitcher	<i>Limnodromus griseus</i>	BCC		Very close
Willet	<i>Tringa semipalmata</i>	BCC		Very close
Marbled murrelet	<i>Brachyramphus marmoratus</i>	FT, CE		Nearby
Rhinoceros auklet	<i>Cerorhinca monocerata</i>	WL		Nearby
Tufted puffin	<i>Fraterecula cirrhata</i>	SSC, BCC		Nearby
Cassin's auklet	<i>Ptychoramphus aleuticus</i>	SSC, BCC		In region
Laughing gull	<i>Leucophaeus atricilla</i>	WL		Nearby
Heermann's gull	<i>Larus heermanni</i>	BCC		Very close
Western gull	<i>Larus occidentalis</i>	BCC		Very close
California gull	<i>Larus californicus</i>	BCC, WL		On site
California least tern	<i>Sternula antillarum browni</i>	FE, CE, FP		In region
Black tern	<i>Chlidonias niger</i>	SSC ₂ , BCC		In region
Elegant tern	<i>Thalasseus elegans</i>	BCC, WL		Very close
Black skimmer	<i>Rynchops niger</i>	BCC, SSC ₃		Very close
Common loon	<i>Gavia immer</i>	SSC		Very close
Brandt's cormorant	<i>Urile penicillatus</i>	BCC		Very close
Double-crested cormorant	<i>Phalacrocorax auritus</i>	WL		On site
American white pelican	<i>Pelicanus erythrorhynchos</i>	SSC ₁ , BCC		Very close
California brown pelican	<i>Pelecanus occidentalis californicus</i>	FP		Very close
Least bittern	<i>Ixobrychus exilis</i>	SSC ₂		In region

Common name	Species name	Status¹	WRA (2023) occurrence potential	Data base records, Site visits
White-faced ibis	<i>Plegadis chihi</i>	WL		Very close
Turkey vulture	<i>Cathartes aura</i>	BOP		On site
Osprey	<i>Pandion haliaetus</i>	WL, BOP		On site
White-tailed kite	<i>Elanus leucurus</i>	CFP, WL, BOP	Unlikely	On site
Golden eagle	<i>Aquila chrysaetos</i>	BGEPA, CFP, BOP		Very close
Northern harrier	<i>Circus cyaneus</i>	BCC, SSC3, BOP	Unlikely	Very close
Sharp-shinned hawk	<i>Accipiter striatus</i>	WL, BOP		On site
Cooper's hawk	<i>Accipiter cooperii</i>	WL, BOP		On site
American goshawk	<i>Accipiter atricapillus</i>	SSC2, BOP		Nearby
Bald eagle	<i>Haliaeetus leucocephalus</i>	BGEPA, CE, BOP		Very close
Red-shouldered hawk	<i>Buteo lineatus</i>	BOP		Very close
Swainson's hawk	<i>Buteo swainsoni</i>	CT, BOP		Very close
Red-tailed hawk	<i>Buteo jamaicensis</i>	BOP		On site
Ferruginous hawk	<i>Buteo regalis</i>	WL, BOP		Very close
Rough-legged hawk	<i>Buteo lagopus</i>	BOP		Very close
Barn owl	<i>Tyto alba</i>	BOP		Very close
Northern spotted owl	<i>Strix occidentalis caurina</i>	FT, CT, BOP		In region
Western screech-owl	<i>Megascops kennicotti</i>	BOP		Very close
Great horned owl	<i>Bubo virginianus</i>	BOP		Very close
Burrowing owl	<i>Athene cunicularia</i>	BCC, SSC2, BOP	Unlikely	Very close
Long-eared owl	<i>Asio Otis</i>	BCC, SSC3, BOP		Nearby
Short-eared owl	<i>Asia flammeus</i>	BCC, SSC3, BOP	None	In region
Lewis's woodpecker	<i>Melanerpes lewis</i>	BCC		Nearby
Nuttall's woodpecker	<i>Picoides nuttallii</i>	BCC		On site
American kestrel	<i>Falco sparverius</i>	BOP		Very close
Merlin	<i>Falco columbarius</i>	WL, BOP		Very close
Peregrine falcon	<i>Falco peregrinus</i>	BOP	None	Very close
Prairie falcon	<i>Falco mexicanus</i>	BCC, WL, BOP		Nearby
Olive-sided flycatcher	<i>Contopus cooperi</i>	BCC, SSC2		Very close
Willow flycatcher	<i>Empidonax trailii</i>	CE, BCC		Very close

Common name	Species name	Status¹	WRA (2023) occurrence potential	Data base records, Site visits
Vermilion flycatcher	<i>Pyrocephalus rubinus</i>	SSC2		In region
Loggerhead shrike	<i>Lanius ludovicianus</i>	BCC, SSC2		Very close
Oak titmouse	<i>Baeolophus inornatus</i>	BCC		On site
California horned lark	<i>Eremophila alpestris actia</i>	WL		Very close
Bank swallow	<i>Riparia riparia</i>	CT	None	In region
Purple martin	<i>Progne subis</i>	SSC2		Very close
Wrentit	<i>Chamaea fasciata</i>	BCC		Very close
California thrasher	<i>Toxostoma redivivum</i>	BCC		Nearby
Cassin's finch	<i>Haemorhous cassinii</i>	BCC		In region
Lawrence's goldfinch	<i>Spinus lawrencei</i>	BCC		Nearby
Grasshopper sparrow	<i>Ammodramus savannarum</i>	SSC2		Nearby
Samuels song sparrow	<i>Melospiza melodia samueli</i>	BCC, SSC3	None	Very close
Black-chinned sparrow	<i>Spizella atrogularis</i>	BCC		In region
Yellow-breasted chat	<i>Icteria virens</i>	SSC3		Very close
Yellow-headed blackbird	<i>Xanthocephalus xanthocephalus</i>	SSC3		In region
Bullock's oriole	<i>Icterus bullockii</i>	BCC		Very close
Tricolored blackbird	<i>Agelaius tricolor</i>	CT, BCC, SSC1		Nearby
Lucy's warbler	<i>Leiothlypis luciae</i>	SSC3, BCC		In region
Virginia's warbler	<i>Leiothlypis virginiae</i>	WL, BCC		In region
San Francisco common yellowthroat	<i>Geothlypis trichas sinuosa</i>	SSC3, BCC	None	In range
Yellow warbler	<i>Dendroica petechia</i>	BCC, SSC2		Very close
Summer tanager	<i>Piranga rubra</i>	SSC1		Nearby
Pallid bat	<i>Antrozous pallidus</i>	SSC, WBWG:H	Unlikely	In region
Townsend's big-eared bat	<i>Corynorhinus townsendii</i>	SSC, WBWG:H	Unlikely	In region
Canyon bat	<i>Parastrellus hesperus</i>	WBWG:L		In region
Big brown bat	<i>Episticus fuscus</i>	WBWG:L		Nearby
Silver-haired bat	<i>Lasionycteris noctivagans</i>	WBWG:M		Nearby
Western red bat	<i>Lasiurus blossevillii</i>	SSC, WBWG:H	Unlikely	Nearby
Hoary bat	<i>Lasiurus cinereus</i>	WBWG:M	Unlikely	Nearby

Common name	Species name	Status¹	WRA (2023) occurrence potential	Data base records, Site visits
Miller's myotis	<i>Myotis evotis</i>	WBWG:M		In region
Little brown myotis	<i>Myotis lucifugus</i>	WBWG:M		In region
Fringed myotis	<i>Myotis thysanodes</i>	WBWG:H		In range
Yuma myotis	<i>Myotis yumanensis</i>	WBWG:LM		Nearby
California myotis	<i>Myotis californicus</i>	WBWG:L		Nearby
Mexican free-tailed bat	<i>Tadarida brasiliensis</i>	WBWG: M		Nearby
San Francisco dusky-footed woodrat	<i>Neotoma fuscipes annectens</i>	SSC		Nearby
Salt-marsh harvest mouse	<i>Reithrodontomys raviventris</i>	FE, CE, FP	None	In region
American badger	<i>Taxidea taxus</i>	SSC	None	Nearby

¹ Listed as FT or FE = federal threatened or endangered, FC = federal candidate for listing, BCC = U.S. Fish and Wildlife Service Bird of Conservation Concern, CT or CE = California threatened or endangered, CCT or CCE = Candidate California threatened or endangered, CFP = California Fully Protected (California Fish and Game Code 3511), SSC = California Species of Special Concern (not threatened with extinction, but rare, very restricted in range, declining throughout range, peripheral portion of species' range, associated with habitat that is declining in extent), SSC1, SSC2 and SSC3 = California Bird Species of Special Concern priorities 1, 2 and 3, respectively (Shuford and Gardali 2008), WL = Taxa to Watch List (Shuford and Gardali 2008), and BOP = Birds of Prey (CFG Code 3503.5), and WBWG = Western Bat Working Group with priority rankings, of low (L), moderate (M), and high (H).

The large numbers of occurrence records of special-status species near the project site warrants an examination of WRA's (2023) explanations for its determinations that these species would be Unlikely to occur or to have No potential for occurrence. I will start with white-tailed kite, a species I have long studied (Erichsen et al. 1996), and which I have been monitoring within 10 miles of Davis, California. According to WRA (2023), "Trees within the Project Site and in the immediate vicinity may support nesting; however, the high degree of anthropogenic disturbance within the Project Site likely reduces the suitability of any potential nesting habitat." WRA (2023) cites no source in support of its claim that anthropogenic disturbance would preclude nesting of white-tailed kites on the project site. In fact, white-tailed kites often nest in suburban neighborhoods, so long as the nest sites are not too far from foraging grounds (Erichsen et al. 1996). The leading hypothesis for why white-tailed kites nest in suburban trees is that habitat fragmentation and habitat loss is forcing buteo hawks to nest at sites that had long been used by white-tailed kites, which are unable to defend their nest sites against the Buteo hawks. White-tailed kites have been declining as a result. Over the last four years, all of the nesting pairs of white-tailed kites that have persisted within 10 miles of Davis, California have nested in suburban trees, one of them as far from the pair's foraging area as 1.25 miles. Suburban trees are less often used by Buteos, so these trees are serving as a last nesting refuge of white-tailed kites.

When I first saw the project site, I knew that it was white-tailed kite habitat, and when I arrived to survey on 14 December 2023, a pair of white-tailed kites appeared right over my head and over the project site. This pair was engaged in courtship, which is typical of this time of year because mating begins in January. I also see these kites visiting trees, which is typical of this species prior to nesting season. These birds were scouting for suitable nest sites. One of the sites was on the west end of cluster of evergreens near the project site, but at the edge of the marsh. Another site was just north of the project site, in a neighborhood. Wherever this pair decides to nest will not matter to the importance of the project site to the nest success of this pair of white-tailed kites, as it will be critical as a provider of forage. The project site is covered by small mammal burrows. There are hundreds of California vole burrows and grass runways, and there are hundreds of burrows of deer mouse. There are also many burrow systems of Botta's pocket gophers and Broad-footed mole. The project site provides plenty of food, which this pair of white-tailed kites is going to need.

The explanation for WRA's (2023) occurrence likelihood determination is flawed in the case of white-tailed kite. It lacks foundation in evidence, and in fact is refuted by the evidence (Figure 3 and my own observations). WRA's analysis is unreliable.

How about northern harrier? WRA (2023) determines northern harrier is Unlikely because "The Project Site does not provide dense ground vegetation necessary to support nesting." Having found and documented northern harrier nests, I have to disagree with WRA. However, WRA's reasoning is instructive for its application to other species as well. WRA implies that the site has to provide opportunities for nesting in order for the species' occurrences to matter. This is not true. The special status assigned to the does not require nesting. And anyway, all parts of an animal's habitat is of critical importance to its breeding potential. No animal can successfully breed if it cannot find

sufficient forage and refugia during the non-breeding season and on areas beyond the actual nest site. WRA (2023) contrives a false standard for occurrence likelihood determinations. In the case of northern harrier, the project site is adjacent to multiple eBird records of northern harrier (Figure 4).

The explanation WRA (2023) applies to peregrine falcon is also instructive: “The Project Site does not contain protected cliffs and man-made structures are subject to a high degree of anthropogenic disturbance.” This explanation is almost musing because man-made structures always tend to be subject to a high degree of anthropogenic disturbance. And yet, peregrine falcons often use such structures as surrogates for natural cliffs and rock outcrops. Peregrine falcons are resourceful. But whereas WRA focuses solely on where peregrine falcons might roost or nest, WRA neglects a critical resource, and that is forage. As I noted earlier, the project site is rich on small mammals. It is also loaded with birds, which peregrine falcons also feed on. The site is used by band-tailed pigeons, rock pigeons, Eurasian collared-doves and mourning doves, all of which are preferred prey of peregrine falcon. There is no reason why peregrine falcons would not occur on the project site, which is immediately adjacent to multiple eBird records of this species (Figure 5).

The preceding examinations of WRA’s (2023) reasoning for determining that every conceivable special-status species is Unlikely to occur at the site or to have No potential to occur are but three examples. Repeatedly, WRA (2023) pigeon-holes species into unrealistic portions of the environment in order to then assert that those portions do not exist on the project site. WRA (2023) also contrives false standards such as the site must provide conditions for breeding onsite. The reasons given lack supporting evidence. In one case – Monarch – the reader is informed that the species has No potential to occur even though one or more WRA biologists observed the species on the project site. If WRA’s (2023) reasons were valid, I should not have observed the 11 special-status species I saw on the project site, but I did see them. WRA’s (2023) analysis of occurrence likelihoods is not credible.

POTENTIAL BIOLOGICAL IMPACTS

An impacts analysis should consider whether and how the proposed project would affect members of a species, larger demographic units of the species, the whole of a species, and ecological communities. In the following I introduce several types of impacts likely to result from the project, and which would need to be analyzed in an EIR.

HABITAT LOSS

The project would contribute further to habitat fragmentation, which poses serious problems to wildlife in the region. Habitat fragmentation and habitat loss have been recognized as the most likely leading causes of a documented 29% decline in overall bird abundance across North America over the last 48 years (Rosenberg et al. 2019). Habitat loss not only results in the immediate numerical decline of wildlife, but it also results in permanent loss of productive capacity.

In the case of birds, two methods exist for estimating the loss of productive capacity that would be caused by the project. One method would involve surveys to count the number of bird nests and chicks produced. The alternative method is to infer productive capacity from estimates of total nest density elsewhere. Two study sites in grassland-wetland-woodland complexes had total bird nesting densities of 32.8 and 35.8 nests per acre (Young 1948, Yahner 1982) for an average 34.3 nests per acre. Assuming the 1.9-acre project site supports about the same total nesting density of the above-referenced study sites, one can predict a loss of 65 bird nests. This estimate is likely conservative considering that the project site has 66 trees on it.

The loss of 65 nest sites of birds would qualify as a potentially significant project impact, but the impact does not end with the immediate loss of nest sites as nest substrate is removed and foraging grounds graded in preparation for impervious surfaces. The reproductive capacity of the site would be lost. The average number of fledglings per nest in Young's (1948) study was 2.9. Assuming Young's (1948) study site typifies bird productivity, the project would prevent the production of 189 fledglings per year. Assuming an average bird generation time of 5 years, the lost capacity of both breeders and annual fledgling production can be estimated from an equation in Smallwood (2022): $\{(nests/year \times chicks/nest \times number\ of\ years) + (2\ adults/nest \times nests/year) \times (number\ of\ years \div years/generation)\} \div (number\ of\ years) = 215\ birds\ per\ year\ denied\ to\ California$. It would be prudent to explore alternative project sites with an aim toward minimizing the annual toll to California's birds.

WILDLIFE MOVEMENT

One of CEQA's principal concerns regarding potential project impacts is whether a proposed project would interfere with wildlife movement in the region. Unfortunately, the DEIR's analysis of whether the project would interfere with wildlife movement in the region is flawed and misleading. According to the DEIR, "The Project site is not within a designated wildlife corridor depicted in the Essential Connectivity Areas dataset published by CDFW..." However, the California Essential Habitat Connectivity Project specifically points out (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18486>) that it is not: "A California Department of Fish and Game or US Fish and Wildlife Service response to potential impacts to a habitat or species from a project subject to the California Environmental Quality Act (CEQA)," nor "Fine scale, with every important piece of habitat identified" nor "Essential", meaning the only places of importance" nor "A solution by itself for how to provide necessary linkages for any given species of plant or animal... Linkage designs will vary depending on focal species chosen and the goal of providing connected habitat for a chosen species might be met several different ways" nor "The final word on connectivity for California." With analytical grid cells of 2,000 acres, the spatial grain of the California Essential Habitat Connectivity Project is much too coarse for the conclusion the DEIR draws from it. WRA (2023) and the DEIR misapply the Essential Habitat Connectivity Project.

A more effective method for assessing the importance of a site to wildlife movement in the region is to survey the site for evidence of wildlife movement. Avian flight behavior can be recorded, and biologists can search for animal trails and where they lead. Many

of the wild animals I saw at the project site were moving across it. Terrestrial wildlife use a well-worn trail across the middle of the site. Tracks of black-tailed deer adorned the trail, and I watched as a coyote used it (Photo 3). The trail connected two patches of open space via the project site.

Volant wildlife moved across the site, many without ever touching the ground or a tree branch, but they nevertheless relied on the unimpeded atmospheric medium that is currently available on the project site. If a building is constructed on this site, then the project would interfere with wildlife movement in the region. The magnitude of this interference needs to be investigated through observational study, and it needs to be determined whether the impacts could be mitigated. Additionally, it would be prudent to study wildlife movement at alternative project sites to learn whether the impacts can be minimized by developing the project elsewhere.

BIRD-WINDOW COLLISIONS

The project would add 50 residential units within a building 57 feet in height. The building would present glass windows to birds attempting to use an essential portion of their habitat – that portion of the gaseous atmosphere that is referred to as the aerosphere (Davy et al. 2017, Diehl et al. 2017). The aerosphere is where birds and bats and other volant animals with wings migrate, disperse, forage, perform courtship and where some of them mate. Birds are some of the many types of animals that evolved wings as a morphological adaptation to thrive by moving through the medium of the aerosphere. The aerosphere is habitat. Indeed, an entire discipline of ecology has emerged to study this essential aspect of habitat – the discipline of aeroecology (Kunz et al. 2008). Many special-status species of birds have been recorded at or near the aerosphere of the project site, and I saw many birds using the aerosphere while I surveyed the site. Bird-window collision mortality is a potentially significant impact that warrants analysis.

Window collisions are often characterized as either the second or third largest source or human-caused bird mortality. The numbers behind these characterizations are often attributed to Klem's (1990) and Dunn's (1993) estimates of about 100 million to 1 billion bird fatalities in the USA, or more recently by Loss et al.'s (2014) estimate of 365-988 million bird fatalities in the USA or Calvert et al.'s (2013) and Machtans et al.'s (2013) estimates of 22.4 million and 25 million bird fatalities in Canada, respectively. The proposed project would impose windows in the airspace normally used by birds.

Glass-façades of buildings intercept and kill many birds, but these façades are differentially hazardous to birds based on spatial extent, contiguity, orientation, and other factors. At Washington State University, Johnson and Hudson (1976) found 266 bird fatalities of 41 species within 73 months of monitoring of a three-story glass walkway (no fatality adjustments attempted). Prior to marking the windows to warn birds of the collision hazard, the collision rate was 84.7 per year. At that rate, and not attempting to adjust the fatality estimate for the proportion of fatalities not found, 4,574 birds were likely killed over the 54 years since the start of their study, and that's at a relatively small building façade. Accounting for the proportion of fatalities not found,

the number of birds killed by this walkway over the last 54 years would have been about 14,270. And this is just for one 3-story, glass-sided walkway between two college campus buildings.

Klem's (1990) estimate was based on speculation that 1 to 10 birds are killed per building per year, and this speculated range was extended to the number of buildings estimated by the US Census Bureau in 1986. Klem's speculation was supported by fatality monitoring at only two houses, one in Illinois and the other in New York. Also, the basis of his fatality rate extension has changed greatly since 1986. Whereas his estimate served the need to alert the public of the possible magnitude of the bird-window collision issue, it was highly uncertain at the time and undoubtedly outdated more than three decades hence. Indeed, by 2010 Klem (2010) characterized the upper end of his estimated range – 1 billion bird fatalities – as conservative. Furthermore, the estimate lumped species together as if all birds are the same and the loss of all birds to windows has the same level of impact.

By the time Loss et al. (2014) performed their effort to estimate annual USA bird-window fatalities, many more fatality monitoring studies had been reported or were underway. Loss et al. (2014) incorporated many more fatality rates based on scientific monitoring, and they were more careful about which fatality rates to include. However, they included estimates based on fatality monitoring by homeowners, which in one study were found to detect only 38% of the available window fatalities (Bracey et al. 2016). Loss et al. (2014) excluded all fatality records lacking a dead bird in hand, such as injured birds or feather or blood spots on windows. Loss et al.'s (2014) fatality metric was the number of fatalities per building (where in this context a building can include a house, low-rise, or high-rise structure), but they assumed that this metric was based on window collisions. Because most of the bird-window collision studies were limited to migration seasons, Loss et al. (2014) developed an admittedly assumption-laden correction factor for making annual estimates. Also, only 2 of the studies included adjustments for carcass persistence and searcher detection error, and it was unclear how and to what degree fatality rates were adjusted for these factors. Although Loss et al. (2014) attempted to account for some biases as well as for large sources of uncertainty mostly resulting from an opportunistic rather than systematic sampling data source, their estimated annual fatality rate across the USA was highly uncertain and vulnerable to multiple biases, most of which would have resulted in fatality estimates biased low.

In my review of bird-window collision monitoring, I found that the search radius around homes and buildings was very narrow, usually 2 meters. Based on my experience with bird collisions in other contexts, I would expect that a large portion of bird-window collision victims would end up farther than 2 m from the windows, especially when the windows are higher up on tall buildings. In my experience, searcher detection rates tend to be low for small birds deposited on ground with vegetation cover or woodchips or other types of organic matter. Also, vertebrate scavengers entrain on anthropogenic sources of mortality and quickly remove many of the carcasses, thereby preventing the fatality searcher from detecting these fatalities. Adjusting fatality rates for these factors – search radius bias, searcher detection error, and carcass persistence rates – would greatly increase nationwide estimates of bird-window collision fatalities.

Buildings can intercept many nocturnal migrants as well as birds flying in daylight. As mentioned above, Johnson and Hudson (1976) found 266 bird fatalities of 41 species within 73 months of monitoring of a four-story glass walkway at Washington State University (no adjustments attempted for undetected fatalities). Somerlot (2003) found 21 bird fatalities among 13 buildings on a university campus within only 61 days. Monitoring twice per week, Hager et al. (2008) found 215 bird fatalities of 48 species, or 55 birds/building/year, and at another site they found 142 bird fatalities of 37 species for 24 birds/building/year. Gelb and Delacretaz (2009) recorded 5,400 bird fatalities under buildings in New York City, based on a decade of monitoring only during migration periods, and some of the high-rises were associated with hundreds of fatalities each. Klem et al. (2009) monitored 73 building façades in New York City during 114 days of two migratory periods, tallying 549 collision victims, nearly 5 birds per day. Borden et al. (2010) surveyed a 1.8 km route 3 times per week during 12-month period and found 271 bird fatalities of 50 species. Parkins et al. (2015) found 35 bird fatalities of 16 species within only 45 days of monitoring under 4 building façades. From 24 days of survey over a 48-day span, Porter and Huang (2015) found 47 fatalities under 8 buildings on a university campus. Sabo et al. (2016) found 27 bird fatalities over 61 days of searches under 31 windows. In San Francisco, Kahle et al. (2016) found 355 collision victims within 1,762 days under a 5-story building. Ocampo-Peñuela et al. (2016) searched the perimeters of 6 buildings on a university campus, finding 86 fatalities after 63 days of surveys. One of these buildings produced 61 of the 86 fatalities, and another building with collision-deterrent glass caused only 2 of the fatalities, thereby indicating a wide range in impacts likely influenced by various factors. There is ample evidence available to support my prediction that the proposed project would result in many collision fatalities of birds.

Project Impact Prediction

By the time of these comments, I had reviewed and processed results of bird collision monitoring at 213 buildings and façades for which bird collisions per m² of glass per year could be calculated and averaged (Johnson and Hudson 1976, O'Connell 2001, Somerlot 2003, Hager et al. 2008, Borden et al. 2010, Hager et al. 2013, Porter and Huang 2015, Parkins et al. 2015, Kahle et al. 2016, Ocampo-Peñuela et al. 2016, Sabo et al. 2016, Barton et al. 2017, Gomez-Moreno et al. 2018, Schneider et al. 2018, Loss et al. 2019, Brown et al. 2020, City of Portland Bureau of Environmental Services and Portland Audubon 2020, Riding et al. 2020). These study results averaged 0.073 bird deaths per m² of glass per year (95% CI: 0.042-0.102). This average and its 95% confidence interval provide a robust basis for predicting fatality rates at a proposed new project.

The DEIR does not disclose the extent of glass windows on the proposed new building, but I was able to approximate the extent of windows based on the renderings of the building in the DEIR. My measurements of the rendered windows in the DEIR totals to about 400 m². Applying the mean fatality rate (above) to my estimate of 400 m² of glass in the project, I predict annual bird deaths of 29 (95% CI: 17-41).

It would be prudent to explore alternative project sites that would pose less bird-window collision risk than the 1 Hamilton site poses. I saw many birds fly across the site within 58 feet of the ground – the height of the proposed building – including great white-tailed kite, Cooper’s hawk, sharp-shinned hawk, blue heron, band-tailed pigeon, common raven, American crow, California gull, Anna’s hummingbird, California scrub-jay, black phoebe and many others. Alternative sites should be compared for their relative collision risk by comparing rates of bird flights across those portions of the aerosphere that would correspond with building locations, and these rates should be measured in a program of visual-scan surveys at intervals spaced throughout a year.

TRAFFIC IMPACTS TO WILDLIFE

A substantial impact to wildlife from the proposed project would be wildlife mortality and injuries caused by project-generated traffic. Project-generated traffic would endanger wildlife that must, for various reasons, cross roads used by the project’s traffic (Photo 28), including along roads far from the project footprint. Vehicle collisions have accounted for the deaths of many thousands of amphibian, reptile, mammal, bird, and arthropod fauna, and the impacts have often been found to be significant at the population level (Forman et al. 2003). Across North America traffic impacts have taken devastating tolls on wildlife (Forman et al. 2003). In Canada, 3,562 birds were estimated killed per 100 km of road per year (Bishop and Brogan 2013), and the US estimate of avian mortality on roads is 2,200 to 8,405 deaths per 100 km per year, or 89 million to 340 million total per year (Loss et al. 2014). Local impacts can be more intense than nationally.

The nearest study of traffic-caused wildlife mortality was performed along a 2.5-mile stretch of Vasco Road in Contra Costa County, California. Fatality searches in this study found 1,275 carcasses of 49 species of mammals, birds, amphibians and reptiles over 15 months of searches (Mendelsohn et al. 2009). This fatality number needs to be adjusted for the proportion of fatalities that were not found due to scavenger removal and searcher error. This adjustment is typically made by placing carcasses for searchers to find (or not find) during their routine periodic fatality searches. This step was not taken at Vasco Road (Mendelsohn et al. 2009), but it was taken as part of another study next to Vasco Road (Brown et al. 2016). Brown et al.’s (2016) adjustment factors for carcass persistence resembled those of Santos et al. (2011). Also applying searcher detection rates from Brown et al. (2016), the adjusted total number of fatalities was estimated at 12,187 animals killed by traffic on the road. This fatality number over 1.25 years and 2.5 miles of road translates to 3,900 wild animals per mile per year. In terms comparable to the national estimates, the estimates from the Mendelsohn et al. (2009) study would translate to 243,740 animals killed per 100 km of road per year, or 29 times that of Loss et al.’s (2014) upper bound estimate and 68 times the Canadian estimate. An analysis is needed of whether increased traffic generated by the project site would similarly result in local impacts to wildlife.



Photo 28. *A coyote uses the crosswalk to cross Hamilton Drive and was fortunate that one driver showed the good grace to stop for it, 2 February 2023. Not all drivers stop, nor do all animals use the crosswalk. Too often, animals are injured or killed when they attempt to cross roads. Increased traffic volume increases collision risk to wildlife.*

For wildlife vulnerable to front-end collisions and crushing under tires, road mortality can be predicted from the study of Mendelsohn et al. (2009) as a basis, although it would be helpful to have the availability of more studies like that of Mendelsohn et al. (2009) at additional locations. My analysis of the Mendelsohn et al. (2009) data resulted in an estimated 3,900 animals killed per mile along a county road in Contra Costa County. Two percent of the estimated number of fatalities were birds, and the balance was composed of 34% mammals (many mice and pocket mice, but also ground squirrels, desert cottontails, striped skunks, American badgers, raccoons, and others), 52.3% amphibians (large numbers of California tiger salamanders and California red-legged frogs, but also Sierran treefrogs, western toads, arboreal salamanders, slender salamanders and others), and 11.7% reptiles (many western fence lizards, but also skinks, alligator lizards, and snakes of various species). Vehicle miles traveled (VMT) is a metric that can be useful for predicting wildlife mortality because I was able to quantify miles traveled along the studied reach of Vasco Road during the time period of the Mendelsohn et al. (2009), hence enabling a rate of fatalities per VMT that can be projected to other sites, assuming similar collision fatality rates.

Predicting project-generated traffic impacts to wildlife

The DEIR does not disclose a prediction of annual VMT. Fortunately, I have maintained a database of predicted annual VMT relative to the extents of floor space among other projects for which I have prepared expert testimony. For 5 recently proposed California residential projects (3 apartment projects), the ratio of annual VMT to ft² of floor space averaged 36.28. Applied to the 66,000 square feet of floor space in the proposed project, this ratio would predict 2,394,480 annual VMT. During the Mendelsohn et al. (2009) study, 19,500 cars traveled Vasco Road daily, so the vehicle miles that contributed to my estimate of non-volant fatalities was 19,500 cars and trucks × 2.5 miles × 365 days/year × 1.25 years = 22,242,187.5 vehicle miles per 12,187 wildlife fatalities, or 1,825 vehicle miles per fatality. This rate divided into my predicted annual VMT would predict 1,312 vertebrate wildlife fatalities per year. But perhaps fewer animals would be killed in the urbanized part of Mill Valley that surrounds the project site as compared to the study area of Mendelsohn et al. (2009), but even assuming the true fatality rate would be a third of the Mendelsohn et al. (2009) rate, the annual death toll to wildlife resulting from project-generated traffic would be 437, which would still be a significant, unmitigated impact of the project.

Based on my indicator-level analysis, the project-generated traffic would cause substantial, significant impacts to wildlife. It would be prudent to explore alternative project sites to minimize wildlife mortality caused by project-generated traffic. Such an exploration could be undertaken by comparing available data on wildlife road mortality in the region or by observational studies of wildlife crossings of roads at alternative project sites. I would suggest use of a thermal-imaging camera to observe nocturnal wildlife activity along reaches of roadway that border alternative project sites.

HOUSE CATS

The DEIR is silent on whether ownership of house cats would be allowed in the project. Considering national trends, it is safe to assume that house cats would be introduced to the project site by residents of the proposed residential units. This is significant because house cats serve as one of the largest sources of avian mortality in North America (Dauphiné and Cooper 2009, Blancher 2013, Loss et al. 2013, Loyd et al. 2017). Loss et al. (2013) estimated 139 million cats in the USA in 2013 (range 114 to 164 million), which killed an estimated 16.95 billion vertebrate wildlife annually (range 7.6 to 26.3 billion). In 2012 there were 0.44 house cats per human, and 122 vertebrate animals were killed per cat, free-ranging members of which killed disproportionately larger numbers of vertebrate wildlife. The DEIR predicts 115 new residents. The above rates of cat ownership applied to this number of new residents **would predict 51 new cats, which would kill 6,222 vertebrate wildlife per year.** Many of the wildlife fatalities caused by house cats would be in neighboring open spaces including any remaining grassland and the marshes to the west.

House cats also contribute to downstream loading of *Toxoplasma gondii*. According to a UC Davis wildlife health research program, "*Toxoplasma gondii* is a parasite that can infect virtually all warm-blooded animals, but the only known definitive hosts are cats

– domesticated and feral house cats included. Cats catch the parasite through hunting rodents and birds and they offload it into the environment through their feces... and ...rain that falls on cement creates more runoff than rain that falls on natural earth, which contributes to increased runoff that can carry fecal pathogens to the sea” (<http://www.evotis.org/toxoplasma-gondii-sea-otters/>).

It would be prudent to consider constraints on house cat ownership such as requiring cats to remain indoors. Another option would be to explore alternative sites where free ranging cats would cause fewer wildlife fatalities due to lesser adjacency to open spaces.

CUMULATIVE IMPACTS

The DEIR determines that cumulative impacts would be less than significant, relying on the proposed mitigation for project-level impacts to plants and nesting birds, or on the acquisition of take permits from various agencies to reduce cumulative impacts to less than significant levels. The DEIR fails to support its determination with facts and analysis supporting the conclusion that cumulative impacts would be less than significant. The DEIR lacks the evidence necessary to demonstrate that the project’s incremental effect and the effects of other projects is not significant, especially with regards to special-status species and nesting birds.

According to CEQA Guidelines §15064(h)(3), “a project’s incremental contribution to a cumulative impact can be found not cumulatively considerable if the project would comply with an approved plan or mitigation program that provides specific requirements that would avoid or substantially lessen the cumulative problem within the geographic area of the project.” And “When relying on a plan, regulation or program, the lead agency should explain how implementing the particular requirements in the plan, regulation or program ensure that the project’s incremental contribution to the cumulative effect is not cumulatively considerable.” The DEIR provides no explanation of how implementing the particular requirements of the Housing Element Update SEIR and General Plan policies would minimize, avoid or offset the project’s contributions to cumulative impacts.

Furthermore, the DEIR implies that cumulative effects are simply residual impacts of incomplete mitigation of project-level impacts. This notion is inconsistent with CEQA’s definition of cumulative impacts and how to analyze them. If this was CEQA’s standard, then cumulative effects analysis would be merely an analysis of mitigation efficacy. The analysis in the DEIR is based on an assumption that other projects in the area adequately mitigated their impacts to wildlife, thereby leaving no impacts to incrementally accumulate. Again, this is not how CEQA defines cumulative impacts and it is inconsistent with the Precautionary Principle in risk analysis directed to rare or precious resources. Even where impacts may be individually limited, their “incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.” (CEQA Guidelines §15064(h)(1)).

Considering the number of special-status species that potentially occur on and around the project site, such as Monarch, white-tailed kite, northern harrier and San Francisco yellow-breasted chat, and considering the degree of habitat fragmentation in the project area, it is my opinion that the project would likely contribute substantially to cumulative impacts, and that these impacts are likely to be significant.

Furthermore, as discussed below, the proposed mitigation measures for the project's significant impacts special-status species and nesting birds are inadequate to reduce the project's impacts to less than significant levels. Considering the rapid decline of birds that is underway, a cumulative impacts analysis is warranted. One or both of the two CEQA methodologies needs to be decided upon and implemented at each of alternative project sites to find which site minimizes cumulative impacts.

MITIGATION MEASURES

The DEIR cites a standard condition of approval as implementation of **HEU SEIR Mitigation Measure 7-2**, which includes the following measures:

1. Focused plant surveys conducted during the appropriate time of year;
2. Protocol-level wildlife surveys;
3. Preconstruction surveys;
4. Incidental take permits from the California Department of Fish and Wildlife and/or U.S. Fish and Wildlife Service;
5. Permits from the U.S. Army Corps of Engineers, California Department of Fish and Wildlife, and/or Regional Water Quality Control Board for impacts to jurisdictional aquatic features; and/or
6. Arborist or forestry reports for projects requiring tree removal or the protection of trees adjacent to an impact area.

Only one of the above measures is truly a mitigation measure, and that is preconstruction surveys. As explained earlier, focused plant surveys and protocol-level wildlife surveys are needed in support of the DEIR's characterization of the existing environmental setting. These surveys are not mitigation measures. Plant surveys were performed, but not to the standards of CDFW (2018). No protocol-level wildlife surveys have been completed. The arborist report is also intended to inform the readers of the DEIR, and is not a mitigation measures. As for acquisition of take permits, these are administrative steps, but not mitigation measures.

Mitigation Measures BIO-1a

Pre-construction botanical surveys shall be conducted within the Project site by a qualified biologist during the appropriate timeframe when plants with moderate potential to occur are evident and identifiable. One survey shall be conducted in mid-April, and one in mid-May. If observed, populations or individuals shall be flagged and fully avoided by a 10-foot no-disturbance buffer.

Mitigation Measure BIO-1b

If special-status plants are present and impacts to those plant populations cannot be avoided, seed or other propagules shall be harvested from at least 50 percent of plants

within areas of impact. Harvested seed or propagules shall be stored for reintroduction into the preserved portion of the Project site.

This measure includes no performance threshold and no consequences for lack of performance, and it poses the risk of generating additional impacts to plants that already exist in the area(s) where harvested seeds would be planted. Needed are standards of site selection to minimize impacts to existing flora and fauna, and performance standards, and a sufficient performance bond to fund additional actions should additional impacts be caused or performance of the propagation efforts fall short of the standards.

Mitigation Measure BIO-2

To the extent feasible, Project-related activities shall be avoided during the nesting bird season, generally defined as February 1 – August 31. If Project work must occur during the nesting bird season, pre-construction nesting bird surveys shall be conducted within 7 days of ground disturbance or tree/vegetation removal to avoid disturbance to active nests, eggs, and/or young of nesting birds. These surveys shall determine the presence or absence of active nests that may be affected by Project activities.

If an active nest is identified, a no disturbance buffer shall be established around the nest until all young have fledged or the nest otherwise becomes inactive (e.g., due to predation). Suggested buffer zone distances differ depending on species, location, baseline conditions, and placement of nest and shall be determined and implemented in the field by a qualified biologist.

First, the avian breeding season recognized by the CDFW is now 1 February through 15 September. The DEIR should be revised accordingly.

Second, whereas I concur that preconstruction, take-avoidance surveys should be completed, in my experience the majority of bird nests would not be found by biologists assigned to the survey. For instance, I surveyed for grassland nesters as part of an intensive survey effort that I performed from March through mid-August 2023 on a Central Valley site. I surveyed the site 30 times. I found that the nests of grassland birds are the most difficult to locate. Cavity nesters can more effectively defend their nests against predators, whereas ground nesters are highly vulnerable to predation, and thus the most cryptic of nesters. Ground nesters, which include bird species that occur at the project site, are highly adept at concealing their nests both physically and behaviorally. Based on my experience, it is highly likely that preconstruction survey would fail to find any of the nests of ground-nesting birds that truly occur on the project site. The DEIR's implication that preconstruction survey would reduce potential impacts to nesting birds to less-than-significant is unsubstantiated by evidence in the DEIR.

Third, the mitigation language allows a single individual to make a subjective decision, outside the public's view, to determine the buffer area for any given species. This measure lacks objective criteria, and is unenforceable.

Even assuming some or even all of the nests would be found and salvaged, this benefit to birds nesting on site would apply only to a single breeding season of nesters. The project would nevertheless eliminate the site's productive capacity to birds.

RECOMMENDED MITIGATION MEASURES

Protocol-level Detection Surveys in Support of a Revised DEIR: If the project goes forward, detection surveys need to be completed for special-status species, nesting birds, and roosting bats to (1) support negative findings of species when appropriate, (2) inform preconstruction surveys to improve their efficacy, (3) estimate project impacts, and (4) inform compensatory mitigation and other forms of mitigation. Detection survey protocols and guidelines are available from resource agencies for multiple special-status species. Otherwise, professional standards can be learned from the scientific literature and species' experts.

Pest Control: The project should commit to minimal use of rodenticides and avicides. It should commit to no placement of poison bait stations outside the buildings.

Guidelines on Building Design to Minimize Bird-Window Collisions: If the project goes forward, it should at a minimum adhere to available Bird-Safe Guidelines, such as those prepared by American Bird Conservancy and New York and San Francisco. The American Bird Conservancy (ABC) produced an excellent set of guidelines recommending actions to: (1) Minimize use of glass; (2) Placing glass behind some type of screening (grilles, shutters, exterior shades); (3) Using glass with inherent properties to reduce collisions, such as patterns, window films, decals or tape; and (4) Turning off lights during migration seasons (Sheppard and Phillips 2015). The City of San Francisco (San Francisco Planning Department 2011) also has a set of building design guidelines, based on the excellent guidelines produced by the New York City Audubon Society (Orff et al. 2007). The ABC document and both the New York and San Francisco documents provide excellent alerting of potential bird-collision hazards as well as many visual examples. The San Francisco Planning Department's (2011) building design guidelines are more comprehensive than those of New York City, but they could have gone further. For example, the San Francisco guidelines probably should have also covered scientific monitoring of impacts as well as compensatory mitigation for impacts that could not be avoided, minimized or reduced.

New research results inform of the efficacy of marking windows. Whereas Klem (1990) found no deterrent effect from decals on windows, Johnson and Hudson (1976) reported a fatality reduction of about 69% after placing decals on windows. In an experiment of opportunity, Ocampo-Peñuela et al. (2016) found only 2 of 86 fatalities at one of 6 buildings – the only building with windows treated with a bird deterrent film. At the building with fritted glass, bird collisions were 82% lower than at other buildings with untreated windows. Kahle et al. (2016) added external window shades to some windowed façades to reduce fatalities 82% and 95%. Brown et al. (2020) reported an 84% lower collision probability among fritted glass windows and windows treated with ORNILUX R UV. City of Portland Bureau of Environmental Services and Portland Audubon (2020) reduced bird collision fatalities 94% by affixing marked Solyx window

film to existing glass panels of Portland's Columbia Building. Many external and internal glass markers have been tested experimentally, some showing no effect and some showing strong deterrent effects (Klem 1989, 1990, 2009, 2011; Klem and Saenger 2013; Rössler et al. 2015).

Monitoring and the use of compensatory mitigation should be incorporated into any new building project because the measures recommended in the available guidelines remain of uncertain efficacy, and even if these measures are effective, they will not reduce collision fatalities to zero. The only way to assess mitigation efficacy and to quantify post-construction fatalities is to monitor the project for fatalities, including at residential dwelling units.

Road Mortality: Compensatory mitigation is needed for the increased wildlife mortality that would be caused by bird-window collisions and the project-generated road traffic in the region. I suggest that this mitigation can be directed toward funding research to identify fatality patterns and effective impact reduction measures such as reduced speed limits and wildlife under-crossings or overcrossings of particularly dangerous road segments. Compensatory mitigation can also be provided in the form of donations to wildlife rehabilitation facilities (see below).

House Cats

If the project goes forward, homeowners should not be allowed to let their cats range free. A fund should be established for long-term management of house cats in the project. Management could include public education about the environmental effects of outdoor and free-ranging cats. It could also include a program to spade and neuter cats, especially free-ranging cats. It could also involve some removals of feral cats.

Fund Wildlife Rehabilitation Facilities: Compensatory mitigation ought also to include funding contributions to wildlife rehabilitation facilities to cover the costs of injured animals that will be delivered to these facilities for care. Many animals would likely be injured by collisions with windows and automobiles.

Landscaping: If the project goes forward, California native plant landscaping (i.e. chaparral, grassland, and locally appropriate scrub plants) should be considered to be used in the landscaping, as opposed to landscaping with lawn and exotic shrubs. Native plants offer more structure, cover, food resources, and nesting substrate for wildlife than landscaping with lawn. Native plant landscaping has been shown to increase the abundance of arthropods which act as important sources of food for wildlife and are crucial for pollination and plant reproduction (Narango et al. 2017, Adams et al. 2020, Smallwood and Wood 2022.). Further, many endangered and threatened insects require native host plants for reproduction and migration (e.g., monarch butterfly). Around the world, landscaping with native plants over exotic plants increases the abundance and diversity of birds, and is particularly valuable to native birds (Lerman and Warren 2011, Burghardt et al. 2008, Berthon et al. 2021, Smallwood and Wood 2022). Landscaping with native plants is a way to maintain or to bring back some of the natural habitat and lessen the footprint of urbanization by acting as interconnected patches of habitat for

wildlife (Goddard et al. 2009, Tallamy 2020). Lastly, not only does native plant landscaping benefit wildlife, it requires less water and maintenance than traditional landscaping with lawn and hedges.

Thank you for your attention,



Shawn Smallwood, Ph.D.

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Photo 17. One of a pair of California scrub-jays foraging on the project site, 2 February 2023.

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Curriculum Vitae

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Born May 3, 1963 in
Sacramento, California.
Married, father of two.

Ecologist

Expertise

- Finding solutions to controversial problems related to wildlife interactions with human industry, infrastructure, and activities;
- Wildlife monitoring and field study using GPS, thermal imaging, behavior surveys;
- Using systems analysis and experimental design principles to identify meaningful ecological patterns that inform management decisions.

Education

Ph.D. Ecology, University of California, Davis. September 1990.
M.S. Ecology, University of California, Davis. June 1987.
B.S. Anthropology, University of California, Davis. June 1985.
Corcoran High School, Corcoran, California. June 1981.

Experience

- 882 professional reports, including:
 - 93 peer reviewed publications
 - 24 in non-reviewed proceedings
- 763 reports, declarations, posters and book reviews
- 8 in mass media outlets
- 95 public presentations of research results

Editing for scientific journals: Guest Editor, *Wildlife Society Bulletin*, 2012-2013, of invited papers representing international views on the impacts of wind energy on wildlife and how to mitigate the impacts. Associate Editor, *Journal of Wildlife Management*, March 2004 to 30 June 2007. Editorial Board Member, *Environmental Management*, 10/1999 to 8/2004. Associate Editor, *Biological Conservation*, 9/1994 to 9/1995.

Member, Alameda County Scientific Review Committee (SRC), August 2006 to April 2011. The five-member committee investigated causes of bird and bat collisions in the Altamont Pass Wind Resource Area, and recommended mitigation and monitoring measures. The SRC reviewed the science underlying the Alameda County Avian Protection Program, and advised

the County on how to reduce wildlife fatalities.

Consulting Ecologist, 2004-2007, California Energy Commission (CEC). Provided consulting services as needed to the CEC on renewable energy impacts, monitoring and research, and produced several reports. Also collaborated with Lawrence-Livermore National Lab on research to understand and reduce wind turbine impacts on wildlife.

Consulting Ecologist, 1999-2013, U.S. Navy. Performed endangered species surveys, hazardous waste site monitoring, and habitat restoration for the endangered San Joaquin kangaroo rat, California tiger salamander, California red-legged frog, California clapper rail, western burrowing owl, salt marsh harvest mouse, and other species at Naval Air Station Lemoore; Naval Weapons Station, Seal Beach, Detachment Concord; Naval Security Group Activity, Skaggs Island; National Radio Transmitter Facility, Dixon; and, Naval Outlying Landing Field Imperial Beach.

Part-time Lecturer, 1998-2005, California State University, Sacramento. Instructed Mammalogy, Behavioral Ecology, and Ornithology Lab, Contemporary Environmental Issues, Natural Resources Conservation.

Senior Ecologist, 1999-2005, BioResource Consultants. Designed and implemented research and monitoring studies related to avian fatalities at wind turbines, avian electrocutions on electric distribution poles across California, and avian fatalities at transmission lines.

Chairman, Conservation Affairs Committee, The Wildlife Society--Western Section, 1999-2001. Prepared position statements and led efforts directed toward conservation issues, including travel to Washington, D.C. to lobby Congress for more wildlife conservation funding.

Systems Ecologist, 1995-2000, Institute for Sustainable Development. Headed ISD's program on integrated resources management. Developed indicators of ecological integrity for large areas, using remotely sensed data, local community involvement and GIS.

Associate, 1997-1998, Department of Agronomy and Range Science, University of California, Davis. Worked with Shu Geng and Mingua Zhang on several studies related to wildlife interactions with agriculture and patterns of fertilizer and pesticide residues in groundwater across a large landscape.

Lead Scientist, 1996-1999, National Endangered Species Network. Informed academic scientists and environmental activists about emerging issues regarding the Endangered Species Act and other environmental laws. Testified at public hearings on endangered species issues.

Ecologist, 1997-1998, Western Foundation of Vertebrate Zoology. Conducted field research to determine the impact of past mercury mining on the status of California red-legged frogs in Santa Clara County, California.

Senior Systems Ecologist, 1994-1995, EIP Associates, Sacramento, California. Provided consulting services in environmental planning, and quantitative assessment of land units for their conservation and restoration opportunities based on ecological resource requirements of 29 special-status species. Developed ecological indicators for prioritizing areas within Yolo County

to receive mitigation funds for habitat easements and restoration.

Post-Graduate Researcher, 1990-1994, Department of Agronomy and Range Science, *U.C. Davis*. Under Dr. Shu Geng's mentorship, studied landscape and management effects on temporal and spatial patterns of abundance among pocket gophers and species of Falconiformes and Carnivora in the Sacramento Valley. Managed and analyzed a data base of energy use in California agriculture. Assisted with landscape (GIS) study of groundwater contamination across Tulare County, California.

Work experience in graduate school: Co-taught Conservation Biology with Dr. Christine Schonewald, 1991 & 1993, UC Davis Graduate Group in Ecology; Reader for Dr. Richard Coss's course on Psychobiology in 1990, UC Davis Department of Psychology; Research Assistant to Dr. Walter E. Howard, 1988-1990, UC Davis Department of Wildlife and Fisheries Biology, testing durable baits for pocket gopher management in forest clearcuts; Research Assistant to Dr. Terrell P. Salmon, 1987-1988, UC Wildlife Extension, Department of Wildlife and Fisheries Biology, developing empirical models of mammal and bird invasions in North America, and a rating system for priority research and control of exotic species based on economic, environmental and human health hazards in California. Student Assistant to Dr. E. Lee Fitzhugh, 1985-1987, UC Cooperative Extension, Department of Wildlife and Fisheries Biology, developing and implementing statewide mountain lion track count for long-term monitoring.

Fulbright Research Fellow, Indonesia, 1988. Tested use of new sampling methods for numerical monitoring of Sumatran tiger and six other species of endemic felids, and evaluated methods used by other researchers.

Projects

Repowering wind energy projects through careful siting of new wind turbines using map-based collision hazard models to minimize impacts to volant wildlife. Funded by wind companies (principally NextEra Renewable Energy, Inc.), California Energy Commission and East Bay Regional Park District, I have collaborated with a GIS analyst and managed a crew of five field biologists performing golden eagle behavior surveys and nocturnal surveys on bats and owls. The goal is to quantify flight patterns for development of predictive models to more carefully site new wind turbines in repowering projects. Focused behavior surveys began May 2012 and continue. Collision hazard models have been prepared for seven wind projects, three of which were built. Planning for additional repowering projects is underway.

Test avian safety of new mixer-ejector wind turbine (MEWT). Designed and implemented a before-after, control-impact experimental design to test the avian safety of a new, shrouded wind turbine developed by Ogin Inc. (formerly known as FloDesign Wind Turbine Corporation). Supported by a \$718,000 grant from the California Energy Commission's Public Interest Energy Research program and a 20% match share contribution from Ogin, I managed a crew of seven field biologists who performed periodic fatality searches and behavior surveys, carcass detection trials, nocturnal behavior surveys using a thermal camera, and spatial analyses with the collaboration of a GIS analyst. Field work began 1 April 2012 and ended 30 March 2015 without Ogin installing its MEWTs, but we still achieved multiple important scientific advances.

Reduce avian mortality due to wind turbines at Altamont Pass. Studied wildlife impacts caused by 5,400 wind turbines at the world's most notorious wind resource area. Studied how impacts are perceived by monitoring and how they are affected by terrain, wind patterns, food resources, range management practices, wind turbine operations, seasonal patterns, population cycles, infrastructure management such as electric distribution, animal behavior and social interactions.

Reduce avian mortality on electric distribution poles. Directed research toward reducing bird electrocutions on electric distribution poles, 2000-2007. Oversaw 5 founts of fatality searches at 10,000 poles from Orange County to Glenn County, California, and produced two large reports.

Cook *et al.* v. Rockwell International *et al.*, No. 90-K-181 (D. Colorado). Provided expert testimony on the role of burrowing animals in affecting the fate of buried and surface-deposited radioactive and hazardous chemical wastes at the Rocky Flats Plant, Colorado. Provided expert reports based on four site visits and an extensive document review of burrowing animals. Conducted transect surveys for evidence of burrowing animals and other wildlife on and around waste facilities. Discovered substantial intrusion of waste structures by burrowing animals. I testified in federal court in November 2005, and my clients were subsequently awarded a \$553,000,000 judgment by a jury. After appeals the award was increased to two billion dollars.

Hanford Nuclear Reservation Litigation. Provided expert testimony on the role of burrowing animals in affecting the fate of buried radioactive wastes at the Hanford Nuclear Reservation, Washington. Provided three expert reports based on three site visits and extensive document review. Predicted and verified a certain population density of pocket gophers on buried waste structures, as well as incidence of radionuclide contamination in body tissue. Conducted transect surveys for evidence of burrowing animals and other wildlife on and around waste facilities. Discovered substantial intrusion of waste structures by burrowing animals.

Expert testimony and declarations on proposed residential and commercial developments, gas-fired power plants, wind, solar and geothermal projects, water transfers and water transfer delivery systems, endangered species recovery plans, Habitat Conservation Plans and Natural Communities Conservation Programs. Testified before multiple government agencies, Tribunals, Boards of Supervisors and City Councils, and participated with press conferences and depositions. Prepared expert witness reports and court declarations, which are summarized under Reports (below).

Protocol-level surveys for special-status species. Used California Department of Fish and Wildlife and US Fish and Wildlife Service protocols to search for California red-legged frog, California tiger salamander, arroyo southwestern toad, blunt-nosed leopard lizard, western pond turtle, giant kangaroo rat, San Joaquin kangaroo rat, San Joaquin kit fox, western burrowing owl, Swainson's hawk, Valley elderberry longhorn beetle and other special-status species.

Conservation of San Joaquin kangaroo rat. Performed research to identify factors responsible for the decline of this endangered species at Lemoore Naval Air Station, 2000-2013, and implemented habitat enhancements designed to reverse the trend and expand the population.

Impact of West Nile Virus on yellow-billed magpies. Funded by Sacramento-Yolo Mosquito and Vector Control District, 2005-2008, compared survey results pre- and post-West Nile Virus epidemic for multiple bird species in the Sacramento Valley, particularly on yellow-billed magpie and American crow due to susceptibility to WNV.

Workshops on HCPs. Assisted Dr. Michael Morrison with organizing and conducting a 2-day workshop on Habitat Conservation Plans, sponsored by Southern California Edison, and another 1-day workshop sponsored by PG&E. These Workshops were attended by academics, attorneys, and consultants with HCP experience. We guest-edited a Proceedings published in Environmental Management.

Mapping of biological resources along Highways 101, 46 and 41. Used GPS and GIS to delineate vegetation complexes and locations of special-status species along 26 miles of highway in San Luis Obispo County, 14 miles of highway and roadway in Monterey County, and in a large area north of Fresno, including within reclaimed gravel mining pits.

GPS mapping and monitoring at restoration sites and at Caltrans mitigation sites. Monitored the success of elderberry shrubs at one location, the success of willows at another location, and the response of wildlife to the succession of vegetation at both sites. Also used GPS to monitor the response of fossorial animals to yellow star-thistle eradication and natural grassland restoration efforts at Bear Valley in Colusa County and at the decommissioned Mather Air Force Base in Sacramento County.

Mercury effects on Red-legged Frog. Assisted Dr. Michael Morrison and US Fish and Wildlife Service in assessing the possible impacts of historical mercury mining on the federally listed California red-legged frog in Santa Clara County. Also measured habitat variables in streams.

Opposition to proposed No Surprises rule. Wrote a white paper and summary letter explaining scientific grounds for opposing the incidental take permit (ITP) rules providing ITP applicants and holders with general assurances they will be free of compliance with the Endangered Species Act once they adhere to the terms of a “properly functioning HCP.” Submitted 188 signatures of scientists and environmental professionals concerned about No Surprises rule US Fish and Wildlife Service, National Marine Fisheries Service, all US Senators.

Natomas Basin Habitat Conservation Plan alternative. Designed narrow channel marsh to increase the likelihood of survival and recovery in the wild of giant garter snake, Swainson’s hawk and Valley Elderberry Longhorn Beetle. The design included replication and interspersed treatments for experimental testing of critical habitat elements. I provided a report to Northern Territories, Inc.

Assessments of agricultural production system and environmental technology transfer to China. Twice visited China and interviewed scientists, industrialists, agriculturalists, and the Directors of the Chinese Environmental Protection Agency and the Department of Agriculture to assess the need and possible pathways for environmental clean-up technologies and trade opportunities between the US and China.

Yolo County Habitat Conservation Plan. Conducted landscape ecology study of Yolo County to spatially prioritize allocation of mitigation efforts to improve ecosystem functionality within the County from the perspective of 29 special-status species of wildlife and plants. Used a hierarchically structured indicators approach to apply principles of landscape and ecosystem ecology, conservation biology, and local values in rating land units. Derived GIS maps to help guide the conservation area design, and then developed implementation strategies.

Mountain lion track count. Developed and conducted a carnivore monitoring program throughout California since 1985. Species counted include mountain lion, bobcat, black bear, coyote, red and gray fox, raccoon, striped skunk, badger, and black-tailed deer. Vegetation and land use are also monitored. Track survey transect was established on dusty, dirt roads within randomly selected quadrats.

Sumatran tiger and other felids. Upon award of Fulbright Research Fellowship, I designed and initiated track counts for seven species of wild cats in Sumatra, including Sumatran tiger, fishing cat, and golden cat. Spent four months on Sumatra and Java in 1988, and learned Bahasa Indonesia, the official Indonesian language.

Wildlife in agriculture. Beginning as post-graduate research, I studied pocket gophers and other wildlife in 40 alfalfa fields throughout the Sacramento Valley, and I surveyed for wildlife along a 200-mile road transect since 1989 with a hiatus of 1996-2004. The data are analyzed using GIS and methods from landscape ecology, and the results published and presented orally to farming groups in California and elsewhere. I also conducted the first study of wildlife in cover crops used on vineyards and orchards.

Agricultural energy use and Tulare County groundwater study. Developed and analyzed a data base of energy use in California agriculture, and collaborated on a landscape (GIS) study of groundwater contamination across Tulare County, California.

Pocket gopher damage in forest clear-cuts. Developed gopher sampling methods and tested various poison baits and baiting regimes in the largest-ever field study of pocket gopher management in forest plantations, involving 68 research plots in 55 clear-cuts among 6 National Forests in northern California.

Risk assessment of exotic species in North America. Developed empirical models of mammal and bird species invasions in North America, as well as a rating system for assigning priority research and control to exotic species in California, based on economic, environmental, and human health hazards.

Peer Reviewed Publications

Smallwood, K. S., and N. L. Smallwood. 2023. Measured effects of anthropogenic development on vertebrate wildlife diversity. *Diversity* 15, 1037. <https://doi.org/10.3390/d15101037>.

Bell, D. A., S. A. Snyder, J. E. DiDonato, and K. S. Smallwood. 2023. Conspecific carcass removal from a wind project study plot by a great horned owl (*Bubo Virginianus*). *Journal of Raptor Research* 57:489-492.

Kitano, M., K. S. Smallwood, and K. Fukaya. 2022. Bird carcass detection from integrated trials at multiple wind farms. *Journal of Wildlife Management*: In press.

Smallwood, K. S. 2022. Utility-scale solar impacts to volant wildlife. *Journal of Wildlife Management*: e22216. <https://doi.org/10.1002/jwmg.22216>

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- Smallwood, K. S., D. A. Bell, and S. Standish. 2020. Dogs detect larger wind energy impacts on bats and birds. *Journal of Wildlife Management* 84:852-864. DOI: 10.1002/jwmg.21863.
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including:

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- Replies on 6615 Pacific Coast Highway Site Plan Review, Long Beach (2023; 12)
- Science Research Park Expansion Project EIR Addendum, San Diego (2023; 40);
- Rubio Village IS/MND, San Gabriel (2023; 14);
- Havana Investment Industrial Categorical Exemption, Jurupa Valley (2023; 22);
- New Cal Centre EIR Addendum, Kern County (2023; 39);
- 4th & Hewitt Project DEIR, Los Angeles (2023; 19);
- 4260 N Arch Drive Categorical Exemption, Los Angeles (2023; 27);
- 6700 Pacific Coast Highway Site Plan Review, Long Beach (2023; 29);
- Replies to 6615 Pacific Coast Highway Site Plan Review, Long Beach (2023; 12);
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- Moonlight Apartments biological assessment, Encinitas (2023; 46);
- Replies to Modera Melrose Mixed-use DEIR, Oceanside (2023; 11);
- Modera Melrose Mixed-use DEIR, Oceanside (2023; 39);
- 550 Piercy Road Industrial IS/MND, San Jose (2023; 28);
- Living Spaces Development IS/MND, Fresno (2023; 28);
- FIND Food Bank Staff Report, Indio (2023; 19);
- Replies to Shadowbox Studios DEIR, Santa Clarita (2023; 35);
- Shadowbox Studios DEIR, Santa Clarita (2023; 50);
- Tulare 40 Generation Facility IS/MND, Tulare County (2023; 20);
- Garden Street Hotel Staff Report, Santa Barbara (2023; 19);
- Replies to 975 Manhattan Apartments Discretionary Approval, Los Angeles (2023; 10);
- 975 Manhattan Apartments Discretionary Approval, Los Angeles (2023; 12);
- 6th visit Veterans Affairs Site Plan Review No. 20-0102 MND, Bakersfield (2023; 14);
- Coachella Airport Business Park IS/MND, Coachella (2023; 31);
- 3400 Tecate Warehouse Staff Report, Camarillo (2023; 26);
- Green Valley III Apartments DEIR, Fairfield (2023; 50);
- Pacific Specific Plan DEIR, San Marcos (2023; 55);
- Amara Bay Mixed Use Staff Report, Chula Vista (2023; 46);
- Greenlaw Partners Warehouse IS, Fresno (2023; 23);
- PODS Warehouse IS/MND, Desert Hot Springs (2023; 30);
- 6th visit Veterans Affairs Site Plan Review No. 20-0102 MND, Bakersfield (2023; 9);
- Replies on Ormat Brawley Solar Project DEIR, Brawley (2023; 80);
- One Hamilton as part of City of Mill Valley's 2023-2031 Housing Element Update DSEIR (2023; 31);
- Second letter on Shinohara Project IS/MND, Chula Vista (2023; 22);
- 3890 Depot Road Project IS/MND, Hayward (2023; 33);
- Wellprofit Wellness Mixed-use project CEQA Exemption, Temecula (2023; 31);
- Quail Meadows Apartments CEQA Exemption, Encinitas (2023; 55);
- RCCB Fresno Distribution Center Notice of Exemption, Fresno (2022; 14);
- Stoddard Wells Industrial Project IS/MND, City of Victorville (2022; 31);
- 16454 Adelanto Road Warehouse Distribution Facility Class 32 Categorical Exemption,

- Adelanto (2022; 17);
- Replies on Pure Water Project – Las Virgenes-Triunfo Joint Powers Authority FPEIR, Agoura (2022; 26);
- Desert Gateway MND Addendum, Desert Hot Springs (2022; 35);
- Blue Oaks Commerce Center MND Addendum, City of Roseville (2022; 12);
- Replies on Coachillin Amendment to Specific Plan, Desert Hot Springs (2022; 24);
- Island View Mixed-Use CEQA Compliance Memo, City of Rancho Cucamonga (2022; 17);
- Prairie Station Apartments IS/MND, City of Inglewood (2022; 32);
- Golden Land Warehouse CEQA Exemption, City of Rialto (2022; 12);
- South Juarez Street Design Review, Banning (2022; 17);
- Replies on Pentair Expansion Industrial Warehouse FMND, Moorpark (2022; 13);
- 2nd Replies on Greentree FEIR, Vacaville (2022; 16);
- Replies on Temporary Outdoor Vehicle Storage FEIR, Port of Hueneme (2022; 21);
- National City-Bayfront, San Diego DEIR (2022; 56);
- Goshen Community Plan General Plan Amendment & Addendum (2022, 6);
- Primrose and Adelanto warehouse Categorical Exemption, Adelanto (2022, 14);
- TenTen Hollywood Categorical Exclusion (2022, 17);
- Waste to Hydrogen project IS/MND, Lancaster (2022, 36);
- Las Virgenes-Triunfo Pure Water Project <Agoura Hills, (2022; 43);
- Shinohara Project IS/MND, Chula Vista (2022; 30);
- Marlborough-Northgate Warehouse IS/MND, Riverside (2022; 33);
- Meyers Ave, Warehouse IS/MND, Escondido IS/MND (2022; 27);
- Northgate Industrial Park IS/MND, Sacramento (2022; 28);
- Ramona-Indian Warehouse IS/MND, Perris (2022; 44);
- Norwalk Entertainment District EIR (2022; 29);
- Breeze Luxury Apartments IS/MND, Oceanside (2022; 40);
- Paso Commons Golden Hills Commerce Center IS/MND, Paso Robles (2022; 35);
- YS Industrial Park Application, Visalia (2022; 20);
- Pentair Expansion Industrial Warehouse IS/MND, Moorpark (2022; 28);
- Salvador Solar IS/MND, Riverside (2022; 27);
- Fresno General Plan Amendment 555 IS/MND (2022; 21);
- 570 Crespi Drive IS/MND, Pacifica (2022; 40);
- Renaissance Ranch Commerce Center DEIR, Temescal Valley (2022; 53);
- Replies on Glen Ivy Senior Living IS/MND, Temescal Valley (2022; 24);
- Glen Ivy Senior Living IS/MND, Temescal Valley (2022; 46);
- FedEx Distribution Warehouse IS, Lancaster (2022; 35);
- Urban Villages EIR Addendum, San Marcos (2022; 32);
- NextEra San Ardos Solar IS/ND, San Ardo (2022; 20);
- Summit Avenue Warehouse IS/MND, Fontana (2022; 28);
- Gateway at the Oaks DEIR, Thousand Oaks (2022; 30);
- Primrose and Adelanto Warehouse CEQA Exemption, Adelanto (2022; 11);
- Fore Apartments Staff Report, Oxnard (2022; 29);
- 975 Manhattan Rd. discretionary approval, Los Angeles (2022; 12);
- Coachillin DEIR, North Palm Springs (2022; 30);

- 2740 W. Nielsen Ave Warehouse IS/MND, Fresno (2022; 25);
- Golf Center Warehouse Staff Report, Indio (2022; 26);
- Desert Peak Energy IS/MND, Palm Springs (2022; 26);
- Replies on Greentree FEIR, Vacaville (2022; 13);
- Greentree DEIR, Vacaville (2022; 31);
- Town Center DEIR, Laguna Niguel (2022; 16);
- 2nd Replies on Freedom Circle Focus Area and Greystar General Plan Amendment Project FEIR, San Jose (2022; 3);
- Corydon III CEQA Categorical Exemption, Lake Elsinore (2022; 11);
- Park Edge Apartments IS/MND, Santa Maria (2022; 30);
- Replies on UCSF New Hospital FEIR at Parnassus Heights FEIR. San Francisco (2022; 13);
- Replies on North Central Valley BESS Project IS/MND, Stockton (2022; 21);
- 9248 Holly Road Cannabis CEQA Exemption, Adelanto (2022; 12);
- Replies on Amazing 34 Distribution Center IS/MND, San Bernardino (2022; 10);
- Amazing 34 Distribution Center IS/MND, San Bernardino (2022; 28);
- Replies on Freedom Circle Focus Area and Greystar General Plan Amendment Project FEIR, San Jose (2022; 5);
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- Bussetto Foods IS/ND, Fresno (2022; 34);
- Spruce Ave Commerce Center, Rialto (2022;);
- 5006 and 5010 Mission Boulevard Warehouse IS/MND, Montclair (2022; 18);
- Conejo Summit IS/MND, Thousand Oaks (2022; 28);
- Sixth visit, Veterans Affairs Site Plan Review No. 20-0102 MND, Bakersfield (2022; 4);
- TC NO. CAL. Development Warehousing and Distribution Facility Project DEIR, Stockton (2022; 33);
- Replies on Davidon Homes FEIR, Petaluma (2022; 49);
- Rural preservation and net conservation benefit coalition reply to post hearing briefs, Garnet Solar (2022; 24);
- Garnet Solar direct testimony, New York (2022; 17);
- Fifth visit, Veterans Affairs Site Plan Review No. 20-0102 MND, Bakersfield (2022; 11);
- Shirk & Riggin Industrial Park Application, Visalia (2022; 22);
- Duarte Industrial Application, Visalia (2022; 17);
- Amond World Cold Storage Warehouse IS/MND, Madera (2022; 23);
- Replies on Schulte Logistics Centre EIR, Tracy (2022; 28);
- Alta Cuvee Mixed Use Project Recirculated IS/MND, Ranch Cucamonga (2022; 8);
- Fourth visit, Veterans Affairs Site Plan Review No. 20-0102 MND, Bakersfield (2022; 9);
- Replies on 1242 20th Street Wellness Center Project FEIR, Santa Monica (2022; 5);
- 656 South San Vicente Medical Office Project EIR, Los Angeles (2022; 21);
- UCSF New Hospital at Parnassus Heights DEIR. San Francisco (2022; 40);
- DPR-21-021 Warehouse IS, Modesto (2022; 19);
- Ormat Brawley Solar Project DEIR, Brawley (2022; 37);
- Site visits to Heber 1 Geothermal Repower Project IS/MND (2022; 31);
- Heritage Industrial Center Design Review, Chula Vista (2022; 13);
- Temporary Outdoor Vehicle Storage DEIR, Port of Hueneme (2022; 31);

- CNU Medical Center and Innovation Park DEIR, Natomas (2022; 35);
- Beverly Boulevard Warehouse IS/MND, Pico Rivera (2021; 28);
- Hagemon Properties IS/MND Amendment, Bakersfield (2022; 23);
- Airport Distribution Center IS/MND, Redding (2021; 22);
- Orchard on Nevada Warehouse Staff Report, Redlands (2021; 24);
- Landings Logistics Center Exemption, Bakersfield (2021; 19);
- Replies on Hearn Veterans Village IS/MND, Santa Rosa (2021; 22);
- North Central Valley BESS Project IS/MND, Stockton (2021; 39);
- 2nd Replies on Heber 1 Geothermal Repower Project IS/MND (2022; 21);
- Stagecoach Solar DEIR, Barstow (2021; 24);
- Updated Sun Lakes Village North EIR Amendment 5, Banning, Riverside County (2021; 35);
- Freedom Circle Focus Area and Greystar General Plan Amendment Project EIR, San Jose (2021; 43);
- Operon HKI Warehouse IS/MND, Perris (2021; 26);
- Fairway Business Park Phase III IS/MND, Lake Elsinore (2021; 23);
- South Stockton Commerce Center IS/MND, Stockton (2021; 31);
- Starpoint Warehouse IS/MND, San Bernardino (2021; 24);
- Replies on Heber 1 Geothermal Repower Project IS/MND (2021; 15);
- Heber 1 Geothermal Repower Project IS/MND (2021; 11);
- Alviso Hotel Project IS/MND, San Jose (2021; 43);
- Replies on Easton Research Park West IS/MND, Rancho Cordova (2021; 3);
- Easton Research Park West IS/MND, Rancho Cordova (2021; 31);
- US Cold Storage DEIR, Hesperia (2021; 30);
- 1242 20th Street Wellness Center Project FEIR, Santa Monica (2021; 23);
- Third visit, Veterans Affairs Site Plan Review No. 20-0102 MND, Bakersfield (2021; 10);
- Roseland Creek Community Park Project IS/MND, Santa Rosa (2021; 23);
- Vista Mar Declaration of Irreparable Harm, Pacifica (2021; 3);
- LogistiCenter at Fairfield IS/MND (2021; 25);
- Alta Cuvee Mixed Use Project IS/MND, Ranch Cucamonga (2021; 29);
- Caligrows Architectural and Site Plan Review, Patterson (2021; 21);
- 1055 E. Sandhill Avenue Warehouse IS/MND, Carson (2021; 10);
- Chestnut & Tenth Street Commercial Project IS/MND, Gilroy (2021; 27);
- Libitzky Management Warehouse IS/MND, Modesto (2021; 20);
- 3rd Replies on Heber 2 Geothermal Repower Project IS/MND, El Centro (2021; 10);
- Medical Office Building DEIR, Santa Cruz (2021; 30);
- Scannell Warehouse DEIR, Richmond (2021; 24);
- Diamond Heights Application, San Francisco (2021; 24);
- Costa Azul Mixed-Use EIR Addendum, San Diego (2021; 25);
- Woodland Research Park DEIR (2021; 45);
- 2nd Replies on Diamond Street Industrial IS/MND, San Marcos (2021; 9);
- Replies on Diamond Street Industrial IS/MND, San Marcos (2021; 3);
- Diamond Street Industrial IS/MND, San Marcos (2021; 28);
- DHS 109 Industrial Park IS/MND, Desert Hot Springs (2021; 33);

- Jersey Industrial Complex Rancho Cucamonga (2022; 22);
- 1188 Champions Drive Parking Garage Staff Report, San Jose (2021; 5);
- San Pedro Mountain, Pacifica (2021; 22);
- Pixior Warehouse IS/MND, Hesperia (2021; 29);
- 2nd Replies on Heber 2 Geothermal Repower Project IS/MND, El Centro (2021; 9);
- Hearn Veterans Village IS/MND, Santa Rosa (2021; 23);
- Second visit, Veterans Affairs Site Plan Review No. 20-0102 MND, Bakersfield (2021; 11);
- Replies on Station East Residential/Mixed Use EIR, Union City (2021; 26);
- Schulte Logistics Centre EIR, Tracy (2021; 30);
- 4150 Point Eden Way Industrial Development EIR, Hayward (2021; 13);
- Airport Business Centre IS/MND, Manteca (2021; 27);
- Dual-branded Hotel IS/MND, Santa Clara (2021; 26);
- Legacy Highlands Specific Plan EIR, Beaumont (2021; 47);
- UC Berkeley LRDP and Housing Projects #1 and #2 EIR (2021; 27);
- Santa Maria Airport Business Park EIR, Santa Maria (2021; 27);
- Replies on Coachella Valley Arena EIR Addendum, Thousand Palms (2021; 20);
- Coachella Valley Arena EIR Addendum, Thousand Palms (2021; 35);
- Inland Harbor Warehouse NOD, Ontario (2021; 8);
- Alvarado Specific Plan DEIR, La Mesa (2021; 35);
- Harvill Avenue and Rider Street Terminal Project MND, Riverside (2021; 23);
- Gillespie Field EIR Addendum, El Cajon (2021; 28);
- Heritage Wind Energy Project section 94-c siting process, New York (2021: 99);
- Commercial Street Hotels project Site Plans, Oakland (2021; 19);
- Heber 1 Geothermal Repower Project MND, El Centro (2021; 11);
- Citrus-Slover Warehouse Project MND, Fontana (2021; 20);
- Scott Ranch Project RDEIR (Davidon Homes), Petaluma (2021; 31);
- Replies on StratosFuel Renewable H2 Project MND, Victorville (2021; 5);
- StratosFuel Renewable H2 Project MND, Victorville (2021; 25);
- Replies on PARS Global Storage MND, Murietta (2021; 22);
- Baldwin-Zacharias Master Plans EIR, Patterson (2021; 38);
- 1000 Gibraltar Drive EIR, Milpitas (2021; 20);
- Mango Avenue Industrial Warehouse Project, Fontana, MND (2021; 20);
- Veterans Affairs Site Plan Review No. 20-0102 MND, Bakersfield (2021; 25);
- Replies on UCSF Comprehensive Parnassus Heights Plan EIR (2021; 13);
- 14 Charles Hill Circle Design Review (2021; 11);
- SDG Commerce 217 Warehouse IS, American Canyon (2021; 26);
- Mulqueeney Ranch Wind Repowering Project DSEIR (2021; 98);
- Clawiter Road Industrial Project IS/MND, Hayward (2021; 18);
- Garnet Energy Center Stipulations, New York (2020);
- Heritage Wind Energy Project, New York (2020: 71);
- Ameresco Keller Canyon RNG Project IS/MND, Martinez (2020; 11);
- Cambria Hotel Project Staff Report, Dublin (2020; 19);
- Central Pointe Mixed-Use Staff Report, Santa Ana (2020; 20);
- Oak Valley Town Center EIR Addendum, Calimesa (2020; 23);

- Coachillin Specific Plan MND Amendment, Desert Hot Springs (2020; 26);
- Stockton Avenue Hotel and Condominiums Project Tiering to EIR, San Jose (2020; 19);
- Cityline Sub-block 3 South Staff Report, Sunnyvale (2020; 22);
- Station East Residential/Mixed Use EIR, Union City (2020; 21);
- Multi-Sport Complex & Southeast Industrial Annexation Suppl. EIR, Elk Grove (2020; 24);
- Sun Lakes Village North EIR Amendment 5, Banning, Riverside County (2020; 27);
- 2nd comments on 1296 Lawrence Station Road, Sunnyvale (2020; 4);
- 1296 Lawrence Station Road, Sunnyvale (2020; 16);
- Mesa Wind Project EA, Desert Hot Springs (2020; 31);
- 11th Street Development Project IS/MND, City of Upland (2020; 17);
- Vista Mar Project IS/MND, Pacifica (2020; 17);
- Emerson Creek Wind Project Application, Ohio (2020; 64);
- Replies on Wister Solar Energy Facility EIR, Imperial County (2020; 12);
- Wister Solar Energy Facility EIR, Imperial County (2020; 28);
- Crimson Solar EIS/EIR, Mojave Desert (2020, 35) not submitted;
- Sakioka Farms EIR tiering, Oxnard (2020; 14);
- 3440 Wilshire Project IS/MND, Los Angeles (2020; 19);
- Replies on 2400 Barranca Office Development Project EIR, Irvine (2020; 8);
- 2400 Barranca Office Development Project EIR, Irvine (2020; 25);
- Replies on Heber 2 Geothermal Repower Project IS/MND, El Centro (2020; 4);
- 2nd comments on Heber 2 Geothermal Repower Project IS/MND, El Centro (2020; 8);
- Heber 2 Geothermal Repower Project IS/MND, El Centro (2020; 3);
- Lots 4-12 Oddstad Way Project IS/MND, Pacifica (2020; 16);
- Declaration on DDG Visalia Warehouse project (2020; 5);
- Terraces of Lafayette EIR Addendum (2020; 24);
- AMG Industrial Annex IS/MND, Los Banos (2020; 15);
- Replies to responses on Casmalia and Linden Warehouse, Rialto (2020; 15);
- Clover Project MND, Petaluma (2020; 27);
- Ruby Street Apartments Project Env. Checklist, Hayward (2020; 20);
- Replies to responses on 3721 Mt. Diablo Boulevard Staff Report (2020; 5);
- 3721 Mt. Diablo Boulevard Staff Report (2020; 9);
- Steeno Warehouse IS/MND, Hesperia (2020; 19);
- UCSF Comprehensive Parnassus Heights Plan EIR (2020; 24);
- North Pointe Business Center MND, Fresno (2020; 14);
- Casmalia and Linden Warehouse IS, Fontana (2020; 15);
- Rubidoux Commerce Center Project IS/MND, Jurupa Valley (2020; 27);
- Haun and Holland Mixed Use Center MND, Menifee (2020; 23);
- First Industrial Logistics Center II, Moreno Valley IS/MND (2020; 23);
- GLP Store Warehouse Project Staff Report (2020; 15);
- Replies on Beale WAPA Interconnection Project EA & CEQA checklist (2020; 29);
- 2nd comments on Beale WAPA Interconnection Project EA & CEQA checklist (2020; 34);
- Beale WAPA Interconnection Project EA & CEQA checklist (2020; 30);
- Levine-Fricke Softball Field Improvement Addendum, UC Berkeley (2020; 16);
- Greenlaw Partners Warehouse and Distribution Center Staff Report, Palmdale (2020; 14);

- Humboldt Wind Energy Project DEIR (2019; 25);
- Sand Hill Supplemental EIR, Altamont Pass (2019; 17);
- 1700 Dell Avenue Office Project, Campbell (2019, 28);
- 1180 Main Street Office Project MND, Redwood City (2019; 19);
- Summit Ridge Wind Farm Request for Amendment 4, Oregon (2019; 46);
- Shafter Warehouse Staff Report (2019; 4);
- Park & Broadway Design Review, San Diego (2019; 19);
- Pinnacle Pacific Heights Design Review, San Diego (2019; 19);
- Pinnacle Park & C Design Review, San Diego (2019; 19);
- Preserve at Torrey Highlands EIR, San Diego (2019; 24);
- Santana West Project EIR Addendum, San Jose (2019; 18);
- The Ranch at Eastvale EIR Addendum, Riverside County (2020; 19);
- Hageman Warehouse IS/MND, Bakersfield (2019; 13);
- Oakley Logistics Center EIR, Antioch (2019; 22);
- 27 South First Street IS, San Jose (2019; 23);
- 2nd replies on Times Mirror Square Project EIR, Los Angeles (2020; 11);
- Replies on Times Mirror Square Project EIR, Los Angeles (2020; 13);
- Times Mirror Square Project EIR, Los Angeles (2019; 18);
- East Monte Vista & Aviator General Plan Amend EIR Addendum, Vacaville (2019; 22);
- Hillcrest LRDP EIR, La Jolla (2019; 36);
- 555 Portola Road CUP, Portola Valley (2019; 11);
- Johnson Drive Economic Development Zone SEIR, Pleasanton (2019; 27);
- 1750 Broadway Project CEQA Exemption, Oakland (2019; 19);
- Mor Furniture Project MND, Murietta Hot Springs (2019; 27);
- Harbor View Project EIR, Redwood City (2019; 26);
- Visalia Logistics Center (2019; 13);
- Cordelia Industrial Buildings MND (2019; 14);
- Scheu Distribution Center IS/ND, Rancho Cucamonga (2019; 13);
- Mills Park Center Staff Report, San Bruno (2019; 22);
- Site visit to Desert Highway Farms IS/MND, Imperial County (2019; 9);
- Desert Highway Farms IS/MND, Imperial County (2019; 12);
- ExxonMobil Interim Trucking for Santa Ynez Unit Restart SEIR, Santa Barbara (2019; 9);
- Olympic Holdings Inland Center Warehouse Project MND, Rancho Cucamonga (2019; 14);
- Replies to responses on Lawrence Equipment Industrial Warehouse, Banning (2019; 19);
- PARS Global Storage MND, Murietta (2019; 13);
- Slover Warehouse EIR Addendum, Fontana (2019; 16);
- Seefried Warehouse Project IS/MND, Lathrop (2019; 19)
- World Logistics Center Site Visit, Moreno Valley (2019; 19);
- Merced Landfill Gas-To-Energy Project IS/MND (2019; 12);
- West Village Expansion FEIR, UC Davis (2019; 11);
- Site visit, Doheny Ocean Desalination EIR, Dana Point (2019; 11);
- Replies to responses on Avalon West Valley Expansion EIR, San Jose (2019; 10);
- Avalon West Valley Expansion EIR, San Jose (2019; 22);
- Sunroad – Otoy 50 EIR Addendum, San Diego (2019; 26);

- Del Rey Pointe Residential Project IS/MND, Los Angeles (2019; 34);
- 1 AMD Redevelopment EIR, Sunnyvale (2019; 22);
- Lawrence Equipment Industrial Warehouse IS/MND, Banning (2019; 14);
- SDG Commerce 330 Warehouse IS, American Canyon (2019; 21);
- PAMA Business Center IS/MND, Moreno Valley (2019; 23);
- Cupertino Village Hotel IS (2019; 24);
- Lake House IS/ND, Lodi (2019; 33);
- Campo Wind Project DEIS, San Diego County (DEIS, (2019; 14);
- Stirling Warehouse MND site visit, Victorville (2019; 7);
- Green Valley II Mixed-Use Project EIR, Fairfield (2019; 36);
- We Be Jammin rezone MND, Fresno (2019; 14);
- Gray Whale Cove Pedestrian Crossing IS/ND, Pacifica (2019; 7);
- Visalia Logistics Center & DDG 697V Staff Report (2019; 9);
- Mather South Community Masterplan Project EIR (2019; 35);
- Del Hombre Apartments EIR, Walnut Creek (2019; 23);
- Otay Ranch Planning Area 12 EIR Addendum, Chula Vista (2019; 21);
- The Retreat at Sacramento IS/MND (2019; 26);
- Site visit to Sunroad – Centrum 6 EIR Addendum, San Diego (2019; 9);
- Sunroad – Centrum 6 EIR Addendum, San Diego (2018; 22);
- North First and Brokaw Corporate Campus Buildings EIR Addendum, San Jose (2018; 30);
- South Lake Solar IS, Fresno County (2018; 18);
- Galloo Island Wind Project Application, New York (not submitted) (2018; 44);
- Doheny Ocean Desalination EIR, Dana Point (2018; 15);
- Stirling Warehouse MND, Victorville (2018; 18);
- LDK Warehouse MND, Vacaville (2018; 30);
- Gateway Crossings FEIR, Santa Clara (2018; 23);
- South Hayward Development IS/MND (2018; 9);
- CBU Specific Plan Amendment, Riverside (2018; 27);
- 2nd replies to responses on Dove Hill Road Assisted Living Project MND (2018; 11);
- Replies to responses on Dove Hill Road Assisted Living Project MND (2018; 7);
- Dove Hill Road Assisted Living Project MND (2018; 12);
- Deer Ridge/Shadow Lakes Golf Course EIR, Brentwood (2018; 21);
- Pyramid Asphalt BLM Finding of No Significance, Imperial County (2018; 22);
- Amáre Apartments IS/MND, Martinez (2018; 15);
- Petaluma Hill Road Cannabis MND, Santa Rosa (2018; 21);
- 2nd comments on Zeiss Innovation Center IS/MND, Dublin (2018: 12);
- Zeiss Innovation Center IS/MND, Dublin (2018: 32);
- City of Hope Campus Plan EIR, Duarte (2018; 21);
- Palo Verde Center IS/MND, Blythe (2018; 14);
- Logisticenter at Vacaville MND (2018; 24);
- IKEA Retail Center SEIR, Dublin (2018; 17);
- Merge 56 EIR, San Diego (2018; 15);
- Natomas Crossroads Quad B Office Project P18-014 EIR, Sacramento (2018; 12);
- 2900 Harbor Bay Parkway Staff Report, Alameda (2018; 30);

- At Dublin EIR, Dublin (2018; 25);
- Fresno Industrial Rezone Amendment Application No. 3807 IS (2018; 10);
- Nova Business Park IS/MND, Napa (2018; 18);
- Updated Collision Risk Model Priors for Estimating Eagle Fatalities, USFWS (2018; 57);
- 750 Marlborough Avenue Warehouse MND, Riverside (2018; 14);
- Replies to responses on San Bernardino Logistics Center IS (2018; 12);
- San Bernardino Logistics Center IS (2018; 19);
- CUP2017-16, Costco IS/MND, Clovis (2018; 11);
- Desert Land Ventures Specific Plan EIR, Desert Hot Springs (2018; 18);
- Ventura Hilton IS/MND (2018; 30);
- North of California Street Master Plan Project IS, Mountain View (2018: 11);
- Tamarind Warehouse MND, Fontana (2018; 16);
- Lathrop Gateway Business Park EIR Addendum (2018; 23);
- Centerpointe Commerce Center IS, Moreno Valley (2019; 18);
- Amazon Warehouse Notice of Exemption, Bakersfield (2018; 13);
- CenterPoint Building 3 project Staff Report, Manteca (2018; 23);
- Cessna & Aviator Warehouse IS/MND, Vacaville (2018; 24);
- Napa Airport Corporate Center EIR, American Canyon (2018, 15);
- 800 Opal Warehouse Initial Study, Mentone, San Bernardino County (2018; 18);
- 2695 W. Winton Ave Industrial Project IS, Hayward (2018; 22);
- Trinity Cannabis Cultivation and Manufacturing Facility DEIR, Calexico (2018; 15);
- Shoe Palace Expansion IS/MND, Morgan Hill (2018; 21);
- Newark Warehouse at Morton Salt Plant Staff Report (2018; 15);
- Northlake Specific Plan FEIR “Peer Review”, Los Angeles County (2018; 9);
- Replies to responses on Northlake Specific Plan SEIR, Los Angeles County (2018; 13);
- Northlake Specific Plan SEIR, Los Angeles County (2017; 27);
- Bogle Wind Turbine DEIR, east Yolo County (2017; 48);
- Ferrante Apartments IS/MND, Los Angeles (2017; 14);
- The Villages of Lakeview EIR, Riverside (2017; 28);
- Data Needed for Assessing Trail Management Impacts on Northern Spotted Owl, Marin County (2017; 5);
- Notes on Proposed Study Options for Trail Impacts on Northern Spotted Owl (2017; 4);
- Pyramid Asphalt IS, Imperial County (Declaration) (2017; 5);
- San Geronio Crossings EIR, Riverside County (2017; 22);
- Replies to responses on Jupiter Project IS and MND, Apple Valley (2017; 12);
- Proposed World Logistics Center Mitigation Measures, Moreno Valley (2017, 2019; 12);
- MacArthur Transit Village Project Modified 2016 CEQA Analysis (2017; 12);
- PG&E Company Bay Area Operations and Maintenance HCP (2017; 45);
- Central SoMa Plan DEIR (2017; 14);
- Suggested mitigation for trail impacts on northern spotted owl, Marin County (2016; 5);
- Colony Commerce Center Specific Plan DEIR, Ontario (2016; 16);
- Fairway Trails Improvements MND, Marin County (2016; 13);
- Review of Avian-Solar Science Plan (2016; 28);
- Replies on Pyramid Asphalt IS, Imperial County (2016; 5);

- Pyramid Asphalt IS, Imperial County (2016; 4);
- Agua Mansa Distribution Warehouse Project Initial Study (2016; 14);
- Santa Anita Warehouse MND, Rancho Cucamonga (2016; 12);
- CapRock Distribution Center III DEIR, Rialto (2016: 12);
- Orange Show Logistics Center IS/MND, San Bernardino (2016; 9);
- City of Palmdale Oasis Medical Village Project IS/MND (2016; 7);
- Comments on proposed rule for incidental eagle take, USFWS (2016, 49);
- Replies on Grapevine Specific and Community Plan FEIR, Kern County (2016; 25);
- Grapevine Specific and Community Plan DEIR, Kern County (2016; 15);
- Clinton County Zoning Ordinance for Wind Turbine siting (2016);
- Hallmark at Shenandoah Warehouse Project Initial Study, San Bernardino (2016; 6);
- Tri-City Industrial Complex Initial Study, San Bernardino (2016; 5);
- Hidden Canyon Industrial Park Plot Plan 16-PP-02, Beaumont (2016; 12);
- Kimball Business Park DEIR (2016; 10);
- Jupiter Project IS and MND, Apple Valley, San Bernardino County (2016; 9);
- Revised Draft Giant Garter Snake Recovery Plan of 2015 (2016, 18);
- Palo Verde Mesa Solar Project EIR, Blythe (2016; 27);
- Reply on Fairview Wind Project Natural Heritage Assessment, Ontario, Canada (2016; 14);
- Fairview Wind Project Natural Heritage Assessment, Ontario, Canada (2016; 41);
- Reply on Amherst Island Wind Farm Natural Heritage Assessment, Ontario (2015, 38);
- Amherst Island Wind Farm Natural Heritage Assessment, Ontario (2015, 31);
- Second Reply on White Pines Wind Farm, Ontario (2015, 6);
- Reply on White Pines Wind Farm Natural Heritage Assessment, Ontario (2015, 10);
- White Pines Wind Farm Natural Heritage Assessment, Ontario (2015, 9);
- Proposed Section 24 Specific Plan Agua Caliente Band of Cahuilla Indians DEIS (2015, 9);
- Replies on 24 Specific Plan Agua Caliente Band of Cahuilla Indians FEIS (2015, 6);
- Sierra Lakes Commerce Center Project DEIR, Fontana (2015, 9);
- Columbia Business Center MND, Riverside (2015; 8);
- West Valley Logistics Center Specific Plan DEIR, Fontana (2015, 10);
- Willow Springs Solar Photovoltaic Project DEIR (2015, 28);
- Alameda Creek Bridge Replacement Project DEIR (2015, 10);
- World Logistic Center Specific Plan FEIR, Moreno Valley (2015, 12);
- Elkhorn Valley Wind Power Project Impacts, Oregon (2015; 143);
- Bay Delta Conservation Plan EIR/EIS, Sacramento (2014, 21);
- Addison Wind Energy Project DEIR, Mojave (2014, 32);
- Replies on the Addison Wind Energy Project DEIR, Mojave (2014, 15);
- Addison and Rising Tree Wind Energy Project FEIR, Mojave (2014, 12);
- Palen Solar Electric Generating System FSA (CEC), Blythe (2014, 20);
- Rebuttal testimony on Palen Solar Energy Generating System (2014, 9);
- Seven Mile Hill and Glenrock/Rolling Hills impacts + Addendum, Wyoming (2014; 105);
- Rising Tree Wind Energy Project DEIR, Mojave (2014, 32);
- Replies on the Rising Tree Wind Energy Project DEIR, Mojave (2014, 15);
- Soitec Solar Development Project PEIR, Boulevard, San Diego County (2014, 18);
- Oakland Zoo expansion on Alameda whipsnake and California red-legged frog (2014; 3);

- Alta East Wind Energy Project FEIS, Tehachapi Pass (2013, 23);
- Blythe Solar Power Project Staff Assessment, California Energy Commission (2013, 16);
- Clearwater and Yakima Solar Projects DEIR, Kern County (2013, 9);
- West Antelope Solar Energy Project IS/MND, Antelope Valley (2013, 18);
- Cuyama Solar Project DEIR, Carrizo Plain (2014, 19);
- Desert Renewable Energy Conservation Plan (DRECP) EIR/EIS (2015, 49);
- Kingbird Solar Photovoltaic Project EIR, Kern County (2013, 19);
- Lucerne Valley Solar Project IS/MND, San Bernardino County (2013, 12);
- Tule Wind project FEIR/FEIS (Declaration) (2013; 31);
- Sunlight Partners LANDPRO Solar Project MND (2013; 11);
- Declaration in opposition to BLM fracking (2013; 5);
- Blythe Energy Project (solar) CEC Staff Assessment (2013;16);
- Rosamond Solar Project EIR Addendum, Kern County (2013; 13);
- Pioneer Green Solar Project EIR, Bakersfield (2013; 13);
- Replies on Soccer Center Solar Project MND (2013; 6);
- Soccer Center Solar Project MND, Lancaster (2013; 10);
- Plainview Solar Works MND, Lancaster (2013; 10);
- Alamo Solar Project MND, Mojave Desert (2013; 15);
- Replies on Imperial Valley Solar Company 2 Project (2013; 10);
- Imperial Valley Solar Company 2 Project (2013; 13);
- FRV Orion Solar Project DEIR, Kern County (PP12232) (2013; 9);
- Casa Diablo IV Geothermal Development Project (2013; 6);
- Reply on Casa Diablo IV Geothermal Development Project (2013; 8);
- Alta East Wind Project FEIS, Tehachapi Pass (2013; 23);
- Metropolitan Air Park DEIR, City of San Diego (2013;);
- Davidon Homes Tentative Subdivision Rezoning Project DEIR, Petaluma (2013; 9);
- Oakland Zoo Expansion Impacts on Alameda Whipsnake (2013; 10);
- Campo Verde Solar project FEIR, Imperial Valley (2013; 11pp);
- Neg Dec comments on Davis Sewer Trunk Rehabilitation (2013; 8);
- North Steens Transmission Line FEIS, Oregon (Declaration) (2012; 62);
- Summer Solar and Springtime Solar Projects IS/MND Lancaster (2012; 8);
- J&J Ranch, 24 Adobe Lane Environmental Review, Orinda (2012; 14);
- Replies on Hudson Ranch Power II Geothermal Project and Simbol Calipatria Plant II (2012; 8);
- Hudson Ranch Power II Geothermal Project and Simbol Calipatria Plant II (2012; 9);
- Desert Harvest Solar Project EIS, near Joshua Tree (2012; 15);
- Solar Gen 2 Array Project DEIR, El Centro (2012; 16);
- Ocotillo Sol Project EIS, Imperial Valley (2012; 4);
- Beacon Photovoltaic Project DEIR, Kern County (2012; 5);
- Butte Water District 2012 Water Transfer Program IS/MND (2012; 11);
- Mount Signal and Calxico Solar Farm Projects DEIR (2011; 16);
- City of Elk Grove Sphere of Influence EIR (2011; 28);
- Sutter Landing Park Solar Photovoltaic Project MND, Sacramento (2011; 9);
- Rabik/Gudath Project, 22611 Coleman Valley Road, Bodega Bay (CPN 10-0002) (2011; 4);

- Ivanpah Solar Electric Generating System (ISEGS) (Declaration) (2011; 9);
- Draft Eagle Conservation Plan Guidance, USFWS (2011; 13);
- Niles Canyon Safety Improvement Project EIR/EA (2011; 16);
- Route 84 Safety Improvement Project (Declaration) (2011; 7);
- Rebuttal on Whistling Ridge Wind Energy Power DEIS, Skamania County, (2010; 6);
- Whistling Ridge Wind Energy Power DEIS, Skamania County, Washington (2010; 41);
- Klickitat County's Decisions on Windy Flats West Wind Energy Project (2010; 17);
- St. John's Church Project DEIR, Orinda (2010; 14);
- Results Radio Zone File #2009-001 IS/MND, Conaway site, Davis (2010; 20);
- Rio del Oro Specific Plan Project FEIR, Rancho Cordova (2010;12);
- Results Radio Zone File #2009-001, Mace Blvd site, Davis (2009; 10);
- Answers to Questions on 33% RPS Implementation Analysis Preliminary Results Report (2009; 9);
- SEPA Determination of Non-significance regarding zoning adjustments for Skamania County, Washington (Second Declaration) (2008; 17);
- Draft 1A Summary Report to CAISO (2008; 10);
- Hilton Manor Project Categorical Exemption, County of Placer (2009; 9);
- Protest of CARE to Amendment to the Power Purchase and Sale Agreement for Procurement of Eligible Renewable Energy Resources Between Hatchet Ridge Wind LLC and PG&E (2009; 3);
- Tehachapi Renewable Transmission Project EIR/EIS (2009; 142);
- Delta Shores Project EIR, south Sacramento (2009; 11 + addendum 2);
- Declaration in Support of Care's Petition to Modify D.07-09-040 (2008; 3);
- The Public Utility Commission's Implementation Analysis December 16 Workshop for the Governor's Executive Order S-14-08 to implement a 33% Renewable Portfolio Standard by 2020 (2008; 9);
- The Public Utility Commission's Implementation Analysis Draft Work Plan for the Governor's Executive Order S-14-08 to implement a 33% Renewable Portfolio Standard by 2020 (2008; 11);
- Draft 1A Summary Report to California Independent System Operator for Planning Reserve Margins (PRM) Study (2008; 7.);
- SEPA Determination of Non-significance regarding zoning adjustments for Skamania County, Washington (Declaration) (2008; 16);
- Colusa Generating Station, California Energy Commission PSA (2007; 24);
- Rio del Oro Specific Plan Project Recirculated DEIR, Mather (2008: 66);
- Replies on Regional University Specific Plan EIR, Roseville (2008; 20);
- Regional University Specific Plan EIR, Roseville (2008: 33);
- Clark Precast, LLC's "Sugarland" project, ND, Woodland (2008: 15);
- Cape Wind Project DEIS, Nantucket (2008; 157);
- Yuba Highlands Specific Plan EIR, Spenceville, Yuba County (2006; 37);
- Replies to responses on North Table Mountain MND, Butte County (2006; 5);
- North Table Mountain MND, Butte County (2006; 15);
- Windy Point Wind Farm EIS (2006; 14 and Powerpoint slide replies);
- Shiloh I Wind Power Project EIR, Rio Vista (2005; 18);
- Buena Vista Wind Energy Project NOP, Byron (2004; 15);

- Callahan Estates Subdivision ND, Winters (2004; 11);
- Winters Highlands Subdivision IS/ND (2004; 9);
- Winters Highlands Subdivision IS/ND (2004; 13);
- Creekside Highlands Project, Tract 7270 ND (2004; 21);
- Petition to California Fish and Game Commission to list Burrowing Owl (2003; 10);
- Altamont Pass Wind Resource Area CUP renewals, Alameda County (2003; 41);
- UC Davis Long Range Development Plan: Neighborhood Master Plan (2003; 23);
- Anderson Marketplace Draft Environmental Impact Report (2003; 18);
- Negative Declaration of the proposed expansion of Temple B'nai Tikyah (2003; 6);
- Antonio Mountain Ranch Specific Plan Public Draft EIR (2002; 23);
- Replies on East Altamont Energy Center evidentiary hearing (2002; 9);
- Revised Draft Environmental Impact Report, The Promenade (2002; 7);
- Recirculated Initial Study for Calpine's proposed Pajaro Valley Energy Center (2002; 3);
- UC Merced -- Declaration (2002; 5);
- Replies on Atwood Ranch Unit III Subdivision FEIR (2003; 22);
- Atwood Ranch Unit III Subdivision EIR (2002; 19);
- California Energy Commission Staff Report on GWF Tracy Peaker Project (2002; 20);
- Silver Bend Apartments IS/MND, Placer County (2002; 13);
- UC Merced Long-range Development Plan DEIR and UC Merced Community Plan DEIR (2001; 26);
- Colusa County Power Plant IS, Maxwell (2001; 6);
- Dog Park at Catlin Park, Folsom, California (2001; 5);
- Calpine and Bechtel Corporations' Biological Resources Implementation and Monitoring Program (BRMIMP) for the Metcalf Energy Center (2000; 10);
- Metcalf Energy Center, California Energy Commission FSA (2000);
- US Fish and Wildlife Service Section 7 consultation with the California Energy Commission regarding Calpine and Bechtel Corporations' Metcalf Energy Center (2000; 4);
- California Energy Commission's Preliminary Staff Assessment of the proposed Metcalf Energy Center (2000: 11);
- Site-specific management plans for the Natomas Basin Conservancy's mitigation lands, prepared by Wildlands, Inc. (2000: 7);
- Affidavit of K. Shawn Smallwood in Spirit of the Sage Council, et al. (Plaintiffs) vs. Bruce Babbitt, Secretary, U.S. Department of the Interior, et al. (Defendants), Injuries caused by the No Surprises policy and final rule which codifies that policy (1999: 9).
- California Board of Forestry's proposed amended Forest Practices Rules (1999);
- Sunset Sky ranch Airport Use Permit IS/MND (1999);
- Ballona West Bluffs Project Environmental Impact Report (1999; oral presentation);
- Draft Recovery Plan for Giant Garter Snake (Fed. Reg. 64(176): 49497-49498) (1999; 8);
- Draft Recovery Plan for Arroyo Southwestern Toad (1998);
- Pacific Lumber Co. (Headwaters) HCP & EIR, Fortuna (1998; 28);
- Natomas Basin HCP Permit Amendment, Sacramento (1998);
- San Diego Multi-Species Conservation Program FEIS/FEIR (1997; 10);

Volunteer comments on other Environmental Review Documents:

- Proposed Regulation for California Fish and Game Code Section 3503.5 (2015: 12);
- Statement of Overriding Considerations related to extending Altamont Winds, Inc.'s Conditional Use Permit PLN2014-00028 (2015; 8);
- Covell Village PEIR, Davis (2005; 19);
- Bureau of Land Management Wind Energy Programmatic EIS Scoping (2003; 7.);
- NEPA Environmental Analysis for Biosafety Level 4 National Biocontainment Laboratory (NBL) at UC Davis (2003: 7);
- Notice of Preparation of UC Merced Community and Area Plan EIR, on behalf of The Wildlife Society—Western Section (2001: 8.);
- Preliminary Draft Yolo County Habitat Conservation Plan (2001; 2 letters totaling 35.);
- Merced County General Plan Revision, notice of Negative Declaration (2001: 2.);
- Notice of Preparation of Campus Parkway EIR/EIS (2001: 7.);
- Draft Recovery Plan for the bighorn sheep in the Peninsular Range (*Ovis candensis*) (2000);
- Draft Recovery Plan for the California Red-legged Frog (*Rana aurora draytonii*), on behalf of The Wildlife Society—Western Section (2000: 10.);
- Sierra Nevada Forest Plan Amendment Draft Environmental Impact Statement, on behalf of The Wildlife Society—Western Section (2000: 7.);
- State Water Project Supplemental Water Purchase Program, Draft Program EIR (1997);
- Davis General Plan Update EIR (2000);
- Turn of the Century EIR (1999: 10);
- Proposed termination of Critical Habitat Designation under the Endangered Species Act (Fed. Reg. 64(113): 31871-31874) (1999);
- NOA Draft Addendum to the Final Handbook for Habitat Conservation Planning and Incidental Take Permitting Process, termed the HCP 5-Point Policy Plan (Fed. Reg. 64(45): 11485 - 11490) (1999; 2 + attachments);
- Covell Center Project EIR and EIR Supplement (1997).

Position Statements I prepared the following position statements for the Western Section of The Wildlife Society, and one for nearly 200 scientists:

- Recommended that the California Department of Fish and Game prioritize the extermination of the introduced southern water snake in northern California. The Wildlife Society--Western Section (2001);
- Recommended that The Wildlife Society—Western Section appoint or recommend members of the independent scientific review panel for the UC Merced environmental review process (2001);
- Opposed the siting of the University of California's 10th campus on a sensitive vernal pool/grassland complex east of Merced. The Wildlife Society--Western Section (2000);
- Opposed the legalization of ferret ownership in California. The Wildlife Society--Western Section (2000);
- Opposed the Proposed “No Surprises,” “Safe Harbor,” and “Candidate Conservation Agreement” rules, including permit-shield protection provisions (Fed. Reg. Vol. 62, No. 103, pp. 29091-29098 and No. 113, pp. 32189-32194). This statement was signed by 188 scientists and went to the responsible federal agencies, as well as to the U.S. Senate and House of Representatives.

Posters at Professional Meetings

Leyvas, E. and K. S. Smallwood. 2015. Rehabilitating injured animals to offset and rectify wind project impacts. Conference on Wind Energy and Wildlife Impacts, Berlin, Germany, 9-12 March 2015.

Smallwood, K. S., J. Mount, S. Standish, E. Leyvas, D. Bell, E. Walther, B. Karas. 2015. Integrated detection trials to improve the accuracy of fatality rate estimates at wind projects. Conference on Wind Energy and Wildlife Impacts, Berlin, Germany, 9-12 March 2015.

Smallwood, K. S. and C. G. Thelander. 2005. Lessons learned from five years of avian mortality research in the Altamont Pass WRA. AWEA conference, Denver, May 2005.

Neher, L., L. Wilder, J. Woo, L. Spiegel, D. Yen-Nakafugi, and K.S. Smallwood. 2005. Bird's eye view on California wind. AWEA conference, Denver, May 2005.

Smallwood, K. S., C. G. Thelander and L. Spiegel. 2003. Toward a predictive model of avian fatalities in the Altamont Pass Wind Resource Area. Windpower 2003 Conference and Convention, Austin, Texas.

Smallwood, K.S. and Eva Butler. 2002. Pocket Gopher Response to Yellow Star-thistle Eradication as part of Grassland Restoration at Decommissioned Mather Air Force Base, Sacramento County, California. White Mountain Research Station Open House, Barcroft Station.

Smallwood, K.S. and Michael L. Morrison. 2002. Fresno kangaroo rat (*Dipodomys nitratoides*) Conservation Research at Resources Management Area 5, Lemoore Naval Air Station. White Mountain Research Station Open House, Barcroft Station.

Smallwood, K.S. and E.L. Fitzhugh. 1989. Differentiating mountain lion and dog tracks. Third Mountain Lion Workshop, Prescott, AZ.

Smith, T. R. and K. S. Smallwood. 2000. Effects of study area size, location, season, and allometry on reported *Sorex* shrew densities. Annual Meeting of the Western Section of The Wildlife Society.

Presentations at Professional Meetings and Seminars

Smallwood, K.S. Ecology and recent population trend of burrowing owls in the Altamont Pass Wind Resource Area. The Wildlife Society – Western Section Burrowing Owl Symposium, Riverside, California, 6 February 2023.

Smallwood, K.S. Renewable energy impacts to burrowing owls. The Wildlife Society – Western Section Burrowing Owl Symposium, Riverside, California, 7 February 2023.

Smallwood, K.S. and D.A. Bell. Long-Term Population Trend of Burrowing Owls in Vasco Caves. Via Zoom to Audubon Society, 21 October 2021.

Long-Term Population Trend of Burrowing Owls in the Altamont. Golden Gate Audubon, 21 October 2020.

Long-Term Population Trend of Burrowing Owls in the Altamont. East Bay Regional Park District 2020 Stewardship Seminar, Oakland, California, 18 November 2020.

Smallwood, K.S., D.A. Bell, and S. Standish. Dogs detect larger wind energy effects on bats and birds. The Wildlife Society, 28 September 2020.

Smallwood, K.S. and D.A. Bell. Effects of wind turbine curtailment on bird and bat fatalities in the Altamont Pass Wind Resource Area. The Wildlife Society, 28 September 2020.

Smallwood, K.S., D.A. Bell, and S. Standish. Dogs detect larger wind energy effects on bats and birds. The Wildlife Survey, 7 February 2020.

Smallwood, K.S. and D.A. Bell. Effects of wind turbine curtailment on bird and bat fatalities in the Altamont Pass Wind Resource Area. The Wildlife Survey, 7 February 2020.

Dog detections of bat and bird fatalities at wind farms in the Altamont Pass Wind Resource Area. East Bay Regional Park District 2019 Stewardship Seminar, Oakland, California, 13 November 2019.

Repowering the Altamont Pass. Altamont Symposium, The Wildlife Society – Western Section, 5 February 2017.

Developing methods to reduce bird mortality in the Altamont Pass Wind Resource Area, 1999-2007. Altamont Symposium, The Wildlife Society – Western Section, 5 February 2017.

Conservation and recovery of burrowing owls in Santa Clara Valley. Santa Clara Valley Habitat Agency, Newark, California, 3 February 2017.

Mitigation of Raptor Fatalities in the Altamont Pass Wind Resource Area. Raptor Research Foundation Meeting, Sacramento, California, 6 November 2015.

From burrows to behavior: Research and management for burrowing owls in a diverse landscape. California Burrowing Owl Consortium meeting, 24 October 2015, San Jose, California.

The Challenges of repowering. Keynote presentation at Conference on Wind Energy and Wildlife Impacts, Berlin, Germany, 10 March 2015.

Research Highlights Altamont Pass 2011-2015. Scientific Review Committee, Oakland, California, 8 July 2015.

Siting wind turbines to minimize raptor collisions: Altamont Pass Wind Resource Area. US Fish and Wildlife Service Golden Eagle Working Group, Sacramento, California, 8 January 2015.

Evaluation of nest boxes as a burrowing owl conservation strategy. Sacramento Chapter of the Western Section, The Wildlife Society. Sacramento, California, 26 August 2013.

Predicting collision hazard zones to guide repowering of the Altamont Pass. Conference on wind

power and environmental impacts. Stockholm, Sweden, 5-7 February 2013.

Impacts of Wind Turbines on Wildlife. California Council for Wildlife Rehabilitators, Yosemite, California, 12 November 2012.

Impacts of Wind Turbines on Birds and Bats. Madrone Audubon Society, Santa Rosa, California, 20 February 2012.

Comparing Wind Turbine Impacts across North America. California Energy Commission Staff Workshop: Reducing the Impacts of Energy Infrastructure on Wildlife, 20 July 2011.

Siting Repowered Wind Turbines to Minimize Raptor Collisions. California Energy Commission Staff Workshop: Reducing the Impacts of Energy Infrastructure on Wildlife, 20 July 2011.

Siting Repowered Wind Turbines to Minimize Raptor Collisions. Alameda County Scientific Review Committee meeting, 17 February 2011

Comparing Wind Turbine Impacts across North America. Conference on Wind energy and Wildlife impacts, Trondheim, Norway, 3 May 2011.

Update on Wildlife Impacts in the Altamont Pass Wind Resource Area. Raptor Symposium, The Wildlife Society—Western Section, Riverside, California, February 2011.

Siting Repowered Wind Turbines to Minimize Raptor Collisions. Raptor Symposium, The Wildlife Society - Western Section, Riverside, California, February 2011.

Wildlife mortality caused by wind turbine collisions. Ecological Society of America, Pittsburgh, Pennsylvania, 6 August 2010.

Map-based repowering and reorganization of a wind farm to minimize burrowing owl fatalities. California burrowing Owl Consortium Meeting, Livermore, California, 6 February 2010.

Environmental barriers to wind power. Getting Real About Renewables: Economic and Environmental Barriers to Biofuels and Wind Energy. A symposium sponsored by the Environmental & Energy Law & Policy Journal, University of Houston Law Center, Houston, 23 February 2007.

Lessons learned about bird collisions with wind turbines in the Altamont Pass and other US wind farms. Meeting with Japan Ministry of the Environment and Japan Ministry of the Economy, Wild Bird Society of Japan, and other NGOs Tokyo, Japan, 9 November 2006.

Lessons learned about bird collisions with wind turbines in the Altamont Pass and other US wind farms. Symposium on bird collisions with wind turbines. Wild Bird Society of Japan, Tokyo, Japan, 4 November 2006.

Responses of Fresno kangaroo rats to habitat improvements in an adaptive management framework. California Society for Ecological Restoration (SERCAL) 13th Annual Conference, UC Santa Barbara, 27 October 2006.

Fatality associations as the basis for predictive models of fatalities in the Altamont Pass Wind Resource Area. EEI/APLIC/PIER Workshop, 2006 Biologist Task Force and Avian Interaction with Electric Facilities Meeting, Pleasanton, California, 28 April 2006.

Burrowing owl burrows and wind turbine collisions in the Altamont Pass Wind Resource Area. The Wildlife Society - Western Section Annual Meeting, Sacramento, California, February 8, 2006.

Mitigation at wind farms. Workshop: Understanding and resolving bird and bat impacts. American Wind Energy Association and Audubon Society. Los Angeles, CA. January 10 and 11, 2006.

Incorporating data from the California Wildlife Habitat Relationships (CWHR) system into an impact assessment tool for birds near wind farms. Shawn Smallwood, Kevin Hunting, Marcus Yee, Linda Spiegel, Monica Parisi. Workshop: Understanding and resolving bird and bat impacts. American Wind Energy Association and Audubon Society. Los Angeles, CA. January 10 and 11, 2006.

Toward indicating threats to birds by California's new wind farms. California Energy Commission, Sacramento, May 26, 2005.

Avian collisions in the Altamont Pass. California Energy Commission, Sacramento, May 26, 2005.

Ecological solutions for avian collisions with wind turbines in the Altamont Pass Wind Resource Area. EPRI Environmental Sector Council, Monterey, California, February 17, 2005.

Ecological solutions for avian collisions with wind turbines in the Altamont Pass Wind Resource Area. The Wildlife Society—Western Section Annual Meeting, Sacramento, California, January 19, 2005.

Associations between avian fatalities and attributes of electric distribution poles in California. The Wildlife Society - Western Section Annual Meeting, Sacramento, California, January 19, 2005.

Minimizing avian mortality in the Altamont Pass Wind Resources Area. UC Davis Wind Energy Collaborative Forum, Palm Springs, California, December 14, 2004.

Selecting electric distribution poles for priority retrofitting to reduce raptor mortality. Raptor Research Foundation Meeting, Bakersfield, California, November 10, 2004.

Responses of Fresno kangaroo rats to habitat improvements in an adaptive management framework. Annual Meeting of the Society for Ecological Restoration, South Lake Tahoe, California, October 16, 2004.

Lessons learned from five years of avian mortality research at the Altamont Pass Wind Resources Area in California. The Wildlife Society Annual Meeting, Calgary, Canada, September 2004.

The ecology and impacts of power generation at Altamont Pass. Sacramento Petroleum Association, Sacramento, California, August 18, 2004.

Burrowing owl mortality in the Altamont Pass Wind Resource Area. California Burrowing Owl Consortium meeting, Hayward, California, February 7, 2004.

Burrowing owl mortality in the Altamont Pass Wind Resource Area. California Burrowing Owl Symposium, Sacramento, November 2, 2003.

Raptor Mortality at the Altamont Pass Wind Resource Area. National Wind Coordinating Committee, Washington, D.C., November 17, 2003.

Raptor Behavior at the Altamont Pass Wind Resource Area. Annual Meeting of the Raptor Research Foundation, Anchorage, Alaska, September, 2003.

Raptor Mortality at the Altamont Pass Wind Resource Area. Annual Meeting of the Raptor Research Foundation, Anchorage, Alaska, September, 2003.

California mountain lions. Ecological & Environmental Issues Seminar, Department of Biology, California State University, Sacramento, November, 2000.

Intra- and inter-turbine string comparison of fatalities to animal burrow densities at Altamont Pass. National Wind Coordinating Committee, Carmel, California, May, 2000.

Using a Geographic Positioning System (GPS) to map wildlife and habitat. Annual Meeting of the Western Section of The Wildlife Society, Riverside, CA, January, 2000.

Suggested standards for science applied to conservation issues. Annual Meeting of the Western Section of The Wildlife Society, Riverside, CA, January, 2000.

The indicators framework applied to ecological restoration in Yolo County, California. Society for Ecological Restoration, September 25, 1999.

Ecological restoration in the context of animal social units and their habitat areas. Society for Ecological Restoration, September 24, 1999.

Relating Indicators of Ecological Health and Integrity to Assess Risks to Sustainable Agriculture and Native Biota. International Conference on Ecosystem Health, August 16, 1999.

A crosswalk from the Endangered Species Act to the HCP Handbook and real HCPs. Southern California Edison, Co. and California Energy Commission, March 4-5, 1999.

Mountain lion track counts in California: Implications for Management. Ecological & Environmental Issues Seminar, Department of Biological Sciences, California State University, Sacramento, November 4, 1998.

“No Surprises” -- Lack of science in the HCP process. California Native Plant Society Annual Conservation Conference, The Presidio, San Francisco, September 7, 1997.

In Your Interest. A half hour weekly show aired on Channel 10 Television, Sacramento. In this episode, I served on a panel of experts discussing problems with the implementation of the

Endangered Species Act. Aired August 31, 1997.

Spatial scaling of pocket gopher (*Geomysidae*) density. Southwestern Association of Naturalists 44th Meeting, Fayetteville, Arkansas, April 10, 1997.

Estimating prairie dog and pocket gopher burrow volume. Southwestern Association of Naturalists 44th Meeting, Fayetteville, Arkansas, April 10, 1997.

Ten years of mountain lion track survey. Fifth Mountain Lion Workshop, San Diego, February 27, 1996.

Study and interpretive design effects on mountain lion density estimates. Fifth Mountain Lion Workshop, San Diego, February 27, 1996.

Small animal control. Session moderator and speaker at the California Farm Conference, Sacramento, California, Feb. 28, 1995.

Small animal control. Ecological Farming Conference, Asyloamar, California, Jan. 28, 1995.

Habitat associations of the Swainson's Hawk in the Sacramento Valley's agricultural landscape. 1994 Raptor Research Foundation Meeting, Flagstaff, Arizona.

Alfalfa as wildlife habitat. Seed Industry Conference, Woodland, California, May 4, 1994.

Habitats and vertebrate pests: impacts and management. Managing Farmland to Bring Back Game Birds and Wildlife to the Central Valley. Yolo County Resource Conservation District, U.C. Davis, February 19, 1994.

Management of gophers and alfalfa as wildlife habitat. Orland Alfalfa Production Meeting and Sacramento Valley Alfalfa Production Meeting, February 1 and 2, 1994.

Patterns of wildlife movement in a farming landscape. Wildlife and Fisheries Biology Seminar Series: Recent Advances in Wildlife, Fish, and Conservation Biology, U.C. Davis, Dec. 6, 1993.

Alfalfa as wildlife habitat. California Alfalfa Symposium, Fresno, California, Dec. 9, 1993.

Management of pocket gophers in Sacramento Valley alfalfa. California Alfalfa Symposium, Fresno, California, Dec. 8, 1993.

Association analysis of raptors in a farming landscape. Plenary speaker at Raptor Research Foundation Meeting, Charlotte, North Carolina, Nov. 6, 1993.

Landscape strategies for biological control and IPM. Plenary speaker, International Conference on Integrated Resource Management and Sustainable Agriculture, Beijing, China, Sept. 11, 1993.

Landscape Ecology Study of Pocket Gophers in Alfalfa. Alfalfa Field Day, U.C. Davis, July 1993.

Patterns of wildlife movement in a farming landscape. Spatial Data Analysis Colloquium, U.C.

Davis, August 6, 1993.

Sound stewardship of wildlife. Veterinary Medicine Seminar: Ethics of Animal Use, U.C. Davis. May 1993.

Landscape ecology study of pocket gophers in alfalfa. Five County Grower's Meeting, Tracy, California. February 1993.

Turbulence and the community organizers: The role of invading species in ordering a turbulent system, and the factors for invasion success. Ecology Graduate Student Association Colloquium, U.C. Davis. May 1990.

Evaluation of exotic vertebrate pests. Fourteenth Vertebrate Pest Conference, Sacramento, California. March 1990.

Analytical methods for predicting success of mammal introductions to North America. The Western Section of the Wildlife Society, Hilo, Hawaii. February 1988.

A state-wide mountain lion track survey. Sacramento County Dept Parks and Recreation. April 1986.

The mountain lion in California. Davis Chapter of the Audubon Society. October 1985.

Ecology Graduate Student Seminars, U.C. Davis, 1985-1990: Social behavior of the mountain lion; Mountain lion control; Political status of the mountain lion in California.

Other forms of Participation at Professional Meetings

- Scientific Committee, Conference on Wind energy and Wildlife impacts, Berlin, Germany, March 2015.
- Scientific Committee, Conference on Wind energy and Wildlife impacts, Stockholm, Sweden, February 2013.
- Workshop co-presenter at Birds & Wind Energy Specialist Group (BAWESG) Information sharing week, Bird specialist studies for proposed wind energy facilities in South Africa, Endangered Wildlife Trust, Darling, South Africa, 3-7 October 2011.
- Scientific Committee, Conference on Wind energy and Wildlife impacts, Trondheim, Norway, 2-5 May 2011.
- Chair of Animal Damage Management Session, The Wildlife Society, Annual Meeting, Reno, Nevada, September 26, 2001.
- Chair of Technical Session: Human communities and ecosystem health: Comparing perspectives and making connection. Managing for Ecosystem Health, International Congress on Ecosystem Health, Sacramento, CA August 15-20, 1999.

- Student Awards Committee, Annual Meeting of the Western Section of The Wildlife Society, Riverside, CA, January, 2000.
- Student Mentor, Annual Meeting of the Western Section of The Wildlife Society, Riverside, CA, January, 2000.

Printed Mass Media

Smallwood, K.S., D. Mooney, and M. McGuinness. 2003. We must stop the UCD biolab now. Op-Ed to the Davis Enterprise.

Smallwood, K.S. 2002. Spring Lake threatens Davis. Op-Ed to the Davis Enterprise.

Smallwood, K.S. Summer, 2001. Mitigation of habitation. The Flatlander, Davis, California.

Entrikan, R.K. and K.S. Smallwood. 2000. Measure O: Flawed law would lock in new taxes. Op-Ed to the Davis Enterprise.

Smallwood, K.S. 2000. Davis delegation lobbies Congress for Wildlife conservation. Op-Ed to the Davis Enterprise.

Smallwood, K.S. 1998. Davis Visions. The Flatlander, Davis, California.

Smallwood, K.S. 1997. Last grab for Yolo's land and water. The Flatlander, Davis, California.

Smallwood, K.S. 1997. The Yolo County HCP. Op-Ed to the Davis Enterprise.

Radio/Television

PBS News Hour,

FOX News, Energy in America: Dead Birds Unintended Consequence of Wind Power Development, August 2011.

KXJZ Capital Public Radio -- Insight (Host Jeffrey Callison). Mountain lion attacks (with guest Professor Richard Coss). 23 April 2009;

KXJZ Capital Public Radio -- Insight (Host Jeffrey Callison). Wind farm Rio Vista Renewable Power. 4 September 2008;

KQED QUEST Episode #111. Bird collisions with wind turbines. 2007;

KDVS Speaking in Tongues (host Ron Glick), Yolo County HCP: 1 hour. December 27, 2001;

KDVS Speaking in Tongues (host Ron Glick), Yolo County HCP: 1 hour. May 3, 2001;

KDVS Speaking in Tongues (host Ron Glick), Yolo County HCP: 1 hour. February 8, 2001;

KDVS Speaking in Tongues (host Ron Glick & Shawn Smallwood), California Energy Crisis: 1 hour. Jan. 25, 2001;

KDVS Speaking in Tongues (host Ron Glick), Headwaters Forest HCP: 1 hour. 1998;

Davis Cable Channel (host Gerald Heffernon), Burrowing owls in Davis: half hour. June, 2000;

Davis Cable Channel (hosted by Davis League of Women Voters), Measure O debate: 1 hour. October, 2000;

KXTV 10, In Your Interest, The Endangered Species Act: half hour. 1997.

Reviews of Journal Papers (Scientific journals for whom I've provided peer review)

Journal	Journal
American Naturalist	Journal of Animal Ecology
Journal of Wildlife Management	Western North American Naturalist
Auk	Journal of Raptor Research
Biological Conservation	National Renewable Energy Lab reports
Canadian Journal of Zoology	Oikos
Ecosystem Health	The Prairie Naturalist
Environmental Conservation	Restoration Ecology
Environmental Management	Southwestern Naturalist
Functional Ecology	The Wildlife Society--Western Section Trans.
Journal of Zoology (London)	Proc. Int. Congress on Managing for Ecosystem Health
Journal of Applied Ecology	Transactions in GIS
Ecology	Tropical Ecology
Wildlife Society Bulletin	Peer J
Conservation Biology	Biology Open
Western Wildlife	PLOS One
Heliyon	Global Ecology and Conservation
Wildlife Monographs	Renewable and Sustainable Energy Reviews
Biological Control	The Condor

Committees

- Scientific Review Committee, Alameda County, Altamont Pass Wind Resource Area
- Ph.D. Thesis Committee, Steve Anderson, University of California, Davis
- MS Thesis Committee, Marcus Yee, California State University, Sacramento

Other Professional Activities or Products

Testified in Federal Court in Denver during 2005 over the fate of radio-nuclides in the soil at Rocky Flats Plant after exposure to burrowing animals. My clients won a judgment of \$553,000,000. I have also testified in many other cases of litigation under CEQA, NEPA, the Warren-Alquist Act, and other environmental laws. My clients won most of the cases for which I testified.

Testified before Environmental Review Tribunals in Ontario, Canada regarding proposed White

Pines, Amherst Island, and Fairview Wind Energy projects.

Testified in Skamania County Hearing in 2009 on the potential impacts of zoning the County for development of wind farms and hazardous waste facilities.

Testified in deposition in 2007 in the case of O'Dell et al. vs. FPL Energy in Houston, Texas.

Testified in Klickitat County Hearing in 2006 on the potential impacts of the Windy Point Wind Farm.

Memberships in Professional Societies

The Wildlife Society
Raptor Research Foundation

Honors and Awards

Fulbright Research Fellowship to Indonesia, 1987
J.G. Boswell Full Academic Scholarship, 1981 college of choice
Certificate of Appreciation, The Wildlife Society—Western Section, 2000, 2001
Northern California Athletic Association Most Valuable Cross Country Runner, 1984
American Legion Award, Corcoran High School, 1981, and John Muir Junior High, 1977
CIF Section Champion, Cross Country in 1978
CIF Section Champion, Track & Field 2 mile run in 1981
National Junior Record, 20 kilometer run, 1982
National Age Group Record, 1500 meter run, 1978

Community Activities

District 64 Little League Umpire, 2003-2007
Dixon Little League Umpire, 2006-07
Davis Little League Chief Umpire and Board member, 2004-2005
Davis Little League Safety Officer, 2004-2005
Davis Little League Certified Umpire, 2002-2004
Davis Little League Scorekeeper, 2002
Davis Visioning Group member
Petitioner for Writ of Mandate under the California Environmental Quality Act against City of Woodland decision to approve the Spring Lake Specific Plan, 2002
Served on campaign committees for City Council candidates

EXHIBIT B



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510 8th Street · Sacramento, CA 95814

November 22, 2022

SENT VIA EMAIL (jwickham@cityofmillvalley.org)

Mayor Jim Wickham and Councilmembers
City of Mill Valley
1 Sansome Street, Suite 2850
San Francisco, California 94104

**RE: Agenda Items 1 and 2 of the November 30, 2022, Joint City Council
and Planning Commission Meeting**

Dear Mayor Wickham and Councilmembers:

This letter is submitted on behalf of Friends of Hauke Park regarding both Item 1 (Housing Element and Land Use Element Update) and Item 2 (1 Hamilton Drive).

We have previously asserted that the City's plan to engage in "programmatic" CEQA review for proposed affordable housing project at 1 Hamilton ("Hamilton Project") within the Housing Element Update EIR, to be followed by a project-level EIR specific to the Hamilton Project, is an abuse of the tiering process. The City Attorney has denied this in conclusory terms without meaningful analysis. The purpose of this letter is to explain why such denials are without merit, but also offer a path forward that would preserve the City's right to either approve or deny the Hamilton Project at the appropriate time in the future following the promised project-level EIR.

SUMMARY OF CONCLUSIONS AND PROPOSAL

The City's Housing Element Update includes specific actions that will commit the City as a practical matter to the Hamilton Project, which include: (i) revising the 1 Hamilton site's land use designation from one that prohibits all residential uses to one that allows residential uses; and (ii) listing 1 Hamilton as a "suitable" site for residential housing. Having recently acknowledged these proposed actions, the City amended its notice of preparation for the Housing and Land Use Update EIR ("Update EIR") to explain that these actions will be reviewed on a "programmatic" basis in the Update EIR. This violates CEQA because ample information about the proposed Hamilton Project is available to support a more detailed "project-level" review in the Update EIR.

In other words, the City's strategy is to commit to the Hamilton Development based on cursory "programmatic" CEQA review before it prepares a promised project-level EIR. This process violates CEQA where, as here, sufficient information is available about a project to enable project-level CEQA review. However, a correction to this flawed process is readily available.

Nothing requires the City to revise 1 Hamilton's land use designation as part of the Housing Element Update. The City can and should consider taking such action only after being informed by the promised project-level EIR. Thus, the solution is simply for the City to consider revising 1 Hamilton's land use designation after the promised project-level EIR. Since 1 Hamilton's existing land use designation prohibits all residential uses, the site is not presently "suitable" for residential uses and should be removed from the draft Housing Element. No prejudice would result from eliminating 1 Hamilton from the site inventory because the Hamilton Project is not necessary for the City to meet its RHNA obligations.

ANALYSIS

1. The City has reasonably definite plans for 1 Hamilton that trigger the need for project-level review.

The City repeatedly asserts, "The Housing Element EIR will not include a site-specific, project-level analysis of the proposed 1 Hamilton development or any other site described in the sites inventory, nor is it required to include such an analysis." (Letter to P. Soluri dated August 26, 2022; Staff report, p. 11.) The City tellingly provides no citation to authority, much less factual analysis, to support this simplistic assertion on a complex issue that has been the subject of numerous published appellate decisions.

We have repeatedly cited legal authority demonstrating that a local agency cannot rely on feigned ignorance about details of a proposed project, but must instead "use its best efforts to find out and disclose all that it reasonably can" about a project, its impacts and foreseeable future projects. (CEQA Guidelines, § 15144; *Environmental Protection Information Center v. California Dept. of Forestry & Fire Protection* (2008) 44 Cal.4th 459, 503 ["In the present case, there is no indication that analysis of planning watershed assessments was infeasible under the principles of tiering cited above, i.e., that the lack of specific details about Pacific Lumber's projected activities made it infeasible to do individual watershed planning analysis"]; *Laurel Heights Improvement Assn. v. Regents of the University of California* (1988) 47 Cal.3d 376 ("*Laurel Heights I*") [EIR must analyze "reasonably foreseeable consequence" of a project].)

Our Supreme Court’s decision in *Laurel Heights I* provides important guidance here. In *Laurel Heights I*, the University of California (“UC”) relied on feigned ignorance about its future plans to use a portion of a building in order to avoid adequate analysis of that future use in its EIR. The court saw through UC’s ruse, explaining:

The draft EIR acknowledged that UCSF will occupy the entire Laurel Heights facility when the remainder of the space becomes available. In response to public inquiry as to plans for the facility, UCSF explained that it intends to use the facility for the School of Pharmacy’s basic science group and UCSF’s Office of the Dean. The EIR even estimated the number of faculty, staff, and students that will occupy the facility until 1995 (a total of 460 persons) and then afterward when the entire facility becomes available (860 persons). Under the standard we have announced, it is therefore indisputable that the future expansion and general type of future use is reasonably foreseeable. . . .

The Regents’ contention is only that they have not formally decided precisely how they will use the remainder of the building. That argument is beside the point. They have admitted that they intend to use the entire facility, and, in light of the record before us, it is reasonably foreseeable that the facility will be used primarily for the School of Pharmacy, more specifically, as a biomedical research facility. . . .

In short, there is telling evidence that the University, by the time it prepared the EIR, had either made decisions or formulated reasonably definite proposals as to future uses of the building. At a minimum, it is clear that the future expansion and the general types of future activity at the facility are reasonably foreseeable.

(*Laurel Heights I*, *supra*, 47 Cal.3d at 396-397.)

As in *Laurel Heights I*, a reviewing court here would likely not be persuaded by manufactured uncertainty about the Hamilton Project as well as its excuse that the City had not “formally” adopted a project description when the Notice of Preparation (“NOP”) was released. Whether one uses the label “programmatic” or “project-level,” the EIR for the Housing and Land Use Element EIR will need to “find out and disclose all that it reasonably can” about the Hamilton Project and its environmental impacts.

2. As presently structured, the proposed project-level EIR represents a hollow promise.

We have previously explained that the City's promise to prepare project-level CEQA review in the future is meaningless if the City first changes 1 Hamilton's General Plan land use designation as part of the Housing Element Update. The City's responses ignore this critical point altogether, much less dispute it.

Del Cerro Mobile Estates v. City of Placentia (2011) 197 Cal.App.4th 173, 179 (“*Del Cerro*”), which we have repeatedly cited, provides guidance. *Del Cerro* involved a CEQA challenge to a city's EIR for a planned railroad grade separation project. Although the city had prepared an EIR for the project, the trial court and court of appeal accepted the city's later argument in litigation that a statutory exemption applied to the project and so no EIR was required in the first place. (*Id.* at 184 [“the trial court did not err in . . . concluding instead that the exemption foreclosed *Del Cerro*'s causes of action challenging the City's EIR for asserted noncompliance with CEQA”].)

Del Cerro applies here. The City's promise to prepare “project-level” review in the future is meaningless if it can argue that the later CEQA review is somehow unnecessary. If the City first revises 1 Hamilton's land use designation to allow residential uses, then it would likely argue that no later CEQA review is required. CEQA Guidelines section 15183, subdivision (a) plainly provides:

CEQA mandates that projects which are consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified ***shall not require additional environmental review***, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site.

(Emphasis added.)

Therefore, notwithstanding the City's promise to prepare “rigorous” project-level review, the City could later argue that no such review is required. And even if the City prepares the promised project-level EIR, the City could rely on *Del Cerro* to argue that any defects, even those identified by a reviewing court, do not require correction. The City's promise to prepare a project-level EIR is hollow if there is no remedy for a defective EIR.

Mayor Wickham and Councilmembers
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* * *

The City has repeatedly asserted that it will not commit to the Hamilton Development until it first considers a project-level EIR. This letter describes very modest revisions to the City's approval process going forward to ensure this is not a hollow promise.

Very truly yours,

SOLURI MESERVE
A Law Corporation

By:



Patrick M. Soluri

cc: Urban Carmel, Vice Mayor (ucarmel@cityofmillvalley.org)
Stephen Burke, Councilmember (sburke@cityofmillvalley.org)
Max Perrey, Councilmember (mperrey@cityofmillvalley.org)
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G. Inder Khalsa, City Attorney (gkhalsa@rwglaw.com)

EXHIBIT C



tel: 916.455.7300 • fax: 916.244.7300
510 8th Street • Sacramento, CA 95814

January 27, 2023

SENT VIA EMAIL
(pkelly@cityofmillvalley.org)

Patrick Kelly
Director of Building & Planning
City of Mill Valley
26 Corte Madera Avenue
Mill Valley, California 94941

**RE: Notice of Preparation of Draft Environmental Impact Report,
City of Mill Valley, 1 Hamilton Drive Affordable Housing Development**

Dear Mr. Kelly:

On behalf of Friends of Hauke Park (“FOHP”), this letter provides comments regarding the City of Mill Valley’s (“City”) Notice of Preparation (“NOP”) of an Environmental Impact Report (“EIR”) for the 1 Hamilton Drive Affordable Housing Development (“Project”).

An NOP must include a description of the underlying project. (CEQA Guidelines, § 15085, subd. (b)(2).) A project description includes “[a] list of permits and other approvals required to implement the project.” (CEQA Guidelines, § 15124, subd. (d)(1)(B).) The NOP here purports to provide this information (p. 6), but conspicuously omits the Project’s most significant entitlement — a General Plan amendment changing the site’s land use designation from its present designation of Community Facilities (CF). This entitlement is of critical importance because the present land use designation prohibits any and all residential uses. The City’s failure to disclose this significant entitlement is misleading because it suggests that residential uses are presently allowed on the site. They are not.

The City’s failure to disclose the Project’s most significant land use entitlement also suggests a deliberate effort by City officials to: (i) unlawfully piecemeal the Project (CEQA Guidelines, § 15378, subds. (c), (d)), and (ii) manufacture a false narrative that the City’s discretion to deny or reduce the Project’s density is constrained because it is “consistent” with the City’s General Plan (Gov. Code, § 65589.5).

Patrick Kelly
Director of Building & Planning
City of Mill Valley
January 27, 2023
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The NOP should be revised accordingly, and public notice of such revisions should be given. The City should also abandon its misguided effort to misuse CEQA and the Housing Accountability Act as described above.

Very truly yours,

SOLURI MESERVE
A Law Corporation

By: 
Patrick M. Soluri

PS/mre

EXHIBIT D



tel: 916.455.7300 · fax: 916.244.7300
510 8th Street · Sacramento, CA 95814

March 3, 2023

SENT VIA EMAIL
(dstaude@cityofmillvalley.org)

Danielle Staude, Senior Planner
City of Mill Valley
26 Corte Madera Avenue
Mill Valley, California 94941

**RE: Draft Subsequent Environmental Impact Report (SEIR) for the
City of Mill Valley's 2023-2031 Housing Element Update**

Dear Ms. Staude:

On behalf of Friends of Hauke Park ("FOHP"), this letter provides comments regarding the City of Mill Valley's ("City") Draft Subsequent Environmental Impact Report ("DEIR") for the City of Mill Valley's 2023-2031 Housing Element Update ("Project").

After reviewing the DEIR, we conclude that the EIR fails as an informational document. FOHP requests that the City address these shortcomings in a revised draft environmental impact report ("RDEIR") and recirculate the RDEIR prior to considering approvals for the Project. We reserve the right to supplement these comments during review of the Final EIR for the Project and at public hearings concerning the Project. (*Galante Vineyards v. Monterey Peninsula Water Management Dist.* (2007) 60 Cal.App.4th 1109, 1121.)

1. INADEQUATE PUBLIC REVIEW

The City has failed to comply with CEQA's public disclosure mandates. On November 16, 2022, the City Council approved staff's request to see a reduced 30-day public review period for the DEIR rather than the statutory-minimum 45-day public review period. (See **Exh. 1**, Soluri Meserve letter dated November 17, 2022.) This effort to thwart public review was apparently rejected by the Office of Planning and Research since the City later released the DEIR for the required 45-day public review period. Following that, the City failed to circulate the actual text of the revised Housing Element Update along with the DEIR on January 13, 2023. (See **Exh. 2**, email exchange dated

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January 17 and 19, 2023.) As we explained at that time, “The public cannot possibly review and comment on the adequacy of the DEIR’s analysis of the Housing Element Update without having access to the Housing Element Update.” Confirming that the prior draft of the Housing Element Update was inadequate when the DEIR was released on January 13, 2023, City staff stated, “As noted in the DSEIR a new program is recommended to mitigate potential significant impacts related to VMT. This program will be included in the revised HEU and further discussed in the FEIR.” (**Exh. 2.**)

The revised Housing Element Update purportedly analyzed in the DEIR was not made available until February 16, 2023, which is merely two weeks before the close of the DEIR’s public comment period. (**Exh. 2.**) This delayed release of the underlying project document violates CEQA as an “accurate and stable project description” is a bedrock requirement of CEQA—the *sine qua non* (that without which there is nothing) of an adequate CEQA document:

Only through an accurate view of the project may affected outsiders and public decision-makers balance the proposal’s benefit against its environmental cost, consider mitigation measures, assess the advantage of terminating the proposal (i.e., the “no project” alternative) and weigh other alternatives in the balance. An accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR.

(*Inyo v. Los Angeles* (1977) 71 Cal.App.3d 185, 192-93.) The public cannot determine whether the DEIR accurately describes an underlying planning document like the Housing Element Update unless the public has access to the text of that underlying planning document. The courts have consistently held that the ability of informed citizens to participate in environmental review is a key component of CEQA. (*Washoe Meadows v. Dept. of Parks and Rec.* (2017) 17 Cal.App.5th 277, 285 [“Informed public participation is essential to environmental review under CEQA.”]; *Inyo, supra*, 71 Cal.App.3d at 192 [“The EIR process facilitates CEQA’s policy of supplying citizen input.”].) Moreover, to the extent the standard of good faith disclosure applies, it is not satisfied here where the City has made at least two different attempts to thwart public review.

The City will need to recirculate the DEIR for another public comment period along with the revised HEU that the EIR purports to analyze.

2. THE DEIR FAILS TO ADEQUATELY ADDRESS THE 1 HAMILTON PROJECT

The DEIR fails to provide a lawful analysis of the City’s proposed affordable housing project at 1 Hamilton Drive (“1 Hamilton” project). The EIR’s failure results from the City’s attempt to bootstrap a revision to 1 Hamilton’s General Plan land use designation allowing residential uses for the first time based on “programmatic review,” while also claiming that that it will later prepare “project-level” in a separate EIR that the City has already been working on. (See **Exh. 3**, Notice of Preparation (“NOP”) for 1 Hamilton.)

A. The City violated its duty of good faith public disclosure because it attempted to conceal that it was modifying 1 Hamilton’s land use designation as part of the Housing Element Update.

As a threshold matter, the City attempted to conceal from the public that it was proposing to modify 1 Hamilton’s land use designation as part of the Housing Element Update. On July 20, 2022, the City issued its NOP for the Project. FOHP submitted comments in response to the NOP explaining, “[T]he NOP includes substantive inconsistencies and even factual misrepresentations regarding existing conditions as well as the scope of the Project and its relationship to the proposed residential development at 1 Hamilton.” (See **Exh. 4**, Soluri Meserve letter dated August 15, 2022.) More specifically:

Here, the City is off to a bad start as the NOP sets forth demonstrably false information regarding existing conditions. Specifically, the NOP asserts that 40 residential units are allowed at 1 Hamilton under existing conditions:

. . . .
[T]he NOP is internally inconsistent about whether the Project includes changing the General Plan land use designation and zoning designation for 1 Hamilton. On one hand, NOP page 6 states, “The proposed project includes amending the general plan land use designations and redesignating the zoning district for . . . the following locations as reflected in Figure 2,” which includes 1 Hamilton. (See NOP, Figure 2.) Further, Table 3 to the NOP 3 identifies 1 Hamilton as allowing up to 50 residential units “after rezoning.” This information strongly suggests the Project includes General Plan amendment and rezoning action in order to accommodate the Hamilton Project. On the other hand, Table 6, “Summary of Zoning Map

and Land Use Amendments,” appears to omit any reference to 1 Hamilton. (NOP, p. 9.)

This inconsistency leaves the public to speculate about the scope of the CEQA “project” to be analyzed in the EIR. To the extent the NOP’s mischaracterization of 1 Hamilton’s “current” zoning is premised on the City’s intention to revise 1 Hamilton’s General Plan land use designation and zoning designation as part of the Project, the EIR will need to include adequate analysis of the Hamilton Project.

(Exh. 4.) Our comment letter further documented City staff’s refusal to address these questions at the City’s public scoping meeting on August 4, 2022:

A member of FOHP attended the City’s public scoping meeting on August 4, 2022, in an attempt to obtain answers to these questions. Incredibly, City officials refused to answer and, in order to avoid any follow-up questions, ended the scheduled three-hour meeting after only thirty minutes. The City’s obfuscation thwarts the public’s efforts to understand the City’s environmental review strategy for both the Project and the Hamilton Project.

(Exh. 4.)

The City Attorney later purported to address our questions, but did not. (See **Exh. 5**, Soluri Meserve letter dated August 30, 2022.) Our letter dated August 30, 2022 provides:

This responds to your letter dated August 26, 2022, which purports to answer a question raised in our letter dated August 15, 2022. Unfortunately, your letter does not directly answer our question, and so we will restate it more concisely:

Does the project to be analyzed in the so-called “Housing Element EIR” include changes to 1 Hamilton’s General Plan land use and zoning designations to allow residential use for that site?

To clarify the matter for the public, a “yes” or “no” would be helpful and appropriate.

(Exh. 5)

Our insistence that the City publicly disclose its proposed actions concerning 1 Hamilton forced the City to prepare an “errata” correcting the false and misleading information in the NOP. This “errata” clarified for the first time what the City had hoped to obfuscate, namely that: (i) the City was indeed planning to change 1 Hamilton’s land use designation, (ii) the express purpose of that action was “[i]n order to build affordable housing on the site,” and (iii) 1 Hamilton’s existing land use designation currently prohibits any residential development on the site.

These disclosures are important because they have substantive consequences regarding both the “scope of the project” subject to CEQA review and the nature of the City’s CEQA review, as described more fully below.

B. The DEIR violates CEQA because the EIR does not “use its best efforts to find out and disclose all that it reasonably can” about the 1 Hamilton project.

As explained above, an “accurate and stable project description” is a bedrock requirement of CEQA. An interrelated bedrock CEQA principle of informed public participation is that all aspects of a proposed project, i.e., the “whole of the action,” must be analyzed in an EIR. (See CEQA Guidelines, § 15378, subd. (a) [a project is the “whole of an action” which may result in direct or indirect physical changes to the environment].) This means that an EIR must include analysis of “all phases of a project” and all “reasonably foreseeable consequences” of a project. (CEQA Guidelines, § 15126 [EIR’s impact analysis must consider all phases of a project]; *Laurel Height Improvement Assn. v. Regents of the Univ. of Cal.* (1988) 47 Cal.3d 376 (“*Laurel Heights I*”) [EIR must analyze “reasonably foreseeable consequence” of a project.]

Put simply, the City’s proposal to modify 1 Hamilton’s land use designation is one of the many actions that comprise the “whole of the action” for purposes of CEQA since the City has acknowledged the only reason for that action is “to build affordable housing on the site.” And since the City is preparing an EIR for that project, it must analyze all of these actions as a single CEQA “project.”

If, on the other hand, the City chooses to keep the General Plan land use designation change a part of the Housing Element Update project, then the Housing

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Element Update EIR must “use its best efforts to find out and disclose all that it reasonably can” about the 1 Hamilton project, its impacts and foreseeable future projects. (CEQA Guidelines, § 15144; *Environmental Protection Information Center v. California Dept. of Forestry & Fire Protection* (2008) 44 Cal.4th 459, 503 [“In the present case, there is no indication that analysis of planning watershed assessments was infeasible under the principles of tiering cited above, i.e., that the lack of specific details about Pacific Lumber’s projected activities made it infeasible to do individual watershed planning analysis”]; *Laurel Heights I, supra*, 47 Cal.3d 376 [EIR must analyze “reasonably foreseeable consequence” of a project].)

Our Supreme Court’s decision in *Laurel Heights I* provides important guidance here. In *Laurel Heights I*, the University of California (“UC”) relied on feigned ignorance about its future plans to use a portion of a building in order to avoid adequate analysis of that future use in its EIR. The court saw through UC’s ruse, explaining:

The draft EIR acknowledged that UCSF will occupy the entire Laurel Heights facility when the remainder of the space becomes available. In response to public inquiry as to plans for the facility, UCSF explained that it intends to use the facility for the School of Pharmacy’s basic science group and UCSF’s Office of the Dean. The EIR even estimated the number of faculty, staff, and students that will occupy the facility until 1995 (a total of 460 persons) and then afterward when the entire facility becomes available (860 persons). Under the standard we have announced, it is therefore indisputable that the future expansion and general type of future use is reasonably foreseeable

The Regents’ contention is only that they have not formally decided precisely how they will use the remainder of the building. That argument is beside the point. They have admitted that they intend to use the entire facility, and, in light of the record before us, it is reasonably foreseeable that the facility will be used primarily for the School of Pharmacy, more specifically, as a biomedical research facility

In short, there is telling evidence that the University, by the time it prepared the EIR, had either made decisions or formulated reasonably definite proposals as to future uses of the building. ***At a minimum, it is clear that the future expansion and the general types of future activity at the facility are reasonably foreseeable.***

(*Laurel Heights I, supra*, 47 Cal.3d at 396-397, emphasis added.)

Ignoring these authorities, the DEIR's cursory analysis provides:

The comments from members of the public are regarding the 1 Hamilton Drive project, which is a proposed 50-unit housing project currently under review by the City of Mill Valley. The 1 Hamilton Drive property is included in the Housing Element Update and therefore, the number of residential units assigned to the property by the Housing Element Update is included in the evaluation in this program EIR, *which evaluates build-out of the Housing Element Update with a degree of specificity required for evaluation of a housing element* (see Degree of Specificity discussion presented earlier).

The City anticipates that the project-level CEQA analysis for the 1 Hamilton Drive project will be an EIR or focused EIR with a degree of specificity required for a development project (see Degree of Specificity discussion presented earlier), and that it will be circulated for public review and comment after publication of this City of Mill Valley 6th Cycle (2023-2031) Housing Element and Land Use Element Amendment and Zoning Amendment Subsequent Draft EIR (and Council action to certify the EIR and approve the Housing Element), but (as required by law) before final approval of the rezoning, ground lease, and other approvals associated with the development of the 1 Hamilton Drive property.

(DEIR, p. 1-8, emphasis added.) The DEIR's "Degree of Specificity" section, in turn, provides:

In accordance with CEQA Guidelines Section 15146, the degree of specificity in this draft subsequent program EIR corresponds to the degree of specificity involved in the proposed project. An EIR on a project such as the adoption or amendment of a general plan or zoning ordinance (e.g., the proposed project) should focus on the secondary effects that can be expected to follow from the adoption or amendment, but the EIR need not be as detailed as an EIR on the specific construction projects that might follow.

(DEIR, p. 1-6.)

As in *Laurel Heights I*, a reviewing court here will likely not be persuaded by the City's manufactured uncertainty about the Hamilton Project as well as its excuse that the City had not "formally" adopted a project description when the NOP was released.

Whether one uses the label “programmatic” or “project-level,” the EIR for the Housing and Land Use Element EIR will need to “find out and disclose all that it reasonably can” about 1 Hamilton and its environmental impacts. Our prior letters dated August 22, 2022 and November 17, 2022 document extensive information about 1 Hamilton that was known by the City last year. (**Exh. 6**, Soluri Meserve letter dated August 22, 2022 and referenced exhibits; **Exh. 1**, Soluri Meserve letter dated November 17, 2022, pp. 3-4 and referenced exhibits].) These earlier letters and referenced materials describing the 1 Hamilton Project are incorporated into these comments by reference. Moreover, there is no doubt more specific information about 1 Hamilton that is known to the City presently. A few examples highlight the DEIR’s failure to adequately analyze impacts based on information that is presently available.

- **Aesthetic impacts**

The DEIR provides “visual setting photographs” for the 1 Hamilton site. (DEIR, figure 5-2.) Incredibly, however, the DEIR fails to include visual simulations based on project parameters that were included in the NOP and also previously released for public review:

The 1 Hamilton NOP itself provides ample information upon which to base visual simulations. The NOP explains:

At this time, preliminary building designs include a ground floor parking garage (up to 22,000 square feet), with a 3-story podium building (up to 29,000 square feet) that includes residential area (up to 40,000 square feet); common area (up to 2,500 square feet); office space (up to 1,300 square feet); and circulation area (up to 16,500 square feet). The total residential Floor Area anticipated as part of the project is .80 and the maximum height of the structure would be 58 feet at its highest peak, depending on final roof design and podium height. Private outdoor spaces for residents include a front courtyard area, approximately 6,000 square feet in size.

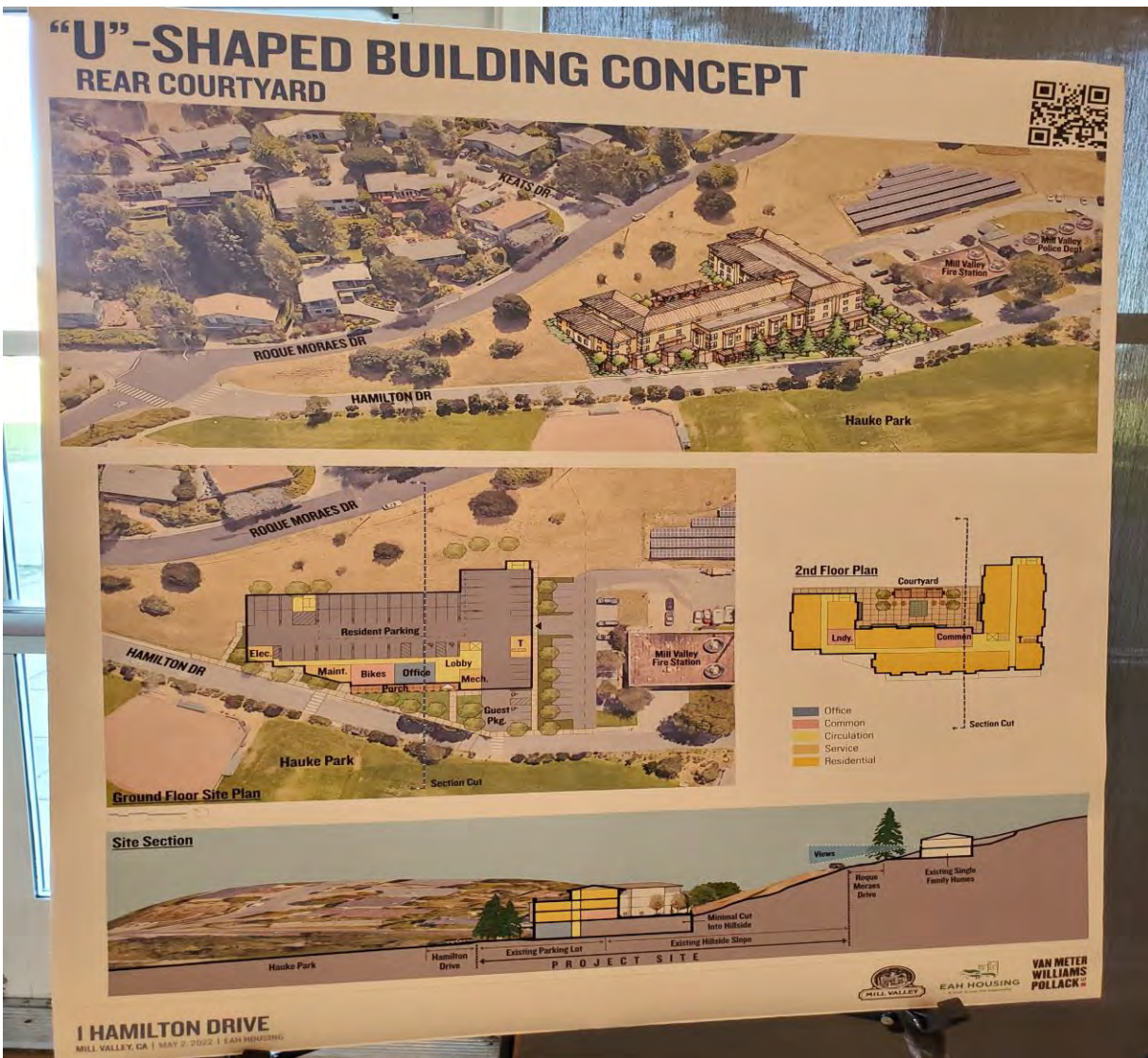
(**Exh. 3**, p. 6.)

The NOP also identifies the precise location for this structure:



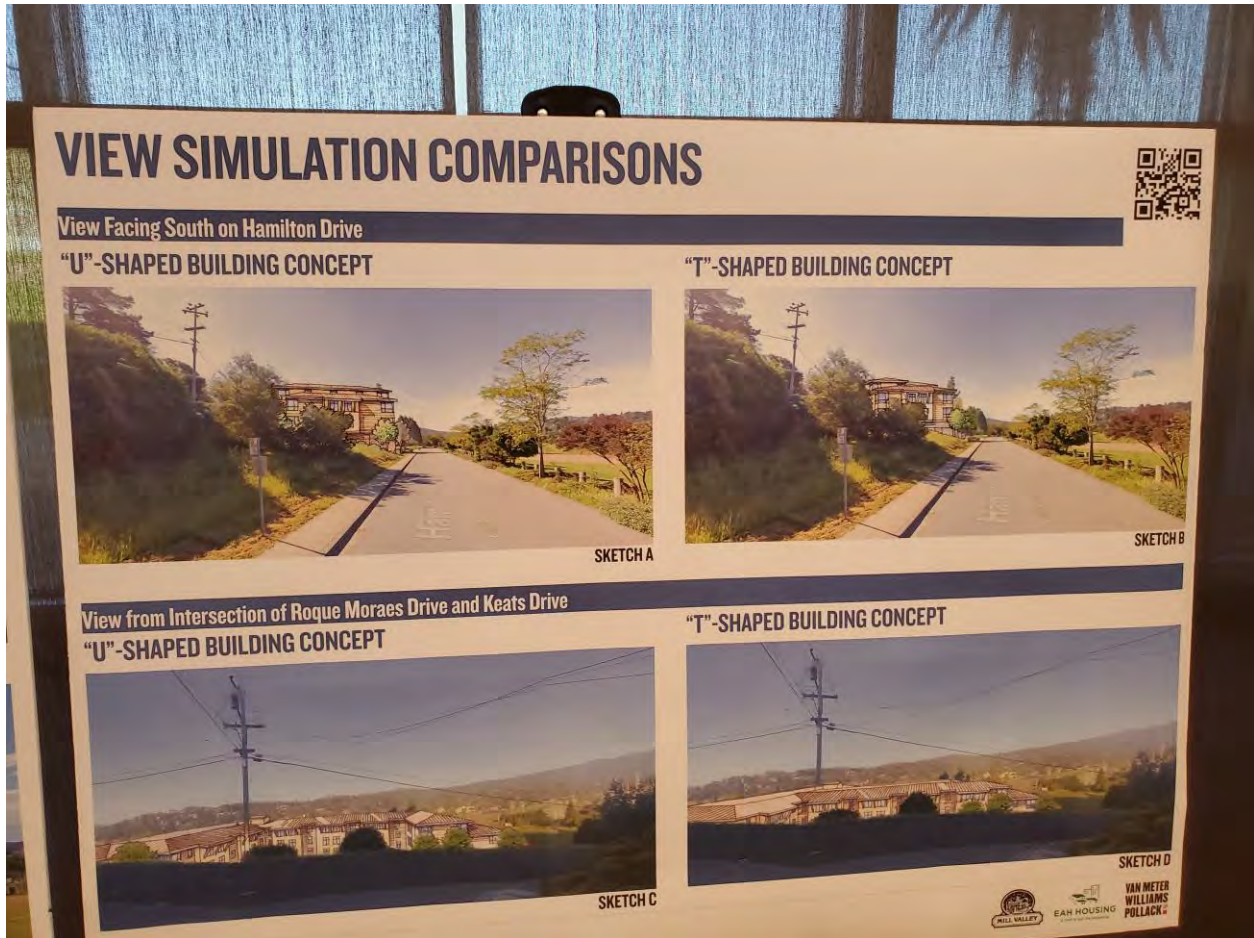
(Exh. 3, figure 2.)

In fact, the record demonstrates that the City is much further along in the process of designing 1 Hamilton than disclosed in the NOP. Our prior comment letter dated August 22, 2022, documents these more detailed plans for 1 Hamilton. (See **Exh. 6.**) These comments, and its exhibit 1, are incorporated into these comments. These comments demonstrate that as of May 2022 the City and developer had proposed detailed development plans for 1 Hamilton, including both the “U” concept and “T” concept:



(See **Exh. 6**, p. 2 and associated exhibit 1.)

What is more, and demonstrating the feasibility of including visual simulations for 1 Hamilton in the DEIR, such simulations were actually prepared in May 2022:



(See **Exh. 6**, p. 2 and associated exhibit 1.)

While it is conceivable that project designs have evolved since last May, this only reinforces that such designs exist and could feasibly be analyzed in the DEIR.

- **Biological impacts**

The DEIR’s analysis of biological resource is wholly inadequate. The DEIR correctly notes that the California Department of Fish and Wildlife (“CDFW”) comments that the DEIR should “provide baseline habitat assessments for special status plant, fish and wildlife species located and potentially located at the housing inventory sites and surrounding lands, including but not limited to all rare, threatened, or endangered species.” (DEIR, p. 7-1.) CDFW’s comment noted that the existing conditions

assessment requires the use of multiple sources that include “field reconnaissance.” Flouting this comment, the DEIR failed to rely on a single onsite field reconnaissance. (DEIR, pp. 7-1.) In fact, DEIR pages 7-5 and 7-6 indicate that the DEIR relied exclusively on the CDFW California Natural Diversity Database (“CNDDDB”) to identify sensitive-species wildlife species, and the California Native Plant Society (“CNPS”) Inventory of Rare and Endangered Plants for special-status plant species. This is improper since these databases are not intended to be used as substantial evidence that species are not present. In fact, the CNDDDB’s license agreement includes a specific admonition to this effect:

DFW does not portray its databases as an exhaustive or comprehensive inventory of all rare species and natural communities statewide. For any given location in California, a lack of species occurrences or records in no way indicates or implies that the species do not occur there. Field observations by qualified persons and using the proper protocols at appropriate times are necessary to support negative findings. Much of the state has never been surveyed for plant and animal species.

(Exh. 7, CNDDDB License Agreement, ¶ 6.)

Mere reliance on database searches is simply inadequate. As established above, the City has identified the location of 1 Hamilton. Nothing prevents the City from performing actual site surveys to identify the presence of special-status plant and wildlife species.

- **Recreation**

The DEIR purports to analyze impacts associated with recreation. (DEIR, p. 11-10.) However, the single-page analysis is wholly inadequate and makes no attempt to analyze 1 Hamilton’s impact on Hauke Park.

Once again, despite the City’s feigned ignorance about 1 Hamilton, the City is well aware that 1 Hamilton would require elimination, or at least relocation, of the parking lot used by Mill Valley citizens for Hauke Park. Many citizens have testified that elimination of this parking lot will reduce public access to Hauke Park, and also increase public hazards created by parents dropping their children off on Hamilton Drive (identified as a collector roadway) in order to make use of the popular ballfield at Hauke Park. This information is well known to the City and must be analyzed in the DEIR. The City cannot credibly claim that it is not presently aware of these issues.

Further, the City cannot evade analysis and disclosure of this important issue by claiming there is no existing CEQA threshold of significance for this impact. An EIR must analyze every issue for which the record contains substantial evidence supporting a “fair argument” of significant impact. (*Visalia Retail, LP v. City of Visalia* (2018) 20 Cal.App.5th 1, 13 (*Visalia Retail*); *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, 1109 (*Amador Waterways*). *Visalia Retail* and *Amador Waterways* clarify that an agency may not deploy thresholds of significance that artificially exclude analysis where, as here, the record supports a “fair argument” of significant impact.

The revised and recirculated DEIR must “use its best efforts to find out and disclose all that it reasonably can” about how 1 Hamilton project reduces access and otherwise impairs recreation provided by Hauke Park under existing conditions.

- **Transportation Impacts**

The DEIR fails to “use its best efforts to find out and disclose all that it reasonably can” about 1 Hamilton’s transportation-related impacts in at least two important ways.

First, CEQA requires consideration of whether a project will create transportation hazards. (CEQA Guidelines, Appendix G, §XVII (d). The DEIR devotes one paragraph to this issue. (DEIR, 12-15 – 16.) Despite being well aware of extensive public testimony about the roadway hazard at Hauke Park created by eliminating parking spaces for parents who bring their children to Hauke Park, the DEIR completely ignores this issue. This extensive firsthand lay testimony by citizens about transportation and transportation safety issue constitutes substantial evidence of a significant impact. (*Protect Niles v. City of Fremont* (2018) 25 Cal.App5th 1129; *Keep Our Mountains Quiet v. County of Santa Clara* (2015) 236 Cal.App.4th 714, 735.)

The DEIR also fails to analyze VMT impacts associated with 1 Hamilton. The DEIR states, “The transportation analysis recommends that the individual developments as part of the proposed project should evaluate their VMT impacts and incorporate VMT reduction measures that are feasible for the individual development’s circumstance.” (DEIR, p. 12-14.) We agree. Further, the City has most, if not all, necessary information about 1 Hamilton in order to make that assessment, including number of units and resulting population, project location, number of parking spaces, as well as information about the location, characteristics and accessibility to the nearest transit stop.

In short, adequate information about 1 Hamilton is presently available that would inform a much more meaningful public disclosure regarding transportation impacts. The

DEIR fails as an informational document by not using its best efforts to find out and disclose all that it reasonably can about 1 Hamilton project.

C. The City Violates CEQA by engaging in Piecemealed CEQA review for 1 Hamilton.

If the City is not inclined to “use its best efforts to find out and disclose all that it reasonably can” about the 1 Hamilton project, then an alternative strategy is readily available — simply remove the land use designation change from the actions that are taken pursuant to the Housing Element EIR. This would avoid the piecemealing problem.

CEQA’s conception of the term “project” is broad to maximize protection of the environment. (*Friends of the Sierra Railroad v. Tuolumne Park & Recreation Dist.* (2007) 147 Cal.App.4th 643, 653.) “This big picture approach to the definition of a project (i.e., “the whole of an action”) prevents a proponent or a public agency from avoiding CEQA requirements by dividing a project into smaller components which, when considered separately, may not have a significant environmental effect.” (*Nelson v. County of Kern* (2010) 190 Cal.App.4th 252, 270-271.) The test for whether improper piecemealing occurs is whether the actions have “substantial independent utility.” (*Del Mar Terrace Conservancy, Inc. v. City Council* (1992) 10 Cal.App.4th 712, 736.) Here, the City has repeatedly conceded that modifying 1 Hamilton’s land use designation has no independent utility from the other approvals required for the affordable housing project because it is “to build affordable housing on the site.”

While issues of piecemealing typically arise in the context of whether two different physical activities should be analyzed as a single project¹, improper piecemealing can also occur where, as here, approvals for a single project are separated. CEQA Guidelines section 15378, subdivision (a) clarifies, “‘Project’ means the whole of an action,” and subdivision (c) further clarifies, “The term ‘project’ refers to the activity which is being approved and which may be subject to several discretionary approvals by government agencies. The term ‘project’ does not mean each separate approval.”

Significant prejudice to environmental review may result from the City’s proposed piecemealing by entitlement. If the City first revises 1 Hamilton’s land use designation

¹ The City Attorney’s comments at the Planning Commission meeting on February 28, 2023 reflected a misunderstanding that piecemealing issues arise only in these instances.

to allow residential uses, then it would likely argue that either no or very limited CEQA review is later required. CEQA Guidelines section 15183, subdivision (a) provides:

CEQA mandates that projects which are consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site.

(Emphasis added.)

The City could later attempt to rely on this provision to argue that its cursory “programmatic review” of 1 Hamilton set forth in the DEIR is sufficient, and that any future “project-level” review in the future is very limited. While the City has repeatedly represented that it will perform “rigorous” project-level review in the future, such representations are not enforceable. Further, the DEIR makes no reference to CEQA Guidelines section 15183.

Del Cerro Mobile Estates v. City of Placentia (2011) 197 Cal.App.4th 173, 179 (“*Del Cerro*”) provides guidance regarding the City’s “promise” to perform project-level CEQA review in the future. *Del Cerro* involved a CEQA challenge to a city’s EIR for a planned railroad grade separation project. Although the city had prepared an EIR for the project, the trial court and court of appeal accepted the city’s later argument in litigation that a statutory exemption applied to the project and so no EIR was required in the first place. (*Id.* at 184 [“the trial court did not err in . . . concluding instead that the exemption foreclosed *Del Cerro*’s causes of action challenging the City’s EIR for asserted noncompliance with CEQA”].)

Therefore, notwithstanding the City’s promise to prepare “rigorous” project-level review, the City could later argue that no such review is required. And even if the City prepares the promised project-level EIR, the City could rely on *Del Cerro* to argue that any defects, even those identified by a reviewing court, do not require correction. The City’s promise to prepare a project-level EIR is hollow if there is no remedy for a defective EIR.

In short, the City’s strategy of piecemealing by entitlement could result in a cursory “programmatic” CEQA review for 1 Hamilton coupled with very limited, if any, later project-level review. This is unacceptable.

3. THE EIR FAILED TO ANALYZE A REASONABLE RANGE OF ALTERNATIVES

An EIR must provide “a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project.” (CEQA Guidelines, § 15126.6, subd. (a).) The DEIR fails to meet this basic requirement.

The DEIR eliminated without analysis a project alternative that it describes as “removal or modification of site locations.” (DEIR, p. 17-2.) The entirety of the DEIR’s analysis of this alternative provides:

Alternatives that considered removing and replacing privately owned parcels or “sites” was rejected from further consideration due to state law requirements and HCD site analysis guidelines that identify specific criteria required to allow sites to be listed in the Sites Inventory list. In addition, the City has evaluated the ability to construct low-income housing on City-owned sites and has deemed that there currently is not a suitable alternative location to the 1 Hamilton site based on analysis conducted to date, including a third-party analysis of sites indicating that a parcel at least 0.75 acres is required to finance the construction of a development that is fully affordable to lower income households; existing barriers to housing that exist on specific sites such as floodway designations, existing land lease agreements and easements; and Council direction in site evaluation, which include focusing on sites at least 0.75 acres in size that can accommodate at least 40 units on site that can replace existing facilities, if any, on site and do not include sites that displace active recreation.

(DEIR, p. 17-1-2.)

This analysis is unsupported by substantial evidence. Our prior letters commented extensively on the City’s arbitrary and capricious selection of “suitable” City-owned sites, which are incorporated by this reference. (See **Exh. 8**, Soluri Meserve letter dated July 29, 2022, pp. 3 – 9 and referenced exhibits; **Exh. 9**, Soluri Meserve letter dated October 31, 2022, pp. 1 – 18 and referenced exhibits; **Exh. 10**, Soluri Meserve letter dated November 18, 2022; **Exh. 11**, Soluri Meserve letter dated November 28, 2022.) These prior letters, which directly address the analysis used by the City to identify “suitable” city-owned sites and

Danielle Staude, Senior Planner
City of Mill Valley
March 3, 2023
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by, its decision to reject this alternative without analysis, demonstrate that the City's analysis is not supported by substantial evidence.

In addition to the above, the revised Housing Element Update reinforces our earlier comments and further demonstrates that the DEIR's analysis of this alternative is flawed. The revised Housing Element Update's Site Inventory excludes mixed use and multi-family homes that would be located within the Very High Fire Severity Zone ("VHFSZ"). (Revised Housing Element Update, p. C-1.) This exclusion, however, is arbitrary because the Draft Housing Element admits that the City allows multi-family homes in the VHFSZ, stating in relevant part:

Most residential permits in Mill Valley are for single-family homes, with building permit issuance generally taking approximately 4 months after Planning approvals. Among the City's recent multifamily developments, the time between approvals and permit issuance has averaged 8 to 12 months. ***Projects with topographic conditions, within the Very High Fire Severity Zone or Flood Zone may take longer than usual*** due to the need for technical and engineering studies. In Mill Valley, most approved projects are constructed in a reasonable time period.

(Draft Housing Element, p. F-24, emphasis added.)

Our prior letter dated November 18, 2022, explained that no City planning documents prevented constructing residential uses in the "very high fire severity zone," and thus such properties should not be excluded from the Sites Inventory on that basis. The above-quoted discussion from the Housing Element Update confirms that sites located within a "very high fire severity zone" are not "unsuitable" for residential development — the only difference is that permitting such development "may take longer than usual."

Based on the above, the EIR's rejection of the "removal or modification of site locations" is arbitrary and capricious and not supported by substantial evidence.

4. THE CITY ATTORNEY’S COMMENTS AT THE PLANNING COMMISSION MEETING CONFIRM THAT 1 HAMILTON SHOULD NEVER HAVE BEEN IDENTIFIED AS A “SUITABLE SITE” IN THE HOUSING ELEMENT

Our prior letter to the California Department of Housing and Community Development (“HCD”) dated October 31, 2022 explained that 1 Hamilton’s land use designation excluding any residential uses prohibited 1 Hamilton from being considered a “suitable” site for residential development. (See **Exh. 9**, p. 7 and referenced exhibits.) These comments are incorporated by reference.

To summarize, Government Code section 65583.2, subdivision (a)(4) includes as “suitable” those “[s]ites zoned for nonresidential use that can be redeveloped for residential use, and for which the housing element includes a program to rezone the site, as necessary, rezoned for, to permit residential use, including sites owned or leased by a city, county, or city and county.” The site’s land use designation prohibits residential uses altogether, and so no “program to rezone the site” is possible. We stated:

Any residential development at 1 Hamilton would require more than just rezoning. Residential development would also require a change to the General Plan land use designation, which is a different action and not mentioned in Government Code section 65583.2, subdivision (a). ***Our review did not identify any legal authority providing that a “rezone” pursuant to section 65583.2 included a change to a property’s General Plan land use designation.***

(**Exh. 9**, p. 8, emphasis added.)

On February 28, 2023, the City Attorney stated her agreement that the statute’s reference to “rezone” is not interchangeable with changing a site’s land use designation. As explained above, since “suitable” sites are limited to those that allow residential uses with a “rezone,” and a rezone alone is insufficient to allow residential uses at 1 Hamilton, this means that 1 Hamilton should never have been identified as a “suitable” site in the Housing Element Update. The City may change 1 Hamilton’s land use designation in the future, but such change to the land use designation would not be a “program to rezone the site” pursuant to Government Code section 65582.3.

* * *

The DEIR is fundamentally flawed as an informational document. The City needs to first correct the unlawful project description by either eliminating the 1 Hamilton as an element of the project or alternatively use its best efforts to find out and disclose all that it reasonably can about the proposed affordable housing project and its impacts. The Housing Element Update itself needs to be substantially revised in order to identify all “suitable” City-owned properties. The revised Housing Element Update, in turn, will require revision to the DEIR’s alternatives analysis. Finally, the revised DEIR will need to be recirculated for additional public comment along with the revised Housing Element Update.

Thank you for the opportunity to comment.

Very truly yours,

SOLURI MESERVE
A Law Corporation

By: 
Patrick M. Soluri

PS/mre

Attachments:

- Exhibit 1 Soluri Meserve letter dated November 17, 2022
- Exhibit 2 Email exchange dated January 17 and 19, 2032
- Exhibit 3 NOP for 1 Hamilton
- Exhibit 4 Soluri Meserve letter dated August 15, 2022
- Exhibit 5 Soluri Meserve letter dated August 30, 2022
- Exhibit 6 Soluri Meserve letter dated August 22, 2022
- Exhibit 7 CNDDDB License Agreement
- Exhibit 8 Soluri Meserve letter dated July 29, 2022
- Exhibit 9 Soluri Meserve letter dated October 31, 2022
- Exhibit 10 Soluri Meserve letter dated November 18, 2022
- Exhibit 11 Soluri Meserve letter dated November 28, 2022

EXHIBIT E



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510 8th Street · Sacramento, CA 95814

May 15, 2023

SENT VIA EMAIL

Mayor Wickham and City Council Members
City of Mill Valley
Council Chambers, City Hall
26 Corte Madera Avenue
Mill Valley, California 94941

**RE: May 15, 2023, City Council Meeting, Agenda Item 6,
2023-2031 Housing Element Update**

Dear Mayor Wickham and Members of the City Council:

This letter is submitted on behalf of Friends of Hauke Park (“FOHP”) regarding the Final Environmental Impact Report (“FEIR”) prepared for the City of Mill Valley 2023-2031 General Plan Housing and Land Use Element Update and Zoning Amendments (the “Project”). After reviewing the FEIR, we conclude that the FEIR fails as an informational document, fails to adequately respond to comments on the DEIR, and fails to impose all feasible mitigation measures and alternatives to reduce the Project’s impacts. FOHP requests that the City address these shortcomings in a revised draft environmental impact report (“RDEIR”) and recirculate the RDEIR prior to considering approval of the Project.

LEGAL BACKGROUND

The lead agency must evaluate comments on the draft environmental impact report (“EIR”) and prepare written responses in the FEIR. (Pub. Resources Code, §21091, subd. (d).) The FEIR must include a “detailed” written response to all “significant environmental issues” raised by commenters. As the court stated in *City of Long Beach v. Los Angeles Unified School District* (2009) 176 Cal.App.4th 889, 904:

The requirement of a detailed written response to comments helps to ensure that the lead agency will fully consider the environmental consequences of a decision before it is made, that the decision is well informed and open to public scrutiny, and that public participation in the environmental review process is meaningful.

The FEIR's responses to comments must be detailed and must provide a reasoned, good faith analysis. (Cal. Code Regs., tit. 14, § 15088, subd. (c).) Failure to provide a substantive response to comments render the EIR legally inadequate. (*Rural Land Owners Assoc. v. City Council* (1983) 143 Cal.App.3d 1013, 1020). If the public suggests a feasible mitigation measure or alternative, the agency may only decline to implement it if it provides substantial evidence that the mitigation measure or alternative is infeasible. (*Covington v. Great Basin Unified Air Pollution Control District*, 43 Cal. App. 5th 867, 256 Cal. Rptr. 3d 902 (2019).)

The responses to comments on a draft EIR must state reasons for rejecting suggested mitigation measures and comments on significant environmental issues. "Conclusory statements unsupported by factual information" are not adequate responses. (Cal. Code Regs., tit. 14, § 15088, subds. (b), (c); *Cleary v. County of Stanislaus* (1981) 118 Cal.App.3rd 348; *Environmental Protection Information Center v. Johnson* (1985) 170 Cal.App.3d 604, 628 ["Non-specific, general, or conclusory responses unsupported by empirical information, scientific authorities or explanatory information 'fail to crystallize issues'"]; *People v. County of Kern* (1974) 39 Cal.App.3d 830, 841 [Responses to comments must "set forth in detail the reasons why the particular comments and objections were rejected."].) The need for substantive, detailed response is particularly appropriate when comments have been raised by experts or other agencies. (*Berkeley Keep Jets v. Bd. of Port Comm'rs* (2001) 91 Cal.App.4th 1344, 1367; *People v. Kern* (1976) 72 Cal.App.3d 761.) A reasoned analysis of the issue and references to supporting evidence are required for substantive comments raised. (*Calif. Oak Found. v. Santa Clarita* (2005) 133 Cal.App.4th 1219.)

If significant new information is added to an EIR after notice of public review has occurred, but before final certification of the EIR, the lead agency must issue a new notice and recirculate the EIR for comments and consultation. (Pub. Resources Code § 21092.1; Cal. Code Regs., tit. 14, § 15088.5.) "Significant new information" triggering the need for EIR recirculation includes information showing that: (1) a new or more severe environmental impact would result from the project, (2) a feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the significant environmental impacts of a project but the project proponent declines to adopt it, or (3) the draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded. (Cal. Code Regs., tit. 14, § 15088.5, subd. (a)(1)-(4).) A decision not to recirculate an EIR must be supported by substantial evidence in the administrative record. (Cal. Code Regs., tit. 14, § 15088.5, subd. (e).)

The FEIR abjectly fails to meet these legal standards as it is riddled with conclusory statements lacking any factual support or analysis.

DISCUSSION

Response to Letter 1

Letter 1 asserts in relevant part, “[T]he City has consistently failed to be transparent about its plans for this project. The latest example is in Agenda Item #1 which seeks to change the land use designation for the site without a full project-level environmental review.” (FEIR, p. 2-5.)

The FEIR rejects the comment that the City is required to first prepare project-level CEQA review for the 1 Hamilton affordable housing project before changing the site’s land use designation for the property based on five arguments: (i) 1 Hamilton “was still in only a preliminary conceptual design phase” when the City issued the NOP “for this SEIR,” (ii) “City Council direction to assemble a development application” for the 1 Hamilton project occurred after release of the NOP, (iii) Public Resources Code section 21159.20 “states that a community-level EIR is appropriate “ under these circumstances, (iv) “the draft SEIR evaluates the reasonably foreseeable cumulative environmental effects of the cumulative density of the Housing Element Update” and so properly “evaluates the broader environmental concerns associated with the physical development of the housing sites identified in the draft Housing Element in accordance with CEQA Guidelines 15144,” and (v) “the City used its best efforts to evaluate and disclose parcels located within city limits that could reasonably be redeveloped based on the stringent requirements of state law and State Department of Housing and Community Development (HCD) Housing Element Site Inventory Guidebook [*sic*] Government (Code Section 65583.2).” (FEIR, p. 2-6.)

Each of these arguments is either directly refuted by facts or relevant law. Each argument will be addressed individually.

1. Development of 1 Hamilton is not “conceptual” at the relevant time period.

The FEIR is arguing that development of 1 Hamilton is not a “reasonably foreseeable future project” for purposes of piecemealing. The FEIR tellingly fails to cite any legal authority for this argument, which is false as a matter of both law and fact.

As to relevant law, the FEIR states the relevant time period is when the NOP is prepared. Our Supreme Court, however, sets the relevant time period to when the EIR is prepared. (*Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 397 [“there is telling evidence that the University, by the time it prepared the EIR, had either made decisions or formulated reasonably definite proposals as to future uses of the building. At a minimum, it is clear that the future expansion and the general types of future activity at the facility are reasonably foreseeable”].) Here, the Draft EIR was prepared on January 13, 2023, and the Final EIR was prepared on May 2, 2023. Extensive information about 1 Hamilton was known by the City since as early as August 2022, including without limitation where the project will be located, overall building height, size, orientation, design, and number and size of units. (Compare Exhibit 1 [1 Hamilton project application materials] and Exhibit 6 to our prior comment letter dated March 3, 2023.) The City’s attempt to manufacture uncertainty regarding the 1 Hamilton project is false and misleading.

2. 1 Hamilton’s “Development Application” is irrelevant.

The FEIR argues for the first time that the HEU EIR could not analyze 1 Hamilton because “City Council direction to assemble a development application” for 1 Hamilton occurred after the HEU’s NOP. Setting aside that the NOP date is irrelevant, this newly-minted argument is false and misleading because the City Attorney has previously explained that any “application” for 1 Hamilton has no legal significance whatsoever. The City Attorney explains:

Please note that since this is a City-initiated projects [*sic*] (directed by City Council), rather than a development proposal on privately owned property, the City is for all intents and purposes the “applicant.” Where a project is City-initiated, the requirements you cite do not apply. It would not make sense for the City to submit an application to itself, or to deem that application “complete.” While staff sometimes uses the term “application” in a general sense, to describe the materials that staff would present to Planning Commission and City Council with respect to the project, this is not to be confused with a formal application submitted to the City pursuant to the City’s municipal code and the Permit Streamlining Act.

(Email from City Attorney dated January 30, 2023.)

The FEIR’s new argument based on an “application” date is inconsistent with the City’s prior representations. Further, there is no authority supporting the FEIR’s

assertion that a public project is speculative until that agency submits an application to itself. The *Laurel Heights* decision stands for the opposite position.

3. Public Resources Code section 21159.20 does not justify the EIR’s failure to analyze reasonably foreseeable future projects.

The FEIR argues that its failure to analyze reasonably foreseeable impacts from development 1 Hamilton is justified by Public Resources Code section 21159.20. Not so. Section 21159.20 merely provides definitions to different terms. The FEIR tellingly fails to cite the specific subdivision that it is relying on. To the extent the FEIR is relying on subdivision (b), which provides the definition of “community-level environmental review,” that subdivision provides:

(b) “Community–level environmental review” means either of the following:

(1) An environmental impact report certified on any of the following:

(A) A general plan.

(B) A revision or update to the general plan that includes at least the land use and circulation elements.

(C) An applicable community plan.

(D) An applicable specific plan.

(E) A housing element of the general plan, if the environmental impact report analyzed the environmental effects of the density of the proposed project.

This subdivision in no way addresses the narrow issue presented here, namely the nature of the review required when the City is also taking action on a reasonably-foreseeable specific development project implementing the Housing Element. Further, no published decision interprets or applies Public Resources Code section 21159.20 in this scenario. The FEIR’s attempt to rely on Public Resources Code section 21159.20 for an exception to *Laurel Heights* is wholly without merit.

4. An analysis limited to “cumulative effects” of reasonably foreseeable future projects does not comply with CEQA.

The FEIR makes the confused argument that it “evaluates the reasonably foreseeable cumulative environmental effects of the cumulative density of the Housing Element Update.” The FEIR conspicuously cites no legal authority supporting this nonsensical argument. First, if a project is a reasonably-foreseeable future action, *Laurel Heights* and its progeny do not limit the scope of such future activities to cumulative

impacts. Similarly, that the EIR evaluates “broader environmental concerns associated with the physical development of the housing sites identified in the draft Housing Element Update” would be fine for projects that are truly separate from the HEU or not reasonably foreseeable. Here, however, both tests for piecemealed review are met. The Hamilton Project is both reasonably foreseeable and also lacks independent utility from the HEU. Finally, even if the FEIR’s formulation of this new rule made sense (it does not), the argument ignores that the scope of the project purportedly reviewed by the EIR is not just the HEU update, but rather revisions to the Land Use Element including changing the land use designation for 1 Hamilton.

In short, the FEIR unsubstantiated formulation of a new rule of CEQA review does not justify piecemealing here.

5. The EIR does not comply with CEQA Guidelines section 15144.

Finally, the FEIR attempts to justify its piecemealed approach by reference to CEQA Guidelines section 15144. This is misguided since the rule from *Laurel Heights* and other cases is based on CEQA Guidelines section 15144, which provides, “Drafting an EIR or preparing a negative declaration necessarily involves some degree of forecasting. While foreseeing the unforeseeable is not possible, ***an agency must use its best efforts to find out and disclose all that it reasonably can.***” Our California Supreme Court in *Laurel Heights* explains:

We do not require prophecy. The Regents are not required by our decision to commit themselves to a particular use or to predict precisely what the environmental effects, if any, of future activity will be. Nor do we require discussion in the EIR of specific future action that is merely contemplated or a gleam in a planner’s eye. To do so would be inconsistent with the rule that mere feasibility and planning studies do not require an EIR. (Guidelines, § 15262.) A detailed environmental analysis of every precise use that may conceivably occur is not necessary at this stage. [citation] The fact that precision may not be possible, however, does not mean that no analysis is required. “Drafting an EIR . . . involves some degree of forecasting. While foreseeing the unforeseeable is not possible, an agency must use its best efforts to find out and disclose all that it reasonably can.” (Guidelines, § 15144.) With the vast intellectual resources at its disposal, the University can surely make informed judgments as to probable future activities at the Laurel Heights facility.

An implicit premise of the Regents' position is that their task will be more difficult if they must consider the environmental effects of less-than-definite future plans. This premise is flawed. We find no authority that exempts an agency from complying with the law, environmental or otherwise, merely because the agency's task may be difficult. If CEQA is unduly burdensome, the solution lies with the Legislature, not with this court.

(*Laurel Heights, supra*, 47 Cal.3d at 398-399.) The same deficiency applies here. In fact, the situation is significantly worse since the City has long been aware of its own proposal to development of 1 Hamilton.

In conclusion, the FEIR's response to Comment 1 is contrary to law and fact and falls well below CEQA's requirement of good faith.

Response to Letter 5

Comment letter 5 asserts, "I am writing to urge you to vote "NO" on changing the land use designation at 1 Hamilton. No project for 1 Hamilton has been approved as of now and therefore it is not necessary to change the land use designation for this site from common facility to multi-residential until there is an approved project. Please pause on this process until a full project level EIR is done and balanced neighborhood input can be evaluated." In response to this comment asking that the City not commit itself to the 1 Hamilton project until after it completes the promised project-level EIR, the FEIR's response to comment 5 rejects that request by arguing that it must change 1 Hamilton's land use designation concurrently with the HEU in order to "maintain internal consistency within the General Plan" as required by Government Code sections 65302, subdivision (a) and 65583, subdivision (c)(7.)

The FEIR's conclusory analysis violates CEQA. First, the FEIR fails to explain why these cited statutory provisions require the City to piecemeal its CEQA review for 1 Hamilton by separating the City's action on the land use designation from other project entitlements. The City's refusal to provide this analysis is telling since neither statute mandates the City's procedure here. Government Code section 65302, subdivision (a) provides in relevant part:

(a) A land use element that designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, including agriculture, natural resources, recreation, and enjoyment of scenic beauty, education, public buildings and grounds,

solid and liquid waste disposal facilities, greenways, as defined in Section 816.52 of the Civil Code, and other categories of public and private uses of land. The location and designation of the extent of the uses of the land for public and private uses shall consider the identification of land and natural resources pursuant to paragraph (3) of subdivision (d). The land use element shall include a statement of the standards of population density and building intensity recommended for the various districts and other territory covered by the plan. The land use element shall identify and annually review those areas covered by the plan that are subject to flooding identified by flood plain mapping prepared by the Federal Emergency Management Agency (FEMA) or the Department of Water Resources.

This provision simply describes generally the function of a General Plan Land Use Element and does not address in any way whether a General Plan land use designation must be revised concurrently with a Housing Element Update.

The FEIR's second citation, Government Code section 65583, subdivision (c)(7) is similarly irrelevant. It requires a Housing Element to:

Develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent, as defined in Section 50053 of the Health and Safety Code, for very low, low-, or moderate-income households. For purposes of this paragraph, "accessory dwelling units" has the same meaning as "accessory dwelling unit" as defined in paragraph (4) of subdivision (i) of Section 65852.2.

The FEIR's conclusory analysis fails to explain what relevance a statutory provision pertaining to accessory dwelling units has to the 1 Hamilton project.

While the FEIR's cursory response prevents the public from knowing with any certainty, it appears that the FEIR intended to cite to Government Code section 65583, subdivision (c)(8), which provides, "Include an identification of the agencies and officials responsible for the implementation of the various actions and the means by which consistency *will be achieved* with other general plan elements and community goals." (Emphasis added.) This provision also does not support the FEIR's response. Case law interpreting this language explains that temporary inconsistencies between a General Plan's Housing Element and Land Use Element are allowable so long as the city establishes a program, including a timeline, for resolving such inconsistencies. (*Friends of Avaira v. City of Carlsbad* (2012) 210 Cal.App.4th 1103, 1111 ["that inconsistencies will arise comes within the context of a specific provision that requires the municipality

set forth a program, including a timeline, for resolving such inconsistencies.”].) Here, the City is moving forward on an expedited basis to consider the 1 Hamilton project, and is already working on an EIR for the project. Deferring action on 1 Hamilton’s land use designation is an entirely reasonable “timeline . . . for resolving such inconsistencies.”

Therefore, the FEIR’s cursory response to comment 5 fails to establish that it is necessary for the City to change 1 Hamilton’s land use designation concurrently with the HEU in order to “to maintain internal consistency with the General Plan” — particularly when doing so violates CEQA’s prohibition on piecemealed environmental review. Further, and importantly, “maintain[ing] internal consistency with the General Plan” does not justify piecemealing CEQA review. The FEIR’s cursory analysis, unsupported by facts or applicable law, does not provide a good faith response to Letter 5.

Letter 18, Comment 2

The FEIR provides an inadequate response to comment 2. The FEIR again relies on its legally false premise that concurrent action on 1 Hamilton’s land use designation is necessary to be “internally inconsistent.” As explained above, both the plain language of Government Code section 65583, subdivision (c)(8) and *Friends of Avaira, supra*, 210 Cal.App.4th at 1111 establish that temporary inconsistencies are permissible and even expressly contemplated by the California legislature.

Ignoring these authorities, the FEIR’s response to comment 2 attempts to rely on Government Code section 65300.5 to support its claim that concurrent action is required. This effort fails. Section 65300.5, subdivision (a) provides, “In construing the provisions of this article, the Legislature intends that the general plan and elements and parts thereof comprise an integrated, internally consistent and compatible statement of policies for the adopting agency.” This general statement of Legislative intent does not directly address the issue of temporary inconsistencies between a Housing Element and a Land Use Element, which is directly addressed by section 65583, subdivision (c)(8) and interpreted in the *Friends of Avaira* decision. It is a well-established rule of statutory construction that the more specific statutory provision controls over the more general one. (Code Civ. Proc., § 1859 [“In the construction of a statute the intention of the Legislature, and in the construction of the instrument the intention of the parties, is to be pursued, if possible; and when a general and [a] particular provision are inconsistent, the latter is paramount to the former. So a particular intent will control a general one that is inconsistent with it”].) The FEIR’s conclusory reliance on a general expression of legislative intent does not support its false claim that concurrent action on 1 Hamilton’s land use designation is required. Further, the FEIR fails to provide a good faith response by not even addressing the comment’s concerns about piecemealing.

Letter 18, Comment 3

Comment 3 provides a detailed argument for why the City is engaging in unlawful piecemealing CEQA review. The FEIR's cursory response merely refers to the FEIR's response to Letter 1. This is inadequate because Letter 18, Comment 3 provides different and more extensive comments than Letter 1.

For example, Letter 18, Comment 3 explains, "Whether one uses the label 'programmatic' or 'project-level,' the EIR for the Housing and Land Use Element EIR will need to 'find out and disclose all that it reasonably can' about the Hamilton Project and its environmental impacts." The FEIR provides no response to this comment.

Letter 18, Comment 4

The FEIR fails to provide a good faith response to Letter 18, Comment 4, which is dismissed as "relat[ing] to the future environmental analysis of the proposed 1 Hamilton residential development." This misleading characterization certainly falls well below CEQA's standard of good faith.

Contrary to the City's false characterization, the comment provides a detailed explanation for why the City's strategy for piecemealed review is prejudicial. The comment explains that first taking action on 1 Hamilton's land use designation opens up an argument that it is not required to prepare CEQA review in the future, or that any such future review could flagrantly violate CEQA but nevertheless evade correction. The FEIR repeats its mantra that "the City has already publicly committed to conducting a full project-level EIR for the proposed housing on the 1 Hamilton Drive site," but fails to address the comment's analysis explaining how that "promise" is a hollow one in light of the City's piecemealing.

Letter 21, Comment 2

This comment explains that the EIR is impermissibly piecemealing its CEQA review for 1 Hamilton by separating one land use entitlement (i.e., the change in 1 Hamilton's land use designation specifically "[i]n order to build affordable housing on the site") from all other actions and entitlements for the project. The comment provided extensive legal and factual analysis explaining why this violated CEQA.

In response, the FEIR asserts, "The City is not piecemealing its CEQA review for the 1 Hamilton Drive project by 1) including the site in the Housing Element Update and

2) evaluating the feasibility of building affordable housing on the 1 Hamilton Drive site in order to consider processing a development application.” (FEIR, p. 2-88.)

This conclusory response is woefully deficient. First, it fails to even respond to comment’s primary point that the City is piecemealing its review by separating the project’s entitlements and reviewing the change in land use designation in one CEQA document and all other actions/land use entitlements in another. Second, the FEIR fails to address several tests that have been developed for whether improper piecemealing has occurred.

The FEIR makes no attempt to explain how splitting apart 1 Hamilton’s entitlements is consistent with CEQA Guidelines section 15378, which FOHP and other commenters repeatedly cite. Rather than address specific legal authority, the FEIR broadly asserts, with no citation to authority, “California law and CEQA allows cities and counties to change land use designation without evaluating and considering specific development projects.” In fact, this statement is false where, as here, the “change [in] land use designation” is being taken expressly to advance a specific development project that has already been proposed. Indeed, several relevant tests have been developed for this purpose, all of which the FEIR conspicuously fails to address. (*Aptos Council v. County of Santa Cruz* (2017) 10 Cal.App.5th 266, 279 [“Courts have found that agencies improperly piecemealed environmental review of projects in various situations.”].)

The “first” test, as well as analogous application here, is described in *Banning Ranch*:

This case meets part of the *Laurel Heights* test—the NBR project is reasonably foreseeable. (*Laurel Heights, supra*, 47 Cal.3d at p. 396.) It is imminent, in fact. NBR LLC has already proposed developing Banning Ranch, and the City is already preparing an EIR for the NBR project. These specific, pending plans distinguish cases rejecting piecemealing claims on the ground the future actions were too speculative.

(*Banning Ranch Conservancy v. City of Newport Beach* (2012) 211 Cal.App.4th 1209, 1224.)

Although FOHP and others have repeatedly explained how *Laurel Heights* applies here, the FEIR doggedly avoids addressing it. As in *Laurel Heights*, the City has long possessed adequate information about 1 Hamilton that would afford meaningful CEQA review. Rather than address in good faith the level of detail about 1 Hamilton, the FEIR

attempts to manufacture a distinction based on the absence of a project application when the NOP was released. As explained above, this is not the relevant time period.

Another recognized test is whether the two projects have independent utility originally announced in *Del Mar Terrace Conservancy, Inc. v. City Council* (1992) 10 Cal.App.4th 712, 733. The current formulation of this test is explained in *Aptos Council*:

Additionally, “there may be improper piecemealing when the reviewed project legally compels or practically presumes completion of another action.” (*Banning Ranch, supra*, 211 Cal.App.4th at p. 1223.) For example, in Tuolumne County, the appellate court determined the City of Sonora improperly piecemealed review of the building of a shopping center and the widening of a street, because the widening of the street was a condition precedent to the development. (*Tuolumne County, supra*, 155 Cal.App.4th at p. 1226.)

(*Aptos Council v. County of Santa Cruz* (2017) 10 Cal.App.5th 266, 280.)

The FEIR refuses to address this test as well. In fact, the EIR’s analysis confirms that this test is met here. First, the DEIR acknowledges that the proposed change to 1 Hamilton’s land use designation is solely to facilitate the proposed affordable housing project at that site. Further the FEIR asserts that completing the 1 Hamilton project is necessary for the City’s HEU to comply with state law. In fact, completing the 1 Hamilton project is so critical to the City’s HEU that any project alternative that does not include the 1 Hamilton affordable housing project is infeasible. (FEIR, 2-993 [“Completely removing the 1 Hamilton Drive site would eliminate the City’s ability to satisfy its lower income RHNA allocation and the recommended buffer of additional units for low income; therefore, an alternative that removes 1 Hamilton Drive from the sites inventory is legally infeasible”].) There is no question that the change in 1 Hamilton’s land use designation and including 1 Hamilton in the RHNA site inventory are inextricably intertwined with the specific affordable housing project at 1 Hamilton that is pending. The City’s preparation of two different CEQA documents for these actions constitutes impermissible piecemealing under this second test. The FEIR’s failure to address this “independent utility” test in response to comments violates CEQA.

Letter 34, Comment 3

The FEIR’s response to this comment provides no specific response, and instead merely refers the reader to the FEIR’s response to Letter 21, Comment 2. This is non-responsive. This comment explains with specificity how the DEIR’s “Degree of

Specificity” section is misleading and therefore thwarts public review. The FEIR fails to acknowledge, much less address, this comment.

Further, this comment cites specific evidence documenting the level of detail known about the 1 Hamilton project that was ignored in the DEIR. It states, “[T]here is no doubt more specific information about 1 Hamilton that is known to the City presently.” The FEIR’s response ignores this comment and thereby fails to disclose the level of detail about 1 Hamilton that the City possessed when preparing the EIR. The *Laurel Heights* case explains this information is critical to whether impermissible piecemealing occurred, and the City’s refusal to address the comment in the FEIR violates CEQA.

Letter 34, Comment 4

This comment asserts that the EIR fails to adequately evaluate aesthetic impacts associated with development of 1 Hamilton. The FEIR claims that no additional analysis is required because it “broadly evaluated” the issue. The FEIR is non-responsive because it does not even address the feasibility of performing either visual simulations or rely on story poles based on project designs that have been available since 2022. “The degree of specificity required in an EIR will correspond to the degree of specificity involved in the underlying activity which is described in the EIR.” (CEQA Guidelines, § 15146.) The FEIR’s inadequate response is based on its legally incorrect premise that the City is not required to analyze impacts based on the level of specificity that is available at the present, and may instead defer to a future “project-level EIR.” As explained above, this legal position is contrary to law.

Letter 34, Comment 5

This comment asserts that the EIR fails to adequately evaluate biological resource impacts associated with development of 1 Hamilton including, for example, onsite-surveys to assess baseline conditions based on the site location that has been known for years. The FEIR claims that no additional analysis is required because it “broadly evaluated” the issue. However, “[t]he degree of specificity required in an EIR will correspond to the degree of specificity involved in the underlying activity which is described in the EIR.” (CEQA Guidelines, § 15146.) The FEIR’s inadequate response is based on its legally incorrect premise that the City is not required to analyze impacts based on the level of specificity that is available at the present, and may instead defer to a future “project-level EIR.” As explained above, this legal position is contrary to law. Further, the survey report prepared by Shawn Smallwood, PhD and submitted to the City confirms the feasibility of performing onsite surveys as well as the potentially significant

biological impacts associated with developing at 1 Hamilton that have not been addressed in the EIR.

The comment also explains that it is improper to rely solely on the California Natural Diversity Database (“CNDDDB”) to identify special-status wildlife species that may occur on a project site. The FEIR ignored this comment.

Letter 34, Comment 6

This comment asserts that the EIR fails to adequately analyze impacts to recreation resulting from development of 1 Hamilton. The FEIR is non-responsive because it does not even address the impact of eliminating, or at least relocating, the parking lot used for Hauke Park. The FEIR claims that no additional analysis is required because it “broadly evaluated” the issue. However, “[t]he degree of specificity required in an EIR will correspond to the degree of specificity involved in the underlying activity which is described in the EIR.” (CEQA Guidelines, § 15146.) The FEIR’s inadequate response is based on its legally incorrect premise that the City is not required to analyze impacts based on the level of specificity that is available at the present, and may instead defer to a future “project-level EIR.”

Letter 34, Comment 7

This comment asserts that the EIR fails to adequately analyze transportation-related impacts resulting from development of 1 Hamilton. Specifically, the comment notes, “[T]he City has most, if not all, necessary information about 1 Hamilton in order to make that assessment, including number of units and resulting population, project location, number of parking spaces, as well as information about the location, characteristics and accessibility to the nearest transit stop.” The FEIR is non-responsive because it simply ignores this comment. Tellingly, the FEIR does not dispute that the City already possesses this information, or that this information would be adequate to analyze impacts such as traffic hazards. Further, the City never explains what additional information is presently lacking. Rather, the FEIR defers this analysis to the future “1 Hamilton Drive project-level EIR.” However, “[t]he degree of specificity required in an EIR will correspond to the degree of specificity involved in the underlying activity which is described in the EIR.” (CEQA Guidelines, § 15146.) The FEIR’s inadequate response is based on its legally incorrect premise that the City is not required to analyze impacts based on the level of specificity that is available at the present, and may instead defer to a future “project-level EIR.”

Letter 34, Comment 8

This comment explains that the City is piecemealing the 1 Hamilton project. The FEIR does not respond to this comment but instead refers to its responses to other comments. This is inadequate because this comment raises the “independent utility” test for piecemealing. The FEIR provides no factual analysis demonstrating independent utility.

Letter 34, Comment 9

The FEIR argues that any project alternative eliminating 1 Hamilton as a site for affordable housing is legally infeasible because 1 Hamilton is necessary for the City’s HEU to comply with state law. This argument supports FOHP’s arguments challenging the City’s Revised HEU and its CEQA review.

First, the FEIR’s position confirms that the CEQA is engaging in impermissible piecemealing based on the second “independent utility” test. The City cannot now argue that the HEU Update has independent utility, or can be implemented independently, from 1 Hamilton if the HEU now relies on development of 1 Hamilton.

Second, the FEIR’s response highlights the prejudice resulting from the City’s arbitrary and capricious failure to identify all City-owned sites based on its manipulated site criteria and the resulting failure to affirmatively further fair housing throughout the City. Specifically, the FEIR states:

An alternative that eliminates the 1 Hamilton Drive site from the sites inventory was not considered, as such an alternative would result in the reduction of 40-50 deed restricted very low- and low-income units and eliminate the recommended “buffer” (discussed below). The removal of 1 Hamilton ***would also solely rely on private development to satisfy all of the City’s very low and low income RHNA housing units***; whereas the development of privately owned parcels is more likely to include a variety of housing types and affordability levels yet to be determined (based on future private development applications and proposals).

(FEIR, 2-993, emphasis added.)

FOHP generally agrees with the above-quoted language. Indeed, it squarely refutes the City’s attempt in the Revised HEU to dismiss public concern about locating

all public affordable housing to Census Tract 1262 by pointing to privately-owned RNHA sites throughout the City.¹ As FOHP explains:

Since the City has now resolved to change course and instead partner with developers to affirmatively “build new units” on City-owned properties, the City’s actions in selecting suitable sites must be consistent with its duty to affirmatively further fair housing throughout the City. The City’s statutory duty is not satisfied by pointing to mirages in the form of private development and ADUs that are merely a “gleam in a planner’s eye.” (*Laurel Heights Improvement Assn. v. Regents of the University of Cal.* (1988) 47 Cal.3d 388, 398). To summarize: the City acknowledges that it cannot control private development, but it can control development on City-owned properties, which appears to be precisely why it has identified 1 Hamilton as the only “suitable” city-owned site for affordable housing. This is inexcusable, and the City’s attempted misdirection fails.

(FOHP letter dated May 15, 2023.)

In contrast to the Revised HEU, the FEIR now candidly recognizes that public sites are the only ones that may reasonably be relied upon to provide affordable housing. In light of this important concession, the City must ensure that it affirmatively furthers this public affordable housing “throughout the community” and not rely on site suitability criteria that is manipulated and politically-motivated (i.e., minimum parcel size of 0.75 acre, maximum slope of 10 percent, exclusion based on wildfire risk that is unsupported by any planning policies). FOHP has provided extensive analysis and documentation demonstrating that the City relied on manipulated site selection criteria for City-owned properties in order to reach the remarkable conclusion that 1 Hamilton is the only suitable City-owned parcel for affordable housing. This conclusion lacks credibility, and the FEIR’s assertion that 1 Hamilton is the only suitable site is therefore not supported by substantial evidence.

The FEIR attempts to further bolster the City’s insistence on 1 Hamilton, asserting:

Based on the evaluation of city-owned property, the northern portion of the 1 Hamilton Drive parcel was declared exempt surplus land by City Council

¹ The Revised HEU states, “Eighty percent of all RHNA units, including 66 percent of lower income units, are located outside of tract 1262 blocks groups 2 and 3 entirely.” (Revised HEU, p. E-19.)

on September 20, 2022 (Resolution CC21-51). City Council then entered into an Exclusive Negotiation Agreement (ENA) with EAH Housing on February 7, 2022 (Resolution CC22-13) to conduct predevelopment activities and outreach for building approximately 40-50 deed restricted very low- and low-income rental units. Housing Element Law and the HCD Sites Inventory Guidebook support the identification of city-owned property and the 1 Hamilton Drive site based on Council direction in assembling the Sites Inventory.

(FEIR, p. 2-993.) These statements are false and misleading in at least two respects.

First, the City claims that it is infeasible not to develop 1 Hamilton, and relies on its prior designation of 1 Hamilton as “exempt surplus land” as supporting this position. However, the City took exactly the opposite position when it made this declaration, stating in relevant part, “[T]he authorization to negotiate an ENA is discretionary but does not commit the City to disposing of the land or approving a project that would have a direct or reasonably foreseeable indirect impact on the environment. Rather, it is simply authorization to negotiate the terms of a framework for a prospective transfer. The ENA would come back to Council for approval, and any actual disposition in the future would need to be accompanied by a disposition agreement.” (Memorandum from City Attorney dated September 20, 2021, p.2 (emphasis added).) Setting aside the City’s lack of credibility, a reviewing court will not agree that these prior actions provide substantial evidence establishing it is legally infeasible for the City to exclude 1 Hamilton from its sites inventory.

Second, the FEIR asserts, “Housing Element Law and the HCD Sites Inventory Guidebook support the identification of city-owned property and the 1 Hamilton Drive site **based on Council direction** in assembling the Sites Inventory.” (FEIR, p. 3-993.) The City once again fails to support its provision with any specificity. We are not aware of any specific provision of the Housing Element Law or the HCD Sites Inventory that would allow the City to rely on significantly more restrictive criteria than HCD guidance — particularly where application of these modified criteria based on “council direction” results in locating all public affordable housing in a single Census tract.

Finally, the FEIR’s response to comment 9 provides additional evidence that the City’s approval of the HEU and revised land used designation for 1 Hamilton “legally compels or practically presumes” development of the affordable housing project at 1 Hamilton. (*Banning Ranch, supra*, (2012) 211 Cal.App.4th at 1223 [“improper piecemealing when the reviewed project legally compels or practically presumes completion of another action”].)

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Letter 34, Comment 10

The FEIR improperly separates “comment 9” and “comment 10” for purposes of providing an improperly evasive response. Contrary to the FEIR’s mischaracterization, the comment correctly notes that the City excluded City-owned sites from further consideration based on claims that these sites were located in the “Very High Fire Severity Zone” and thus were never identified in the HEU in the first place. By conflating the City’s treatment of these City-owned sites in The Housing Workshop report and other sites in the HEU, the City side-steps any attempt to support its “Council direction” to exclude all City-owned sites based on this criterion.

* * *

Thank you for the opportunity to comment. The FEIR confirms that the City’s piecemealed approach to CEQA review prejudices informed decision-making and public participation regarding the 1 Hamilton project. We urge the City not to hold the HEU hostage through this dogged insistence on developing 1 Hamilton.

Very truly yours,

SOLURI MESERVE
A Law Corporation

By: 
Patrick M. Soluri

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EXHIBIT F



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July 29, 2022

SENT VIA EMAIL (dstaude@cityofmillvalley.org)

Danielle Staude, Project Planner
City of Mill Valley
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26 Corte Madera Avenue
Mill Valley, CA 94941

RE: Public Comments to Mill Valley's Draft Housing Element

Dear Ms. Staude:

On behalf of Friends of Hauke Park ("FOHP"), this letter provides comments regarding Mill Valley's Draft Housing Element. As set forth more fully below, the City's reliance on 1 Hamilton to meet its Regional Housing Needs Assessment ("RHNA") is arbitrary and lacks evidentiary support. The Draft Housing Element's discussion of 1 Hamilton is also misleading and at times demonstrably erroneous. The City must provide a credible explanation for excluding dozens of City-owned sites that contain similar characteristics as 1 Hamilton.

Government Code section 65583.2 requires a city to inventory land that is suitable for residential development and must further identify sites that can be developed for housing within the planning period. The purpose of this inventory is to show that the City has sufficient housing to meet its RHNA requirements. (Gov. Code, § 65583.2, subd. (a).) Land that is suitable for residential development includes, "Sites zoned for nonresidential use that can be redeveloped for residential use, and for which the housing element includes a program to rezone the site, as necessary, to permit residential use, including sites owned or leased by a city, county, or city and county." (*Id.* subd. (a)(4).)

"If a housing element contains the elements mandated by the statute, it will be found to conform with state law unless it is 'arbitrary, capricious, or entirely lacking in evidentiary support.'" (The California Municipal Law Handbook, § 10.27, quoting *Fonseca v. City of Gilroy* (2007) 148 Cal.App.4th 1174, 1191.) The City's Draft Housing Element has arbitrarily excluded nearly all City-owned sites from the Sites Inventory. Further, the Sites Inventory includes 40 low-income units from a property zoned Open Area, which prohibits residential development. The City's conclusions lack evidentiary support and are the result of an insidious scheme to keep affordable housing out of downtown and select wealthy neighborhoods in Mill Valley.

I. THE 1 HAMILTON SITE REQUIRES A GENERAL PLAN AMENDMENT AND REZONING

A. Neither General Plan Designation “Community Facilities” nor Zoning Designation “O-A” Permit Residential Development

The Draft Housing Element asserts that 1 Hamilton’s zoning allows for residential development. This is inexcusably false and misleading. 1 Hamilton’s General Plan designation is Community Facilities (Land Use Element, p. 25), and its zoning designation is Open Area (“O-A”) (Current Housing Element, p. C-19). Both designations prohibit residential development. The Land Use Element’s Community Facilities description includes, “All City facilities including City golf course, parks, City Hall, Community Center, Public Safety Building, etc.; public schools and private schools.” (Land Use Element, p. 24.) It also states that the residential density range is not applicable. (*Ibid.*) Further, the Draft Housing Element states, “The OA and CF Zoning Districts do not permit residential use on the property.” (Draft Housing Element, p. C-2.) Thus, there is no question that residential uses are prohibited on parcels designated as Community Facilities or zoned as O-A. 1 Hamilton is both.

The City has been consistent in its prohibition of residential development on parcels zoned as O-A. The language in the Current Housing Element shows that the City never intended to include O-A zoned parcels in its publicly-owned inventory. Program Objective 12 states, “By 2018, prepare an inventory of publicly-owned land **that is not already zoned for open space**, including parking lots, and examine the feasibility of their use of housing. Consider modifying the City’s zoning regulations to allow residential uses in the C-F zone subject to the approval of a conditional use permit.” (Current Housing Element, p. II-12 [bold added].)

As a result of these prohibitions, any development proposed on land that is zoned O-A would require a General Plan amendment and rezoning. The Draft Housing Element fails to discuss this requirement for 1 Hamilton and so falsely claims that residential development is allowed on this site. It is not. This misrepresentation is so blatant that one can only surmise that it is intentional by City officials, which is inexcusable.

B. The Draft Housing Element Fails to Describe the Process Required to Develop 1 Hamilton

The City has previously represented the need to amend 1 Hamilton’s land use designation and zoning in order to allow residential development. A staff report from the February 7, 2022, City Council meeting plainly states that both a General Plan

Amendment and Rezoning of the parcel would occur between February through June 2023. (Exhibit A, February 7, 2022, City Council Staff Report re: 1 Hamilton Drive, p. 25, Exhibit B.) However, the Draft Housing Element fails to mention that 1 Hamilton requires both legislative actions in order to be developed. Ignoring this reality, the Draft Housing Element includes 1 Hamilton as part of the Site Inventory that calculates potential units from “existing zoning.” (Draft Housing Element, p. III-4; see also p. III-10 [Table 3.7 indicates 1 Hamilton could accommodate 40 units as currently zoned].)

The City’s Draft Housing Element has inexplicably chosen to whitewash the inescapable fact that 1 Hamilton allows no residential units whatsoever under “existing zoning.” As part of its arbitrary and capricious scheme to manufacture rationale for limiting affordable housing to 1 Hamilton, the City has failed to comply with its duty under state law to identify all suitable properties for housing.

To the extent the Draft Housing Element’s mischaracterization of 1 Hamilton’s “current” zoning is premised on the City’s intention to revise 1 Hamilton’s General Plan land use designation and zoning designation as part of the proposed Land Use Element update, the EIR will need to fully analyze on a project level the proposed housing project. (See CEQA Guidelines, §§ 15378, subd. (a) [a project is the “whole of an action” which may result in direct or indirect physical changes to the environment]; 15126 [EIR’s impact analysis must consider all phases of a project]; *Laurel Heights Improvement Assn. v. Regents of the Univ. of Cal.* (1988) 47 Cal.3d 376 [EIR must analyze “reasonably foreseeable consequence” of a project].) The Draft Housing Element does not indicate that the City intends to comply with this duty, and the City’s past conduct suggests that it may attempt to misuse the concept of “tiering” to evade full public disclosure.

II. THE CITY ARBITRARILY RELIES ON THE HOUSING WORKSHOP AND OTHER CRITERIA TO UNLAWFULLY EXCLUDE NUMEROUS CITY-OWNED PARCELS

As explained above, the City has a duty to prepare an inventory of land that is suitable for residential development in order to show that the City has sufficient housing to meet its RHNA requirements. (Gov. Code, § 65583.2, subd. (a).) The shifting and inconsistent explanation for its planning process in this regard reveals that it is failing to comply with that duty.

Although the City previously stated that the Housing Workshop is a completely separate process from its RHNA analysis, the Draft Housing Element now reveals that the City is relying on that process to identify — or, more accurately, exclude — suitable land for its RHNA requirements. By doing so, the Draft Housing Element arbitrarily narrows

the potential sites where residential housing could be located in violation of its duties under state law.

A. The City Previously Claimed That the Housing Workshop Findings are a Separate and Distinct Analysis

The City hired a consultant to prepare an analysis of City-owned parcels that could be developed for affordable housing. After excluding more than 100 sites for various reasons, the analysis concluded that the City should conduct additional analysis on only four different sites. (The Housing Workshop, p. 2.) The Housing Workshop's analysis was patently perfunctory, and public commenters questioned why this separate process was occurring at all in light of the City's Housing Element Update that was being drafted at the same time. (Exhibit B, February 4, 2022, Letter re: Public Comments to February 7, 2022, City Council Meeting, Agenda Item 6 re: 1 Hamilton Drive, pp. 1-3.) Purporting to respond directly to these concerns, Mayor McCauley asserted at the February 7, 2022, Council meeting that the RHNA process is completely separate from the Housing Workshop process. He stated in relevant part:

Another thing, there is a confusion here about the idea of doing an analysis of regional housing needs authority or RHNA sites and the city site analysis that was done so as a part of the HCC hazard advisory committee we went down two paths. One path was can we find surplus land we can sell to raise money to provide the ability to develop land with another party maybe a church or whatever. The second process we had was can the city on its own find a site that we can offer to a developer, a low-income mission driven developer to create a site. **That is completely different than the analysis which is going on to find out where we are going to come up with these 865 units for RHNA which is all generally private property.** They are completely different things, so I just want to make sure that people understand that difference.

(Mill Valley City Council Meeting, February 7, 2022, at 3:03:00¹ [bold added].)

The Draft Housing Element now reveals the Mayor's statements to be false. Public comments were not confused. Rather, it was the Mayor who was either confused or intentionally misrepresented the relationship between the Housing Workshop's analysis and the Housing Element Update. There is no question that the Draft Housing

¹ The meeting can be accessed at https://cityofmillvalley.granicus.com/MediaPlayer.php?view_id=2&clip_id=1694.

Element expressly relies on the Housing Workshop’s analysis to exclude suitable properties. (Draft Housing Element, pp. III-11, C-2.) As explained more fully below, the Draft Housing Element’s reliance on the Housing Workshop’s analysis means that the City has not complied with its duties under state law.

B. The Draft Housing Element Excludes Numerous City-Owned Parcels Without Adequate Explanation or Factual Support

Although the City claimed that the RHNA process is completely separate from the Housing Workshop process, the City nevertheless based the Draft Housing Element’s entire discussion of City-owned properties on the Housing Workshop’s analysis. For example, the Housing Workshop analysis determined that 27 of 38 City-owned sites were “not marketable due to zoning,” all of which are zoned O-A. (The Housing Workshop, p. 19.) The Draft Housing Element uncritically adopted these parameters, which resulted in the improper exclusion of properties from the Draft Housing Element. (Compare The Housing Workshop, p. 19 with the Draft Housing Element, Sites Inventory List.)

A housing element is required to include land suitable for residential development, including “Sites zoned for nonresidential use that can be redeveloped for residential use, and for which the housing element includes a program to rezone the site, as necessary, to permit residential use, including sites owned or leased by a city, county, or city and county.” (Gov. Code, § 65583.2, subd. (a)(4).) Thus, the statute requires the City to include City-owned sites that are currently zoned nonresidential, but could be redeveloped for residential use. The Draft Housing Element follows a similar procedure for Program 21, which rezones 300 East Blithedale from RM3.5 to Downtown Residential, which allows multi-family residential. (Draft Housing Element, p. IV-22.) The parcel is then included under the Sites Inventory for above-moderate housing. (Draft Housing Element, Appendix C [APN 028-233-36].) Thus, the City has included similar programs for some properties, but is completely silent on the omission of others.

Put simply, that properties are “not marketable due to zoning” is both logically and legally irrelevant to whether they are “suitable for residential development” for purposes of the City’s RHNA obligations since the definition of “land suitable for residential development” specifically includes properties “[s]ites zoned for nonresidential use that can be . . .rezoned[d] . . . to permit residential use.” (Gov. Code, § 65583.2, subd. (a)(4).) The Draft Housing Element fails to provide any explanation for omitting scores of City-owned parcels that could be rezoned for residential use.

This excludes the majority of City-owned sites based on similar arbitrary criteria. First, there are sites already zoned for residential and commercial. The Draft Housing Element states that those City-owned properties zoned residential or commercial, “that are not on the Sites Inventory are due to the parcels being in the right of way or on a highly sloped and forested piece of property in the high fire severity zones.” (Draft Housing Element, p. C-2.) The City fails to provide an explanation of what “being in the right of way” entails and how parcels could physically be in the right of way. Second, the City disregards all religious and public education institutions because “The OA and CF Zoning Districts do not permit residential use on the property.” (Draft Housing Element, p. C-2.) Omitting parcels based on these unsupported criteria results in an overly constricted Site Inventory and artificially limits the City-owned properties that could be developed.

Additionally, the City fails to discuss the other potential development sites identified in the Housing Workshop such as the Boyle Park tennis facilities and a portion of the Mill Valley Municipal Golf Course, which are both zoned O-A and were determined to be potential sites for affordable housing, similar to 1 Hamilton. In fact, the Housing Workshop analysis of Boyle Park states, “From an objective affordable housing development point of view, this is the best of the 4 identified sites.” (The Housing Workshop, p. 9.)

III. OTHER FACTORS SHOW THAT THE DRAFT HOUSING ELEMENT IS DEFECTIVE

The Draft Housing Element ignores several other factors impacting the ability to develop 1 Hamilton. As explained previously, the Draft Housing Element incorrectly assumes that 1 Hamilton could provide 40 units for very low- and low-income housing as zoned. This assumption disregards the obvious conflict with the General Plan and zoning designations, and further fails to consider environmental constraints at the property. The City’s disregard for other parcels, in order to push development at 1 Hamilton, appears to further Mill Valley’s discriminatory housing practices.

A. Baylands Corridor

Government Code section 65583.2, subdivision (b)(4) requires “[a] general description of any environmental constraints to the development of housing within the jurisdiction[.]” The Draft Housing Element provides, “Those city-owned sites that are zoned residential and commercial that are not on the Sites Inventory are due to the parcels being in the right of way or on a highly sloped and forested piece of property in the high fire severity zones.” (Draft Housing Element, p. C-2.) However, the Draft

Housing Element does not provide an explanation for how environmental constraints may interfere with development at a specific parcel. According to the California Department of Housing and Community Development's ("HCD") Guidance, a local entity must:

Provide in the analysis a general description of any known environmental or other features (e.g., presence of floodplains, protected wetlands, oak tree preserves, very high fire hazard severity zones) that have the potential to impact the development viability of the identified sites. The housing element need only describe those environmental constraints where documentation of such conditions is available to the local government. **This analysis must demonstrate that the existence of these features will not preclude development of the sites identified in the planning period at the projected residential densities/capacities.**

(HCD Housing Element Sites Inventory Guidebook, p. 10 [bold added].)

1 Hamilton is adjacent to the County's Baylands Corridor, but the Draft Housing Element completely ignores this fact. This omission is inexcusable given that the City was well aware of this circumstance, and the Housing Workshop determined:

The potential housing site is impacted by its location near the boundaries of the Marin County Baylands Corridor, as described in the County General Plan. This designation identifies uplands adjacent to sensitive wetlands, and requires special biological assessment studies to protect habitat for plants and animals. According to the Marin County General Plan, development sites of between 0.5 and 1 acre require a 30-foot setback from the Baylands boundary.

(The Housing Workshop, p. 8.) The Draft Housing Element fails to acknowledge this environmental constraint. Therefore, even if the City were to rezone the parcel, it may not be able to physically accommodate 40 units.

B. Omission of Parcels Located West of Camino Alto

There are nine affordable housing options in or near Mill Valley. All but one of those properties is located east of Camino Alto, and the ninth is located south of Miller Avenue. Thus, not one is located near downtown. The City now apparently intends to continue its historic segregation of affordable housing by arbitrarily constricting the City-owned properties in the Sites Inventory to 1 Hamilton. This decision excludes several

Danielle Staude, Project Planner
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potential parcels that could be developed west of Camino Alto such as Boyle Park and the Mill Valley Municipal Golf Course.

The City is well aware of this trend. Multiple public comments provided in the Draft Housing Element illustrate the City's determination to keep affordable housing out of the City center, and push it toward the highway. (Draft Housing Element, Survey 2, pp. 42, 60.) This is also shown in the attached PowerPoint slides previously submitted to the City. (Exhibit C.) All of the City's actions suggest an intent by City officials to keep affordable housing out of the City center and other select wealthy neighborhoods west of Camino Alto.

As previously discussed, the Housing Workshop identified four parcels that it recommended for additional analysis, three were discarded by the City. 1 Hamilton is the only parcel the City chose to include in its Site Inventory. The three parcels it chose to exclude are all located west of Camino Alto. The City has failed to provide any explanation for excluding two of the properties identified in the Housing Workshop.

* * *

The City has arbitrarily erected barrier after barrier in order to single out 1 Hamilton for affordable housing — a parcel with land use and zoning designations that prohibit any and all residential use. By doing so, the City has artificially constricted the potential locations that could be used to meet its RHNA requirements and thereby violates the City's duty to identify all land that is suitable for residential development. The result is an inaccurate, misleading and ultimately unlawful Housing Element that also continues the City's history of segregating affordable housing.

Very truly yours,

SOLURI MESERVE
A Law Corporation

By:



Patrick M. Soluri

cc: Kelsey Rogers, City Clerk (cityclerk@cityofmillvalley.org)
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Attachments:

Exhibit A February 7, 2022, City Council Staff Report re: 1 Hamilton Drive
Exhibit B February 4, 2022, Letter re: Public Comments to February 7, 2022, City
Council Meeting, Agenda Item 6 re: 1 Hamilton Drive
Exhibit C PowerPoint Slides submitted to the City on July 10, 2022

EXHIBIT A



STAFF REPORT

TO: Mayor and City Council

FROM: Danielle Staude, Senior Planner

VIA: Patrick Kelly, Director of Planning and Building

SUBJECT 1 Hamilton Drive: Receive report from staff on recommended next steps to build affordable rental housing on the northern portion of 1 Hamilton Drive (Assessor's Parcel Number 030-250-01) ("the Property"), which includes: 1) the approval of an Exclusive Negotiating Agreement (ENA) between the City of Mill Valley and EAH Housing; 2) allocation of Affordable Housing Trust Funds in support of the ENA; and 3) approval of Community Outreach Plan.

DATE: February 7, 2022

Approved for Forwarding:


Alan E. Piombo, Jr., City Manager

1 **Issue:** Approval of next steps to partner with EAH Housing and conduct predevelopment
2 activities including but not limited to community outreach, site planning and design, and
3 environmental review to build affordable rental housing on the northern portion of 1 Hamilton
4 Drive.

5
6 **Recommendation:** Staff recommends that City Council receive a report from staff, consider
7 public comments, and adopt Resolution No. 22-__: A Resolution (ATTACHMENT 1)
8 authorizing the following:

- 9
10 1) Execution of an Exclusive Negotiating Agreement ("ENA"/ATTACHMENT 2)
11 between the City of Mill Valley and EAH Housing to allow the City and EAH to
12 negotiate with respect to the terms and conditions for the potential ground lease or
13 sale of property and development of affordable rental housing on the Northern portion
14 of the 1 Hamilton Property; and
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- 16 2) Release and allocate Affordable Housing Trust Funds to support predevelopment
17 activities, including but not limited to community outreach, site planning, design, and
18 environmental review; and
19
20 3) Approval of the Community Outreach Plan (ATTACHMENT 3).
21

22 **Background:** On September 20, 2021 City Council took action to: 1) declare a portion of the
23 property located at 1 Hamilton Drive as “exempt surplus land” as required under the California
24 Surplus Land Act (Government Code 54220 et seq.) pursuant to Government Code Section
25 54221(f)(1)(A)¹ and 2) authorize the City Manager to negotiate and draft an Exclusive
26 Negotiating Agreement (ENA) with EAH Housing for the purpose of negotiating the terms and
27 conditions for the potential ground lease or sale of property and development of affordable rental
28 housing on the Northern portion of 1 Hamilton Drive, as described herein.
29

30 The EAH Housing Team (“EAH Team”) was selected by City Council on September 20, 2021,
31 based on their qualifications and recommendations of the selection committee (City Manager,
32 Planning and Building Director, two members of the Housing Advisory Committee), which
33 interviewed the EAH Team on September 10, 2021. The EAH Team is comprised of the
34 following firms:

- 35 • EAH Housing: Development, property management, and resident services
 - 36 • Van Meter Williams Pollack LLP: Lead design and architect
 - 37 • Adobe Associates, Inc: Civil Engineer
- 38

39 As noted during the September 20, 2021, Council meeting, the EAH Team has direct experience
40 in guiding successful public/private partnerships to create affordable housing opportunities
41 within Marin County communities as well as the greater Bay Area and California.
42

43 **Discussion:** Staff is returning to City Council to report back on negotiations with the EAH Team
44 to build affordable rental housing on the Northern portion of 1 Hamilton Drive. For purposes of
45 this report, the proposed site for affordable housing will be referred to as the “Property,” whereas
46 the larger 1 Hamilton Drive parcel will be referred to as “1 Hamilton.”
47

48 Staff and City Council has acknowledged that a team of experts is required to further determine
49 the number of potential homes that can be placed on the Property, balancing the interests of the

¹ Because the City plans to ground lease (or sell) the Property for the development of a 100% affordable housing project to persons and families of low or moderate income, the proposed lease (or sale) meets the criteria for “exempt surplus land” under Government Code Section 54221(f)(1)(A), including the following provisions: (a) Not less than 80 percent of the area of the parcel will be used for the development of housing; and (b) Not less than 40 percent of the total number of those housing units developed on the parcel shall be affordable to households whose incomes are equal to, or less than, 75 percent of the maximum income of lower income households, and at least half of which shall be affordable to very low-income households; and (c) Dwelling units produced for persons and families of low or moderate income under Government Code Section 37364 shall be restricted by regulatory agreement to remain continually affordable to those persons and families for the longest feasible time, but not less than 30 years, with such regulatory agreement recorded in the office of the county recorder in which the housing development is located.

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50 community, construction feasibility, and financing opportunities. The ENA will allow City staff
51 to exclusively partner with EAH Housing to focus on site planning and preliminary design,
52 which includes the relocation of existing restrooms, electric charging station, and public parking
53 (with the goal of providing up to a total of 50 spaces).

54
55 The EAH Team is deeply experienced and well-capitalized not-for-profit corporation grounded
56 in the belief that attractive, permanently affordable rental housing is the cornerstone to
57 sustainable communities. Founded in Marin County based on the recognition that housing for all
58 is a cornerstone to a fair and just society, the Developer is one of the oldest and most
59 experienced nonprofit housing management and development organizations in the Country. The
60 architectural team also has a deeply established connection to Marin County and has successfully
61 designed multi-family projects in the area.

62
63 The ENA provides EAH Housing with a specific time during which the Property is not available
64 to other parties and sets forth a framework for the selected developer's performance during the
65 ENA period. The ENA also sets forth the City's terms to fund a portion of pre-development
66 studies, necessary because non-profit organizations do not have large amounts of funding for this
67 work. The ENA does not grant any rights related to land use entitlements, project approvals, or
68 any other future City action not specified in the ENA.

69
70 Staff recommends that Council adopt the attached Resolution (ATTACHMENT 1) authorizing
71 the City Manager to execute an ENA with EAH Housing in substantially the form attached
72 (ATTACHMENT 2). The resolution also allocates Affordable Housing Trust Funds as part of
73 cost sharing negotiations outlined in the ENA for predevelopment activities as well as approving
74 the Draft Community Outreach Plan to allow the City to kick off site planning and design work
75 with the community. Details about the ENA, proposed outreach and budget are discussed below.

76
77 **Exclusive Negotiating Agreement (ENA).** The ENA (ATTACHMENT 2) outlines the general
78 scope, cost sharing, and expectations with respect to predevelopment work and negotiations for a
79 final project and disposition of the site.

80
81 The ENA does not commit the City to ground lease or sell the Property nor grant the City's
82 approval of the development of the Property, but rather sets the terms under which the parties
83 will negotiate for a final project and disposition and the predevelopment activities that are
84 necessary to move the project forward towards design. The ENA includes performance
85 milestones and expected schedule for the period needed to design the project. The ENA also
86 outlines the City of Mill Valley's commitment to advance the project, including a loan for certain
87 pre-development expenses such as preliminary design, site planning including relocation of
88 public parking and restrooms.

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91 The following provides a summary of some key points contained in the ENA:

- 92 • Term: The ENA sets out a “Negotiation Period,” which shall extend until September 1,
93 2023. The City has the option to extend the Negotiation period.
- 94
- 95 • Milestones: The ENA includes a Schedule of Performance (Exhibit B) which establishes
96 milestones with respect to community outreach, design and entitlements, environmental
97 review, and a financing plan.
- 98
- 99 • City Responsibilities: City agrees to negotiate in good faith with EAH and not to
100 negotiate with respect to the site with any other parties during the term of the ENA. City
101 also agrees to loan the Housing Team up to \$150,000, to be used towards certain
102 predevelopment costs. Assuming the project is approved, the ENA lays out the terms for
103 repayment. The City also agrees take steps with respect to the zoning and entitlements on
104 the site, which will include hiring various consultants to conduct the environmental
105 review for the project.
- 106
- 107 • EAH Responsibilities: EAH agrees to negotiate in good faith with the City with respect to
108 the disposition of the site, to share any work product that arises from the predevelopment
109 work with the City, to work with the City on community outreach as described in the
110 Community Outreach Plan, and to meet other specified milestones with respect to due
111 diligence and predevelopment work on the site. If the project is approved, EAH agrees to
112 repay the predevelopment loan issued by the City through project financing.
- 113

114 If Council authorizes the City Manager to execute the ENA, staff and the EAH Housing Team
115 will begin negotiating an agreement for the final disposition of the site, as well as conducting due
116 diligence and predevelopment work. In addition, the City will kick off community outreach,
117 which is discussed below. Once CEQA review and approval of project entitlements occurs, it is
118 anticipated that the City would enter into a development agreement and formal ground lease (or
119 sale) with the EAH Housing Team.

120

121 **Community Outreach Plan.** City Council has continued to emphasize the importance of
122 outreach and community participation in the design of the project since its initial discussion on
123 June 21, 2021. The EAH Team is looking forward to kicking off the outreach program to gather
124 input from the community on interests and concerns that will help guide the site planning and
125 design process.

126

127 Community outreach is divided into three different phases: 1) information gathering, 2) focused
128 outreach on design concepts and 3) confirming design and assembling materials for the planning
129 and entitlement application. Outreach will begin upon adoption of the resolution. Staff and the
130 EAH Housing Team anticipate hosting the first community workshop in mid-March. This
131 workshop is part of the information gathering stage and will focus on gathering community input
132 on preliminary site planning work, such as the relocation of public parking and restrooms and the
133 overall massing for the site. The workshop will also provide an opportunity for the community
134 to ask questions and identify concerns

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135 The illustration on page 5 summarizes the overall outreach process and timing. See
136 ATTACHMENT 3 containing the Draft Community Outreach Plan for additional details.

137

138

Proposed Community Outreach Process and Timeline



139

140

141 **Affordable Housing Trust Fund.** At its June 21, 2021, City Council meeting, Council
142 authorized use of the Affordable Housing Trust Fund to assist in preliminary site investigations.
143 Staff is further recommending that City Council authorize use of the Affordable Housing Trust
144 Funds to assist in the cost sharing of predevelopment activities, as outlined in the ENA. The
145 ENA provides that the City will provide up to \$150,000 to EAH as a predevelopment loan to
146 assist with specified predevelopment costs including site analysis and design. Approval of the
147 resolution will also allow City staff to hire consultants to conduct the environmental review of
148 the proposed project.

149

150 Staff believes the \$150,000 loan to EAH for predevelopment activities is appropriate,
151 particularly since the EAH team will be providing design and consultant assistance to plan and
152 design off-street public parking in the surrounding area and the relocation of the public
153 restrooms. The EAH team is also contributing substantial staff time and organizational resources
154 to provide preliminary conceptual designs to support the planning application for Planning
155 Commission and City Council review and approval.

156

157 **Environmental Review:** Site planning and preliminary design will help inform the
158 environmental review required for the eventual housing development. The level of
159 environmental review will be determined once the scope of the project is determined.

160

161 The resolution before Council is not subject to the California Environmental Quality Act
162 (“CEQA”) because the approval of an ENA and the other activities authorized by the resolution
163 are excluded from the definition of a “project” by section 21065 of the Public Resources Code
164 and section 15378(b) of the State CEQA Guidelines. A “project” is an “activity which may cause
165 either a direct physical change in the environment, or a reasonably foreseeable indirect change in
166 the environment.” The proposed actions direct staff to execute an ENA that establishes the
167 contractual agreement to commence negotiations regarding disposition of a portion of 1
168 Hamilton Drive, as well as initiating preliminary site analysis and design work that will further
169 define an affordable housing development that would constitute a “project” under CEQA. The
170 proposed actions are therefore considered an administrative activity of government which does
171 not result in direct or indirect physical change to the environment. No commitment to any project
172 is being made at this time.

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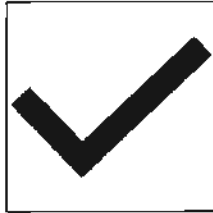

Notwithstanding that there is no “project” for purposes of CEQA, as discussed above, the City’s actions are also covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. CEQA Guidelines § 15061(b)(3). There is no evidence that the City’s agreement to negotiate with a potential affordable housing development partner or undertake predevelopment activities or community outreach will have any direct or indirect effect on the environment, since the City is not committing itself to any final project now and may still decide not to move forward with a project on the site.

CEQA review requirements must and will be completed before any commitment to a housing development occurs and appropriate environmental review pursuant to CEQA will be completed and considered by the City Council at such time.

Fiscal Impact: There is no impact to the City’s General Fund. The City intends to authorize Affordable Housing Trust Funds as part of executing the ENA and work on predevelopment activities.

Next Steps: Should City Council adopt the proposed resolution; staff will work to execute the ENA. Once the ENA is signed by both parties, staff and the Housing Team will begin site planning and design and kick off the community engagement process. Assuming the project proceeds forward, CEQA review would occur, and Council would later consider project entitlements based on Planning Commission’s recommendations, along with separate agreements with EAH for development and disposition (ground lease or sale) to construct the housing.

Overview of Next Steps

				
Solicit Developer <u>July 19, 2021</u>	Select Dev Partner <u>September 20, 2021</u>	Design Project <u>2022</u>	Entitle Project <u>2022-23</u>	Finance & Build <u>2023-24</u>
<ul style="list-style-type: none"> • Prepare Request for Qualifications (RFQ) per City Council direction • Issue RFQ • Provide site tours, answer questions 	<ul style="list-style-type: none"> • Review submittals for completeness • Panel to interview • City Council to authorize 	<ul style="list-style-type: none"> • Sign exclusive agreement with EAH Housing • Community input on design, including workshops, charettes • Conduct studies for CEQA, subdivision map act, surplus land act, etc. 	<ul style="list-style-type: none"> • Identify any development impact to be mitigated • Survey/Split Parcel • Public hearings including public input and testimony to approve Planned Development 	<ul style="list-style-type: none"> • Can take 2+ years to obtain financing • Can take 2 years to build • Open in 2025 or 2026

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203 **Attachments:**

- 204 1. Resolution No. 22-___: Authorizing execution of an Exclusive Negotiating Agreement
205 with EHA Housing, authorizing the allocation of Affordable Housing Trust Funds and
206 approval of the Community Outreach Plan
207 2. Exclusive Negotiating Agreement
208 3. Community Outreach Plan
209

210 **Online Materials and Resources:**

- 211 • Project website: <https://ca-millvalley.civicplus.com/931/Hamilton-Drive>

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RESOLUTION NO. 22-____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILL VALLEY AUTHORIZING THE EXECUTION OF AN EXCLUSIVE NEGOTIATING AGREEMENT WITH EAH HOUSING, INC. TO NEGOTIATE THE TERMS UNDER WHICH THE CITY WOULD ALLOW THE DEVELOPMENT OF AFFORDABLE RENTAL HOUSING ON THE NORTHERN PORTION, AS DESCRIBED HEREIN, OF A CITY-OWNED PARCEL LOCATED AT I HAMILTON DRIVE [ASSESSOR'S PARCEL NO. 030-250-01], AUTHORIZING THE ALLOCATION OF AFFORDABLE HOUSING TRUST FUNDS FOR PREDEVELOPMENT ACTIVITIES ON THE SITE, AND APPROVING THE COMMUNITY OUTREACH PLAN

THE CITY COUNCIL OF THE CITY OF MILL VALLEY HEREBY FINDS AND RESOLVES AS FOLLOWS:

SECTION 1. The City of Mill Valley ("City") is the owner in fee simple of that certain real property located at 1 Hamilton Drive (Assessor's Parcel 030-250-01).

SECTION 2. The City desires to ground lease or sell a portion of the property located at 1 Hamilton Drive, such portion is generally the northern portion of the current parcel, incorporated herein by reference (the "1 Hamilton Property"), to be developed as a 100 percent affordable housing development that complies with Government Code Section 37364.

SECTION 3. At its June 21, 2021 meeting, City Council directed staff to issue a Request for Qualifications ("RFQ") to solicit interest from multifamily developers to partner with the City of Mill Valley to build and manage affordable housing on the Property.

SECTION 4. On July 19, 2021 the City of Mill Valley released the RFQ and notified all California Housing Finance Agency certified developers that have notified the California Department of Housing and Community Development of their interest in purchasing or leasing surplus local land for affordable housing development in Marin County or any county in California, and other public entities with possible jurisdiction over the Property.

SECTION 5. Because the proposed affordable housing development will meet the requirements of Government Code Section 37364, the City Council adopted Resolution (CC21-51) declaring the Property to be "exempt surplus land" at its regularly scheduled meeting of September 20, 2021.

SECTION 6. In response to the RFQ, EAH Housing submitted qualifications to the City in a timely manner and whereby EAH Housing proposes to ground lease or purchase the Property from the City and develop the Property with 100% affordable rental housing pursuant to Government Code Section 37364.

48 **SECTION 7.** EAH Housing was selected based on a City Council's review of the
49 selection committee's (City Manager, Planning and Building Director, and two members of the
50 Housing Advisory Committee, who are City Council and Planning Commission liaisons) review
51 of their qualifications and responses to interview questions held on September 10, 2021.
52

53 **SECTION 8.** The City is interested in entering into an Exclusive Negotiating Agreement
54 ("ENA", attached hereto as ATTACHMENT 2) to establish the mutually acceptable terms and
55 conditions to guide the process of negotiations for the potential ground lease or sale and
56 development of affordable housing on the Property consistent with Government Code Section
57 37364.
58

59 **SECTION 9.** The ENA does not commit the City to ground lease or sell the Property nor
60 grant approval of any project or development of the Property, but rather allows the City to
61 partner with a Housing Team to work with the community to plan and design for the above-
62 referenced housing.
63

64 **SECTION 10.** The Mill Valley Municipal Code Section 20.80.070(B) establishes the
65 Affordable Housing Trust Fund and on March 16, 2020, City Council approved the Affordable
66 Administrative Guidelines for Housing Trust Fund, whereby the City Council may authorize the
67 use of Trust Fund monies by way of resolution. The City Council desires to authorize the use of
68 Affordable Housing Trust Fund moneys for predevelopment costs for the Property including but
69 not limited to the provision of a predevelopment loan to EAH pursuant to the ENA, as well as
70 environmental review of the proposed project.
71

72 **SECTION 11.** The City Council desires to engage in a robust community outreach
73 process with respect to the potential development of the Property.
74

75 **SECTION 12.** City Council held a public hearing on February 7, 2022, and considered
76 the information presented by staff as well as public testimony.
77

78 **SECTION 13.** The City Council hereby takes the following actions:
79

- 80 A. Finds that the above recitals are true and correct and are incorporated into this
81 Resolution.
82
- 83 B. Authorizes the City Manager to execute an ENA between the City of Mill Valley
84 and EAH Housing in substantially the form attached, with any minor clerical or
85 clarifying changes requested by the City Manager and approved by the City
86 Attorney.
87
- 88 C. Approves the Community Outreach Plan (ATTACHMENT 3) and authorizes staff
89 to move forward with a robust program of community outreach to engage citizens
90 and interested stakeholders. Changes to the Community Outreach Plan schedule
91 that only impact dates and do not result in a less robust outreach and public
92 engagement may be approved by the City Manager.
93

94 D. Authorizes and approves the use of Affordable Housing Trust Fund monies for
95 the purposes of funding budgetary terms set forth in the ENA and other
96 predevelopment expenses related to the proposed housing development as
97 approved by the City Manager.
98

99 E. That the staff and officers of the City are hereby authorized, jointly and severally,
100 to take any other such actions as they deem necessary or proper to implement this
101 Resolution.
102

103 **SECTION I4.** The City Clerk shall certify as to the adoption of this resolution.
104

105 **PASSED AND ADOPTED** at a regular meeting of the City Council of the City of Mill
106 Valley on the 7th day of February 2022, by the following vote:
107

108 **AYES:**

109 **NOES:**

110 **ABSENT:**

111 **ABSTAIN:**
112

113
114 _____
John McCauley, Mayor

115 ATTEST:

116
117 _____
118 Kelsey Rogers, City Clerk / Management Analyst III

EXCLUSIVE NEGOTIATION AGREEMENT

THIS EXCLUSIVE NEGOTIATION AGREEMENT is dated as of _____, 2022 (“**Effective Date**”), and is entered into by and between the CITY OF MILL VALLEY, a municipal corporation (“**City**”), and EAH INC., a California nonprofit public benefit corporation (“**Developer**”)(collectively, the “**Parties**”).

RECITALS

- A. The City owns certain property located 1 Hamilton Drive (Assessor’s Parcel 030-250-01).
- B. The City desires that a portion of the parcel located at 1 Hamilton Drive---such portion is generally the northern portion of the current parcel more specifically depicted on Exhibit “A”, attached hereto (the “**Site**”)---be developed as a 100 percent affordable housing development.
- C. The City Council of the City of Mill Valley (“**City Council**”) authorized and directed staff to issue a request for qualifications (“**RFQ**”), for an affordable housing project on the Site consisting of 100 percent of the units restricted for rental to very low and low income households at affordable rent on June 21, 2021.
- D. On July 19, 2021 the City of Mill Valley released the RFQ and notified all California Housing Finance Agency certified developers that have notified the California Department of Housing and Community Development of their interest in purchasing or leasing surplus local land for affordable housing development in Marin County or any county in California, and other public entities with possible jurisdiction over the Property, in response to the RFQ EAH Housing submitted qualifications to the City in a timely manner and whereby EAH Housing proposes to ground lease or purchase the Property from the City and develop the Property with 100% affordable rental housing pursuant to Government Code Section 37364.
- E. As noted in the Developer’s statement of qualifications, the EAH Team is deeply experienced and well-capitalized not-for-profit corporation grounded in the belief that attractive, permanently affordable rental housing is the cornerstone to sustainable communities. Founded in Marin County based on the recognition that housing for all is a cornerstone to a fair and just society, the Developer is one of the oldest and most experienced nonprofit housing management and development organizations in the Country,
- F. A selection committee consisting of the City Manager, Planning and Building Director, two members of the Housing Advisory Committee (City Council and Planning Commission liaisons) reviewed statement of qualifications submitted in response to the RFQ and conducted interviews on September 10, 2021
- G. On September 20, 2021, the City Council declared the Site “exempt surplus property” pursuant to Government Code Sections 54221(b) and 54221(f)(1)(A) by way of Resolution CC21-51.
- H. On September 20, 2021, the City Council selected the Developer and directed staff to negotiate an Exclusive Negotiation Agreement (this “**Agreement**”) with Developer for the Site based on the Developers qualifications and the selection committee recommendations, as documented in the September 20, 2021 Staff Report, by way of Resolution CC21-52 .

ATTACHMENT #2

I. The Parties intend to cause the Site to be developed under California Government Code Section 37364, which requires that dwelling units be restricted by regulatory agreement to remain continually affordable to low and moderate income households for the longest feasible time, but not less than 30 years, and that such regulatory agreement shall be recorded in the office of the county recorder in which the housing development is located; such regulatory agreement shall not be subordinated to any deed of trust.

J. City desires to increase the availability of affordable housing within the City by causing the development of the Site with approximately 40 units of rental housing that is 100 hundred percent affordable (“Project”).

K. City and Developer desire to negotiate exclusively with each other regarding the potential terms and conditions of a disposition and development agreement (“DDA”) between City and Developer for Developer to acquire and develop the Project on the Site, in accordance with the terms and conditions of this Agreement..

1. Negotiation of DDA. During the Negotiation Period (defined in Section 3 herein) and subject to the terms and conditions of this Agreement, both City staff and Developer shall negotiate the potential terms, conditions, covenants, restrictions and agreements of a DDA for the Site and Project. City agrees not to solicit any other proposals from or negotiate with any other person regarding development of the Site during the Negotiation Period. During the Negotiation Period, Developer shall complete all of the actions described in the “**Schedule of Performance**” attached to this Agreement as Exhibit “B.” within the time period specified for each such action in the Schedule of Performance. Nothing in this Agreement shall be interpreted or construed to be a representation or agreement by either City or Developer that a mutually acceptable DDA will be produced from negotiations under this Agreement. Nothing in this Agreement shall impose any obligation on either Party to agree to or approve a definitive DDA in the future. Nothing in this Agreement shall be interpreted or construed to be a guaranty, warranty or representation that any proposed DDA that may be negotiated by City staff and Developer will be approved by the City Council of the City.

2. Developer Acknowledgments. Developer acknowledges and agrees that: (a) under this Agreement, City is not committing itself or agreeing to enter into a DDA or undertake any exchange, sale, lease or other transfer of real property, any disposition of any real property interests to Developer, approve the Project or any land use entitlements or undertake any other acts or activities; (b) no provision of this Agreement shall be deemed to be an offer by City, nor an acceptance by City of any offer or proposal from Developer, for City to convey any estate or interest in the Site to Developer or for City to provide any financial or other assistance to Developer for development of the Project or the Site; (c) Developer has not acquired, nor will acquire, by virtue of the terms of this Agreement, any legal or equitable interest in real or personal property from City; (d) further efforts by either Party to perform due diligence, arrange or obtain financing, or carry out other acts in contemplation of the possible acquisition, transfer or development of the Site or the Project shall not be deemed evidence of intent by either Party to be bound by any terms, conditions, covenants, restrictions or agreements relating to acquisition, transfer or development of the Site or the Project. Developer acknowledges and agrees that City’s consideration of the Project and DDA is subject to the sole and absolute discretion of the City Council after conducting environmental review and any and all legally required public hearings, public meetings, notices, factual findings and other determinations and procedures required by law.

3. Negotiation Period.

3.1 Duration. The “**Negotiation Period**” shall begin on the Effective Date and shall expire at 5:00 p.m. Pacific Time on September 1, 2023, unless extended pursuant to Section 4 or earlier terminated pursuant to Section 3.2.

3.2 Termination. This Agreement shall terminate upon the earliest to occur of the following events: (a) the expiration of the Negotiation Period; or (b) the occurrence of an Event of Default by Developer under Section 13.1 of this Agreement, unless such breach is expressly waived in writing by the City; or (c) entry into a DDA by both City and Developer.

4. Extension of Negotiation Period. The City Manager shall have the right to extend the Negotiation Period three times for a period of ninety (90) days each (for an for an aggregate total of two hundred and seventy (270) days) provided that each such extension is in writing, and provided, further, that Developer is not in default of its obligations under this Agreement and has completed all of the actions described in the “**Schedule of Performance**” which are required to have be performed by Developer as of such date.

5. Possible DDA Provisions.

5.1 DDA Essential Terms and Conditions. The DDA may include provisions addressing all of the following described subjects:

5.1.1 Site Control. The Site may be purchased or leased from City by Developer, or Developer’s permitted assignee.

5.1.2 DDA Schedule of Performance. A schedule of performance, attached to the DDA, may set forth deadlines for various actions of Developer.

5.1.3 Scope of Development. The Project is proposed by Developer to include approximately 40 affordable housing units serving households at or below 60% of Area Median Income (AMI) with a minimum parking ratio of 1:1, a plan for replacement and relocation of a minimum of 34 public parking stalls, and a plan for replacing the public restroom if the site area is needed for affordable housing development.

5.1.4 Financing Plan. In connection with the negotiations, the Developer shall submit a plan for financing the construction and operation of the Project to the City for review and approval. Such financing plan shall, at a minimum, include an obligation of Developer to apply for federal tax credits, and such other financing as is necessary in Developer’s reasonable discretion to finance the development and operation of the Project, and all such tax credits must be awarded, and tax credit equity committed and available, and all other financing committed, closed and available as conditions to the close of escrow for the sale or lease.

5.1.5 City Financial Assistance. City shall provide up to \$150,000 in the form of a predevelopment loan during the Negotiation Period (the “Predevelopment Loan”) to pay for reasonable documented costs incurred by Developer in completing the tasks required of Developer under this ENA provided the costs are reasonably described in advance in a written budget to be provided by the Developer and approved by the City Manager in writing (“Eligible Expenses”).

Such Predevelopment Loan will bear 0% interest, be evidenced by a promissory note acceptable to City (the “Note”) and will be secured by assignment by the Developer to the City of any work product relating to the Project that have been paid for in

whole or in part using the proceeds of the Predevelopment Loan (the "Work Product"), and the collateral assignment documents and written consents from contractors/architects/engineers and others necessary to effectuate such collateral assignment and assignment to City (upon failure to timely repay the loan) must be acceptable to the City Manager and City Attorney. The Predevelopment Loan shall become due upon the termination of this ENA, or the expiration of this ENA without a DDA being approved and signed; however, the City's sole recourse shall be limited to the Work Product. The City will disburse Predevelopment Loan proceeds to pay for Eligible Expenses on a reimbursement basis, quarterly, and as a condition to the County's disbursement obligation, Borrower will submit a disbursement request package ("Disbursement Request"). Each Disbursement Request shall include any applicable invoice or other documentation indicating the cost to be paid and showing the cost constitutes an Eligible Expense of the Project, dated less than thirty (30) days prior to the date of the Disbursement Request, unless submittal of an older invoice has been approved by the City. It is anticipated that the DDA will provide that the Predevelopment Loan will convert from a predevelopment loan to a below market, 55 year, residual receipts construction/permanent loan secured by the Site (but subordinate to deeds of trust securing any other secured financing necessary for the Project) upon the closing of the Developer's acquisition of the Site pursuant to the terms and conditions of the DDA.

5.1.6 Developer Compliance with Laws. Developer shall comply with the requirements of all applicable City ordinances, resolutions, regulations or other laws or approvals in all aspects (planning, design, construction, noise limits, management, and occupancy) of developing and operating the Project on the Site.

6. License to Enter Site. City authorizes Developer, its contractors, agents and employees to enter the Site during normal business hours for the purpose of performing tests, surveys and inspections, and obtaining data necessary or appropriate to negotiate the DDA or perform investigations related to the Project; provided, however, Developer shall deliver written notice (which may be delivered via electronic mail to _____) seventy-two (72) hours prior to City of any such entry and written evidence of Developer's satisfaction of all insurance requirements of this Agreement prior to entering the Site. Developer shall promptly deliver copies of all written inspection results, tests and reports to the City.

7. Costs and Expenses. Except as set forth in Section 5.1.5 and Section 9 hereof, all fees or expenses of engineers, architects, financial consultants, legal, planning or other consultants or contractors, retained by Developer for any study, analysis, evaluation, report, schedule, estimate, environmental review, planning or design activities, drawings, specifications or other activity or matter relating to the Site or the Project or negotiation or documentation of a future DDA that may be undertaken by Developer during the Negotiation Period, pursuant to or in reliance upon this Agreement or in Developer's discretion, regarding any matter relating to this Agreement, a future DDA, the Site or the Project, shall be the sole responsibility of and undertaken at the sole cost and expense of Developer and no such activity or matter shall be deemed to be undertaken for the benefit of, at the expense of or in reliance upon City. Developer shall also pay all fees, charges and costs, make all deposits and provide all bonds or other security associated with the submission to and processing by the City of any and all applications and other documents and information to be submitted to the City by Developer pursuant to this Agreement or otherwise associated with the Project or the Site.

8. No City Approval. Nothing in this Agreement, nor any comments provided by City staff, nor any failure of City staff to provide comments to any submittal under or pursuant to this Agreement shall: (1) modify or replace any land use entitlement process of either the City applicable to the Project, (2) limit the police power land use jurisdiction of either the City relative

to the Project, (3) constitute an approval of all or any portion of the Project by the City pursuant to the police power land use jurisdiction of either the City or (4) constitute any approval of all or any portion of a future DDA with Developer by the City.

9. CEQA Compliance. The Developer acknowledges that all applicable requirements of the California Environmental Quality Act ("CEQA") must be met in order to execute and deliver the DDA and approve project entitlements allowing development of the Site and that this may require reports or analyses for CEQA purposes. In this regard, the City shall, at the City's cost and expense, undertake an Initial Study of the proposed Project pursuant to Section 15063 of CEQA or other appropriate documentation in order to determine the appropriate environmental documents and procedures that may be necessary to comply with CEQA as to the consideration and potential approval of the DDA by the City Council. The Developer hereby agrees to provide all assistance to the City necessary for it to carry out its obligations under CEQA. The Developer will fully cooperate with the City in the preparation of such analyses and reports.

10. City Due Diligence. City reserves the right to reasonably obtain further information, data and commitments to ascertain the ability and capacity of Developer to purchase, lease, develop and operate the Site or the Project. Developer acknowledges that Developer may be requested to make certain financial disclosures to City, City staff, legal counsel or other consultants, as part of the financial due diligence investigations of City relating to the potential sale of the Site and development of the Project on the Site by Developer and that any such disclosures may become public records. City shall maintain the confidentiality of financial information of Developer to the extent allowed by law, as determined by the City Attorney for the City.

11. Developer Indemnity. Developer shall indemnify, defend and hold harmless City, and the elected and appointed officials, officers, agents and employees of City (individually or collectively, an "**Indemnified Party**") against any and all losses arising out of any claim, liability, loss, damage, demand or cause of action, or any action or other proceeding, whether meritorious or not, arising through Developer, Developer's contractors or employees that relates to or arises out of: (i) property damage or bodily injury or death of any person in connection with this Agreement; (ii) entry upon the Site by Developer, its contractors or employees; (iii) any inspection of the Site by Developer, its contractors or employees; or (iv) the preparation of any report or plans commissioned by Developer; provided, however, that no Indemnified Party shall be entitled to indemnification under this Section 10 for matter caused by such Indemnified Party's gross negligence or willful misconduct or for any matter arising solely from the discovery of any pre-existing condition upon the Site. In the event any action or proceeding is brought against an Indemnified Party by reason of a claim arising out of any loss for which Developer is obligated to indemnify, defend or hold harmless the Indemnified Party, and upon written notice from such Indemnified Party, Developer shall, at Developer's sole expense, answer and otherwise defend such action or proceeding. The provisions of this Section 11 shall survive the expiration or termination of this Agreement.

12. Developer Insurance.

12.1 Types of Insurance. Without in any way limiting Developer's indemnification obligations under this Agreement, subject to the other provisions of this Section 12 and subject to approval by City of the insurers and policy forms, Developer shall obtain and maintain, at Developer's expense, the following insurance throughout the Negotiation Period and shall cause City to be an additional insured thereunder:

12.1.1 Liability Insurance. “**Liability Insurance**” means and refers to commercial general liability insurance against claims for bodily injury, personal injury, death, or property damage occurring upon, in, or about the Site or adjoining streets or passageways, at least as broad as Insurance Services Office Occurrence Form CG0001, with a minimum liability limit of Two Million Dollars (\$2,000,000) for any one occurrence and which may be provided through a combination of primary and excess or umbrella insurance policies. If commercial general liability insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the Site or the general aggregate limit shall be twice the required minimum liability limit for any one occurrence.

12.2 Nature of Insurance. All Liability Insurance and Automobile Liability Insurance policies this Agreement requires shall be issued by carriers that: (a) are listed in the then current “Best’s Key Rating Guide—Property/Casualty—United States & Canada” publication (or its equivalent, if such publication ceases to be published) with a minimum financial strength rating of “A-” and a minimum financial size category of “VII”; and (b) are authorized to do business in the State of California by the State of California Department of Insurance. Developer may provide any insurance under a “blanket” or “umbrella” insurance policy, provided that: (i) such policy or a certificate of such policy shall specify the amount(s) of the total insurance allocated to the Site, which amount(s) shall equal or exceed the amount(s) required by this Agreement; and (ii) such policy otherwise complies with the insurance requirements in this Agreement.

13. Restrictions Against Change in Ownership, Management or Control of Developer; Assignment of Agreement.

13.1 Developer Assignment. City and Developer acknowledge and agree that City is entering into this Agreement with Developer on the basis of the particular experience, financial capacity, skills and capabilities of Developer. This Agreement is personal to Developer and is not assignable without the prior written consent of City, which may be given, withheld or conditioned in City’s sole and absolute discretion. Consent to assignment shall be in writing and may be executed by the City Manager.

13.2 Assignment to Project Partnership. Notwithstanding the foregoing, Developer may assign this Agreement, without City’s consent, to a limited partnership in which Developer or a limited liability in which Developer is the sole member acts as the sole and managing general partner of such limited partnership, subject to all of the following conditions: (i) Developer provides the City with at least ten (10) days prior written notice of such proposed assignment, (ii) such limited partnership’s sole purpose is development, ownership and operation of the Project on the Site; (iii) such limited partnership expressly assumes all of the obligations of Developer under this Agreement in a written assumption agreement delivered to and reasonably satisfactory to City; and (iv) Developer shall have delivered the LP-1 and partnership agreement to the City. Notwithstanding any assignment of this Agreement, Developer, shall, at all times, be responsible and obligated directly to City for performance of Developer’s obligations under this Agreement.

13.3 Definitions. For the purposes of this Agreement, the term “**Affiliate**” means any person, directly or indirectly, controlling or controlled by or under common control with Developer, whether by direct or indirect ownership of equity interests, by contract, or otherwise.

14. Developer Events of Default and City Remedies.

14.1 Developer Events of Default. The occurrence of any of the following shall constitute an "Event of Default" on the part of Developer under this Agreement:

14.1.1 Schedule of Performance. Failure of Developer to meet a performance milestone by the applicable date contained in the Schedule of Performance, if such failure is not cured within thirty (30) days after written notice of such failure.

14.1.2 Misrepresentation. Any material breach of any representation or warranty made by Developer in this Agreement that is not cured within thirty (30) days after written notice from City to Developer of such breach.

14.1.3 Unauthorized Assignment. Any assignment or attempted assignment by Developer in violation of Section 12.

14.1.4 Insurance. Failure of Developer to procure or maintain any of the insurance coverage required by this Agreement resulting in a lapse in required insurance coverage.

14.2 City Remedies. If there is an Event of a Default by Developer, City may, in City's sole and absolute discretion, terminate this Agreement by delivering written notice of termination to Developer. Upon any such termination, neither Party shall have any further rights or obligations to the other under this Agreement, except obligations that expressly survive termination of this Agreement.

15. Developer Representations and Warranties. Developer represents, warrants and covenants to and for the benefit of City, as of the Effective Date and at all times during the Negotiation Period, as follows:

15.1 Valid Existence; Good Standing; Joint Venture Relationships. Developer is a nonprofit public benefit corporation duly organized and validly existing under the laws of the State of California. Developer has all requisite power and authority to own its property and conduct its business as presently conducted. Developer has made all filings and is in good standing in the jurisdiction of the State of California.

15.2 Authority. Developer has all requisite power and authority to enter into and perform this Agreement.

15.3 No Limitation on Ability to Perform. Neither Developer's articles of incorporation nor any other organizational document regarding Developer in any way prohibits, limits or otherwise affects the right or power of Developer to enter into or perform this Agreement. Developer is not a party to or bound by any contract, agreement, indenture, trust agreement, note, obligation or other instrument that could prohibit, limit or otherwise affect Developer's entry into or performance of this Agreement. To the best of Developer's knowledge, no consent, authorization or approval of, or other action by, and no notice to or filing with, any governmental authority, regulatory body or any other person or entity is required for the due execution, delivery or performance by Developer of this Agreement or any of the terms or covenants contained in this Agreement. There is no pending or threatened suit or proceeding or undischarged judgment affecting Developer before any court, governmental agency, or arbitrator that might materially adversely affect the enforceability of this Agreement, the ability of Developer to perform the transactions contemplated by this Agreement or the business, operations, assets or condition of Developer.

15.4 Valid Execution. The execution and delivery of this Agreement by Developer have been duly and validly authorized by all necessary action of Developer and others. This Agreement will be a legal, valid and binding obligation of Developer, enforceable against Developer in accordance with its terms. Developer has provided to City a written resolution of Developer's Board of Directors authorizing Developer's entry into and performance of this Agreement.

16. Notices. A notice or communication under this Agreement by either Party to the other shall be sufficiently given or delivered, if in writing and delivered by messenger, overnight air courier or registered or certified first class mail with return receipt requested (for U.S. mailings) to the appropriate Party at its address as follows:

In the case of a notice or communication to City:

City Manager's Office
City of Mill Valley
26 Corte Madera Avenue
Mill Valley, CA 94941
Attn: Alan Piombo

With a copy to:

Richards, Watson & Gershon
One Sansome Street, Suite 2850
San Francisco, CA 94104
Attn: Inder Khalsa

And in the case of a notice or communication sent to Developer:

EAH, Inc.
22 Pelican Way
San Rafael, CA 94901
Attn: Bianca L. Neumann, Director Business Development

With a copy to:

Bocarsly Emden Cowan Esmail & Arndt LLP
633 West 5th Street, 64th Floor
Los Angeles, CA 90071
Attn: Nicole Deddens

Any mailing address may be changed at any time by giving written notice of such change in the manner provided above at least ten (10) days prior to the effective date of the change. All notices under this Agreement shall be deemed given, received, made or communicated on the date personal receipt actually occurs or, if mailed, on the delivery date or attempted delivery date shown on the return receipt.

17. General Provisions.

17.1 Amendments. This Agreement may be amended or modified only by a written instrument signed by both City and Developer.

17.2 Severability. If any provision of this Agreement, or its application to any person or circumstance, is held invalid by any court, the invalidity or inapplicability of such provision shall not affect any other provision of this Agreement or the application of such provision to any other person or circumstance, and the remaining portions of this Agreement shall continue in full force and effect, unless enforcement of this Agreement as so modified by and in response to such invalidation would be unreasonable or grossly inequitable under all of the circumstances or would frustrate the fundamental purposes of this Agreement. Without limiting the foregoing, in the event that any applicable federal or state law prevents or precludes compliance with any material term of this Agreement, the Parties shall promptly modify, amend or suspend this Agreement, or any portion of this Agreement, to the extent necessary to comply with such provisions in a manner which preserves to the greatest extent possible the benefits to each of the Parties to this Agreement. However, if such amendment, modification or suspension would deprive City or Developer of the substantial benefits derived from this Agreement or make performance unreasonably difficult or expensive, then the affected Party may terminate this Agreement upon thirty (30) days written notice to the other Party. In the event of such termination, neither Party shall have any further rights or obligations under this Agreement except as otherwise provided herein.

17.3 Non-Waiver. No waiver made by either Party with respect to the performance, or manner or time of performance, or any obligation of the other Party or any condition to its own obligation under this Agreement will be considered a waiver with respect to the particular obligation of the other Party or condition to its own obligation beyond those expressly waived, to the extent of such waiver, or a waiver in any respect in regard to any other rights of the Party making the waiver or any other obligations of the other Party.

17.4 Non-Liability. No member, official, agent or employee of City will be personally liable to Developer, or any successor in interest (if and to the extent permitted under this Agreement), in an event of default by City or for any amount that may become due to Developer or successor or on any obligations under the terms of this Agreement. No director, officer, agent or employee of Developer will be personally liable to City in an event of default by Developer or for any amount that may become due to City or on any obligations under the terms of this Agreement.

17.5 Successors and Assigns; Third Party Beneficiary. This Agreement shall inure to the benefit of and bind the respective successors and assigns of City and Developer, subject to the limitations on assignment by Developer set forth in Section 12. This Agreement is for the exclusive benefit of the Parties to this Agreement and not for the benefit of any other person and shall not be deemed to have conferred any rights, express or implied, upon any other person.

17.6 Governing Law. City and Developer acknowledge and agree that this Agreement was negotiated, entered into and is to be fully performed in the City. City and Developer agree that this Agreement shall be governed by, interpreted under, and construed and enforced in accordance with the substantive and procedural laws of the State of California, without application of conflicts or choice of laws principles.

17.7 Compliance with Law. Developer acknowledges that any future DDA, if approved by City governing body, will require Developer (among other things) to carry out the development of the Project on the Site in conformity with all applicable laws, including all applicable building, planning and zoning laws, environmental laws, safety laws and federal and state labor and wage laws.

18. Interpretation of Agreement. No inference in favor of or against any Party shall be drawn from the fact that such Party has drafted any part of this Agreement. The Parties have both participated substantially in the negotiation, drafting, and revision of this Agreement, with advice from legal and other counsel and advisers of their own selection. A word, term or phrase defined in the singular in this Agreement may be used in the plural, and vice versa, all in accordance with ordinary principles of English grammar, which shall govern all language in this Agreement. The words "include" and "including" in this Agreement shall be construed to be followed by the words: "without limitation." Each collective noun in this Agreement shall be interpreted as if followed by the words "(or any part of it)," except where the context clearly requires otherwise. Every reference to any document, including this Agreement, refers to such document, as modified from time to time (excepting any modification that violates this Agreement), and includes all exhibits, schedules, addenda and riders to such document. The word "or" in this Agreement includes the word "and." Every reference to a law, statute, regulation, order, form or similar governmental requirement refers to each such requirement as amended, modified, renumbered, superseded or succeeded, from time to time. Headings at the beginning of each section or sub-section of this Agreement are solely for the convenience of reference of City and Developer and are not a part of this Agreement. Whenever required by the context of this Agreement, the singular shall include the plural and the masculine shall include the feminine and vice versa. Unless otherwise indicated, all references to sections are to this Agreement. All exhibits referred to in this Agreement are attached to this Agreement, unless otherwise specified.

18.1 Entire Agreement. This Agreement (including the attachments and exhibits) contains all of the representations of and the entire agreement between the Parties with respect to the subject matter of this Agreement. Any prior correspondence, memoranda, agreements, warranties or representations relating to such subject matter are superseded in total by this Agreement. No prior drafts of this Agreement or changes from those drafts to the signed version of this Agreement shall be introduced as evidence in any litigation or other dispute resolution proceeding by either Party or any other person and no court or other body shall consider those drafts in interpreting this Agreement.

18.2 Time for Performance.

18.2.1 Expiration. All performance, expiration or termination dates (including cure dates) in this Agreement (including the attached Schedule of Performance) expire at 5:00 p.m., Pacific Time, on the specified date.

18.2.2 Weekends and Holidays. A date that falls on a Saturday, Sunday or City holiday is deemed extended to the next day on which the City is open for performance of general City functions with regular City personnel.

18.2.3 Days for Performance. All periods for performance specified in this Agreement in terms of days shall be calendar days, and not business days, unless otherwise expressly provided in this Agreement.

18.2.4 Time of the Essence. Time is of the essence with respect to each provision of this Agreement.

18.3 Counterparts. This Agreement may be signed in multiple counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

18.4 Survival. Notwithstanding anything to the contrary in this Agreement, each indemnity obligation under this Agreement shall survive expiration or termination of this Agreement. Further all other obligations under this Agreement that arise and were not satisfied before expiration or termination of this Agreement shall survive any expiration or termination of this Agreement.

18.5 Non-Discrimination. Developer covenants by and for itself and its successors or assigns, and all persons claiming under or through it, and this Agreement is made and accepted upon and subject to the following conditions:

18.5.1 Standards. That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (l) of subdivision (p) of Section 12955, and Section 12955.2 of the Government code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Site nor shall Developer, itself, himself or herself, or any person claiming under or through it, him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, subtenants, sublessees, or vendees in the Site.

18.6 Relationship of the Parties. The subject of this Agreement is a private development with neither Party acting as the agent of the other Party in any respect. None of the provisions in this Agreement shall be deemed to render City a partner in Developer's business, or joint venturer or member in any joint enterprise with Developer.

IN WITNESS WHEREOF, City and Developer have signed and entered into this Agreement as of the Effective Date by and through the signatures of their respective authorized representative(s), as follow:

CITY:

CITY OF MILL VALLEY,
a municipal corporation

By: _____

Print Name: _____

Title: _____

APPROVED AS TO FORM:

By: _____
Inder Khalsa, City Attorney

DEVELOPER:

EAH, INC.,
a California nonprofit public benefit corporation

By: _____
Print Name: _____
Title: _____

EXHIBIT "A"
TO
EXCLUSIVE NEGOTIATION AGREEMENT

Description of the Site

[Attached behind this cover page]

1 Hamilton Road, Mill Valley
Assessor's Parcel 030-250-01
Approximate Site Area of Affordable Housing Parcel

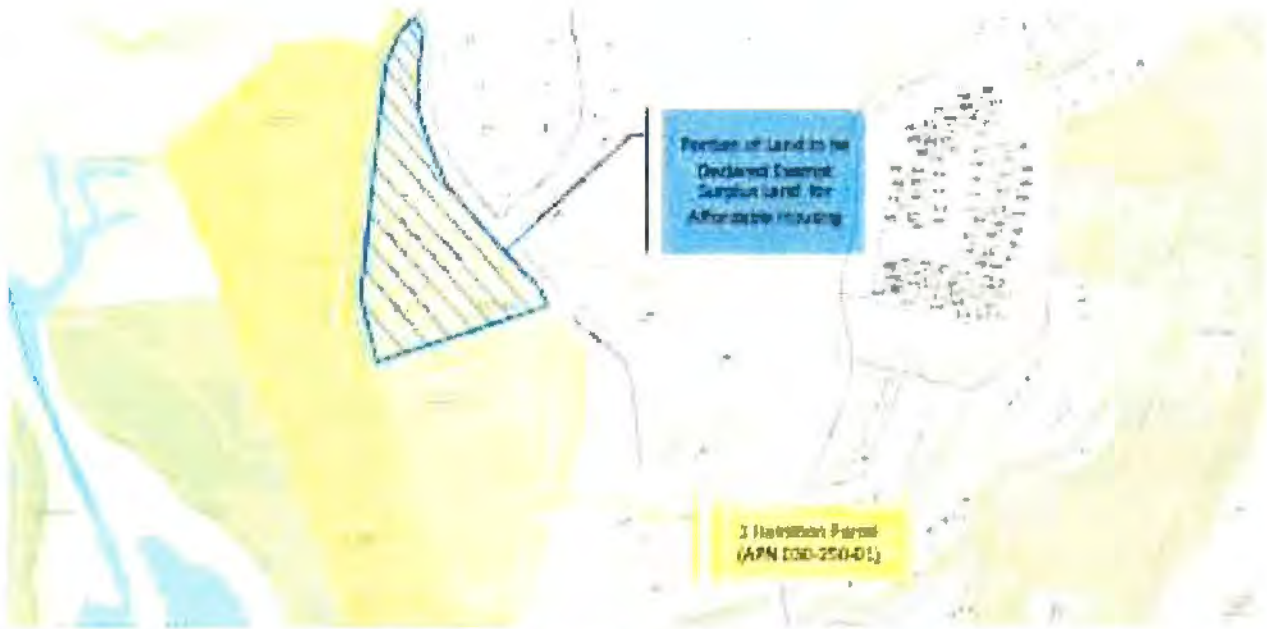


EXHIBIT "B"
TO
EXCLUSIVE NEGOTIATION AGREEMENT

Schedule of Performance

[Attached behind this cover page]

Schedule of Performance

Re: 1 Hamilton Road, Mill Valley

Scope: Exclusive Negotiation Agreement period (February 2022 to March 2023*)

Exclusive Negotiation Agreement

Executed Agreement Feb. 2022

Community Outreach

Community Outreach Plan Feb. 2022

Outreach to Community Groups: Small Targeted Discussions to Identify Community needs Feb. 2022 to Sept. 2022

Community Meeting 1: Introduction to team and project concept Feb. 2022

Community Meeting 2: Interactive Input April 2022

Community Meeting 3: Report out, project changes, and integrations of community input June 2022

Community Meeting 4: Pre-Submittal Design Sept. 2022

Design, Rezoning, and Entitlements

Initial Site Plan and Fit Studies Dec. 2021 to Feb. 2022

Schematic Design Feb. 2022 to July 2022

Pre-Entitlement Package Sept. 2022

Entitlement Submittal Feb. 2023

General Plan Amendment for Rezoning Feb –June 2023

***Environmental**

Environmental Phase 1 Feb. 2022

Geotechnical Reports March 2022

Environmental Phase 2 (if required) April 2022

CEQA and NEPA Approval Jan. 2023 to Aug. 2023

Finance

City Predevelopment Loan
(approved with ENA)

Feb. 2022

Financing Concept

March 2022

Financing Plan

June 2022

Land Disposition Agreement

March 2023

* Above assumes a mitigated negative declaration. Should a full EIR be required entitlement process could take up to 24 months. Schedule for Initial Study will be determined in coordination with the selected environmental consultant; overall project schedule will be determined upon completion of an initial study.

Community Outreach & Engagement Plan

Updated: January 14, 2022

Overview

EAH and Van Meters William Pollack (the development team) recognize that community participation is a critical component of the planning process. Providing the opportunity for public input encourages citizens to be invested in the future of their community. The public outreach and engagement plan describes how community members, project partners and stakeholders will be engaged throughout the planning and design process. The outreach and engagement plan serves as a guide for community involvement and is subject to change based on input received.

Approach

PHASE 1: Information Gathering

Identify key stakeholders and document neighborhood and community interests and concerns regarding the development of the 1 Hamilton site. This first phase usually consists of one community meeting to kick off the project, followed by small informal focus group meetings with community stakeholders.

The purpose of this phase is to assess the areas of community interest, and shape outreach materials accordingly.

PHASE 2: The Focused Community Outreach

Engage community residents and stakeholders to participate in design discussions, which include input and feedback on design concepts to refine the site plan and architectural details.

The goal of this phase is to obtain consensus on a preferred site plan and schematic design concept which will be submitted to the City for review and approval.

PHASE 3: Entitlement Package Submittal and Support

Provide on-going support to assist in the development review and approval process. Attend public hearings and document community support for the project.

PHASE 4: Ongoing Community Outreach

EAH Housing staff will continue to reach out to our neighbors long after project approval, from site development, construction, and through full occupancy. We pride ourselves on being an active and supportive partner in the communities where we develop and manage affordable housing. We consider our community outreach program as the first step in a long-term relationship between EAH and our neighbors.

ATTACHMENT #3

Communication Methods

Our methods for communication are adaptive and flexible to reach the broadest segment of the population. Utilizing both analog and digital platforms, the development team will find the means to inform and engage the community in the development process. Dependent on Covid guidelines and community preference, some or all these methods can be utilized.

Analog

Direct Mail: will be sent to residents within a defined catchment. Information will include upcoming community meetings and opportunities to provide input on the proposed development and information on general project updates.

Door to Door: information on the development and events can be delivered on doorsteps. Our development team can visit local businesses, community centers, and churches to provide information on the future development.

Local Newspapers: ads can be placed in local newspapers to inform the community about upcoming meetings and provide general information on the future project and general development updates.

Community Events: the development team can attend local community events, such as street fairs, to engage and inform the community about the future project.

Small Focus Groups: the development team will meet with small local targeted groups, such as the immediate neighbors Friends of Hauke Park, Sustainable Mill Valley, etc. to discuss specific concerns or questions regarding the future development.

In-Person Community Meetings: the development team will have community meetings to publicly discuss the development process and the specific elements of the future development project.

Digital

Direct Email: will be sent to those that sign up for our email list. Information shared will include upcoming community meetings, opportunities to provide input on the proposed development (examples: surveys or planning meetings), and general project updates.

Project Website: will provide general information on the proposed development, including a site map, affordability information, project team and contacts, upcoming events, general development timeline, frequently asked questions, and the ability to sign-up for project updates.

Online Community Groups: information can be shared via local online community forums such as Nextdoor and/or local Facebook groups.

Online Community Meetings: the development team can have community meetings using an online platform to publicly discuss the development process and the specific elements of the future development project.

Planned Community Meetings

The meetings below are the general guide to the types of community meetings we will have and the projected timeline. Additional meetings can be added. More specifically, community meetings 2 & 3 can be an iterative process with multiple rounds of community input and reporting.

At all community meetings, there will be assigned note-takers to capture community comments. Questions and answers will be shared via the development webpage.

Community Meeting 1: Project and Team Introduction

When: March 2022

Location: Mill Valley Community Center (or online*)

Goal: Lay out existing site conditions and opportunities, introduce the project and project team, and collect community questions and concerns.

Format: Formal presentation followed by an open house with stations addressing specific topics

Description:

The project team will give a short formal presentation introducing themselves, the project, and the format for the open house. At each topic station, there will be a subject matter expert and a note-taker. Individuals will be encouraged to visit stations, ask questions and give feedback on the various topics discussed below.

Information Stations. Break out rooms, or informational stations, will be used to collect input and answer questions on the following:

1. Affordable Housing Overview- What is affordable housing, rents, incomes, and how households qualify for affordable housing.
2. Development timeline and process.
3. Replacement of current uses- parking and bathroom relocations options.
4. Conceptual Design- views, massing, and site plan overview.
5. EAH property management and services.
6. Other topics areas, as needed.

*If online breakout rooms will be used in place of stations.

Focus Group Input: Small group meetings

When: Between kick off and Workshop 2

Location: Varies

Goal: Address specific concerns associated with site design and layout. Talk to direct neighbors and take suggestions for further view impact evaluations.

Format: Varies. May include online surveys or meetings on-site with the project team to discuss neighborhood concerns, led by the Architect, VMWP.

Description:

Information gathering to discuss the site layout, including affordable housing opportunities, concerns about view impacts, replacement parking, and circulation, and park restroom. The project team will document expressed concerns and take requests into design considerations.

Community Meeting 2: Initial Concepts

When: April 2022

Location: Mill Valley Community Center (or online*)

Goal: Present initial concept and collect community feedback

Format: A formal presentation followed by a design charrette.

Description:

The development team will present 2-3 concepts for site layout. For each of the concepts, the tradeoff will be presented regarding the number of homes created, parking, and massing. The team will also provide an initial overall replacement plan illustrating options for replacement parking and circulation and relocation of the park restroom. The community will then be asked to participate in a design charrette providing feedback on elements and suggestions for improvements.

The development team will collect all community comments and integrate, where feasible, into the next iteration of the design concept.

*If online breakout rooms will be used for virtual design charrette, with survey questions for design elements.

Community Meeting 3: Project Concept Update

When: June 2022

Location: Mill Valley Community Center (or online)

Goal: Layout the feedback received at the previous meeting and how those suggestions have been integrated into the updated project concepts to establish consensus for the project design concept.

Format: Formal presentation and question and answer session followed by an open house with stations addressing specific elements of the development.

Description:

The development team will present the consensus or preferred option with small sub-options for the development as well as for surrounding potential public improvements to parking and circulation and park restroom. Time will be taken to lay out how the design was arrived at based on the community input from the previous design charrette. Once the formal presentation is completed, community members will be given the opportunity to ask questions in an open forum.

After the open forum, community members will be invited to explore stations addressing specific elements of the project's development to ask questions, provide feedback, and provide solutions. Examples of stations that may be included are parking and traffic, site plan, and/or architectural design (style or optional styles) for the development.

*If online, breakout rooms will be used in place of stations.

Community Meeting 4: Pre-Submittal Design

When: September 2022

Location: Mill Valley Community Center (or online)

Goal: Provide a final opportunity for community comment and prior to preparing entitlement package

Format: Formal presentation and open form question and answer session.

Description:

The development team will present the refined design, which is intended for submittal for design review and the zoning and general plan amendment process. It provides the community an opportunity to see the submitted proposal before the design review and provide final comments to the development team.

Ongoing Small Group Meetings

When: February to September 2022

Location: Various

Goal: Address specific concerns in small group settings to build consensus and support.

Format: Small group meetings in person or via an online platform.

Description:

The development team will continue to work with local organizations to inform and engage them in the development process for the future development at 1 Hamilton Drive.

EXHIBIT B



tel: 916.455.7300 • fax: 916.244.7300
510 8th Street • Sacramento, CA 95814

February 4, 2022

SENT VIA EMAIL (cityclerk@cityofmillvalley.org)

Kelsey Rogers, City Clerk
City of Mill Valley
Mill Valley City Hall
26 Corte Madera Avenue
Mill Valley, CA 94941

**RE: Public Comments to February 7, 2022 City Council Meeting,
Agenda Item 6 re: 1 Hamilton Drive**

Dear Ms. Rogers:

This letter transmits additional comments regarding Agenda Item 6, a proposed Exclusive Negotiating Agreement (“ENA”) with a developer for residential development at 1 Hamilton Drive (“Project”). Our prior letter, dated February 2, 2022, raised concerns that the City’s approval of the ENA commits the City as a practical matter to the Project without first conducting CEQA review in violation of CEQA. (*Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116, 132 (*Save Tara*)). Our further review of surrounding circumstances reinforces this concern.

We reviewed the City’s staff report for Item 6, Housing Element Update, which revealed additional troubling information about the City’s commitment to the Project. Specifically, a comment letter by the Mill Valley Affordable Housing Committee (“MVAHC”) states, “1 Hamilton shows up on the counts but not on the map. However, we are very encouraged that it ***clearly shows up as a cast-in-stone commitment*** in this chart.” (Item 5 staff report, Attachment 3, p. 2, emphasis added.) While it is unclear what chart is described, MVAHC’s understanding that the City’s commitment is “cast-in-stone” cannot be ignored. These facts bring the present situation even closer to that addressed in *Save Tara*:

Circumstances surrounding City’s approval of the agreements confirm City’s commitment to the 1343 Laurel project. In aid of Laurel Place’s HUD grant application, the city manager told the federal agency City “has approved the sale of the property” and “will commit” up to \$1 million in financial aid. Once the grant was awarded, City’s mayor announced it “will

be used” for Laurel Place’s project, and the City newsletter stated that, using the grant, City and Laurel Place “will redevelop the property.” City officials told residents who opposed the project that while “variations” on the proposal would be entertained, City “must continue on a path that fulfills this obligation” to redevelop the property for senior housing. Similarly, at the May 3, 2004, city council meeting, City’s housing manager stated that while there were “options to consider” regarding project design, options for other uses of the property (as a park, library, or cultural center) had already been ruled out.

(*Id.* at 141–142.)

MVAHC’s understanding of the City’s “cast-in-iron” commitment to the Project is unfortunately reinforced by our ongoing inquiry into the City’s claimed analysis of alternative project sites. The City has repeatedly asserted that it analyzed 75 different City-owned parcels. FOHP members were skeptical because they received information suggesting that the City was trying to limit new affordable housing to the less affluent side of town, east of Camino Alto, where all of the existing affordable housing is located. This prompted us to submit a Public Records Act (“PRA”) request to the City, explaining, “FOHP is concerned about the process and criteria utilized by the City of Mill Valley (‘City’) to seemingly decide upon the 1 Hamilton Drive site, adjacent to Hauke Park, as the City’s preferred location for the Project.”

We have now reviewed 2,068 pages produced by the City in response to our PRA request. Far from dispelling our concerns about an improper analysis for selecting viable sites, the documents produced to date support our concerns. While the City claims that it analyzed in detail 71 different City-owned sites, the City’s records only identify 11 such sites. (See Exhibit 1, memo from Danielle Straude from Janet “Re: Analysis of Tax-Exempt Sites for Affordable Housing Development” dated February 10, 2021 (“Site Analysis Memo”), pp. 7, 18.) The City’s document production does not even identify the remaining 64 sites, much provide detailed analysis of their suitability.

We note the Site Analysis Memo identifies an additional 37 sites “for potential sale.” (Exhibit 1, Site Analysis Memo, p. 19.) The City has never clarified, however, whether these additional 37 sites “for sale” are included in the 75 sites purported analyzed for development. Even if they are included, the total of 48 sites (11 sites for development and 37 sites for sale) falls well short of the claimed 75 sites that were analyzed. In this scenario, 27 sites remain completely undisclosed.

Kelsey Rogers, City Clerk
City of Mill Valley
February 4, 2022
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The City's failure to document its analysis of 64 (or 27) of the 75 claimed potential housing sites is consistent with FOHP's concern that 1 Hamilton Drive has been selected for impermissible reasons.

In light of these troublesome developments, the City needs to stop the "bureaucratic and financial momentum" inexorably leading to an unlawful commitment to 1 Hamilton Drive in violation of CEQA. (*Id.* at 130.) Nothing requires the City to rush ahead with the Project at this time in this manner. Indeed, the City is now performing a comprehensive site analysis as part of the Housing Element update as described in the Item 5 staff report. The only legitimate path forward, which would comply with applicable law and restore public confidence in the City's decision-making process, is for the City to follow the process identified for its Housing Element Update.

Very truly yours,

SOLURI MESERVE
A Law Corporation

By:



Patrick M. Soluri

PMS/mre

Attachment: Exhibit 1, February 10, 2021 Site Analysis Memo

cc: John McCauley, Mayor (jmccauley@cityofmillvalley.org)
Jim Wickham, Vice Mayor (jwickham@cityofmillvalley.org)
Urban Carmel, Councilmember (ucarmel@cityofmillvalley.org)
Sashi McEntee, Councilmember (smcentee@cityofmillvalley.org)
Stephen Burke, Councilmember (c/o cityclerk@cityofmillvalley.org)
G. Inder Khalsa, City Attorney (gkhalsa@rwglaw.com)

EXHIBIT 1

To: Danielle Straude, Senior Planner, City of Mill Valley
From: Janet Smith-Heimer, The Housing Workshop
Re: Analysis of Tax-Exempt Sites for Affordable Housing Development
Date: 2-10-21

Introduction and Summary of Findings

This memo summarizes an initial analysis of a list of approximately 75 parcels of land owned by the City of Mill Valley, for the purposes of identifying a short list of parcels suitable for potential affordable housing development. In addition, the analysis for this memo included a review of all other identifiable property tax-exempt parcels located within City limits (e.g., owned by Marin Open Space, Marin Municipal Water District, several religious organizations, etc.). The source for identifying tax-exempt parcels, the County Assessor's database, lists all land parcels in Mill Valley by identifying number, size, owner, and tax-exempt or taxable status.

The analysis of publicly-owned/tax-exempt land parcels was commissioned by the City of Mill Valley, and prepared under the guidance of City staff and the Housing Advisory Committee. Following discussion of this initial analysis, The Housing Workshop will conduct an in-depth financial analysis of potential housing projects on two of the best-suited sites to demonstrate feasibility and facilitate potential next steps by the City.

Purpose of the Analysis

This initial study phase was conducted with two objectives: to identify City-owned or other tax-exempt parcels that could be developed into affordable housing, and to identify any parcels that could potentially be monetized (e.g., sold or leased) by the City to private parties to raise local funds that could help subsidize affordable housing projects. The review of City-owned properties aligns well with policy initiatives promoted by housing policy experts as well as the State of California, to leverage publicly-owned land assets to address the current housing crisis. This memorandum does not outline or analyze housing affordability issues in Mill Valley; several key resources to further explore those issues are referenced in Appendix A of this memorandum.

Leveraging publicly-owned land assets by making them available, typically at reduced or no cost to a non-profit affordable housing developer, is a direct method of subsidizing and creating this type of development, which otherwise faces major challenges in acquiring developable land and

raising sufficient funding to build new units. In other words, eliminating the time and cost of acquiring land (because it is contributed by a city or public agency to a project), immediately reduces the need for funding by 20 to 40% of total project cost, depending on the cost of that land. This concept, sometimes called “land write-down,” was used very successfully throughout California for decades through local redevelopment agencies tasked with funding new affordable housing projects. Nearby examples of this concept can be found in San Rafael and other Marin locations.

Summary of Findings

As detailed in the following memorandum, the initial analysis concluded the following:

- Among the numerous City-owned parcels, just 4 sites were identified for further analysis, including:
 1. Public Safety Building/Hauke Field Parking Lot
 2. Boyle Park Tennis Courts
 3. Portion of Edgewood (aka Mill Valley Reservoir)
 4. Portion of Mill Valley Golf Course along Linda Vista Drive
- The factors affecting this conclusion – parcel size, degree of slope, recreation/open space designations, and environmental constraints – render many of the subject parcels infeasible for multifamily affordable housing development.
- A review of other non-City owned, tax-exempt parcels indicates that there are likely no short-term opportunities to partner with property owners.
- There are limited opportunities to monetize City-owned parcels, due to likely infeasibility of creating retail single family lots matching zoning requirements for parcel size. Three parcels that may yield up to 10 lots in total were identified as potentially saleable, but require further analysis to determine their marketability and value. It should also be noted that raising funds for potential use as subsidy in future projects does not directly resolve the lack of available project development sites.

Next steps in the study process will include preparing a financial analysis for 2 of the 4 sites identified as having near-term development potential for affordable housing. If these sites “pencil,” The Housing Workshop will recommend a series of future actions to undertake City-sponsored affordable housing development on those sites.

Affordable Housing Development Challenges in Mill Valley

There are several key development constraints facing Mill Valley's publicly-owned parcels, all of which were converted into criteria to apply to the list of parcels for the analysis. These are summarized below.

Current Zoning Designations

Mill Valley owns numerous tracts of land used for active recreation (e.g., ballfields, tennis courts) along with extensive networks of trails, gardens, public parks, and designated open space areas with heritage trees. These recreation/open space lands are treasured by residents, and are considered important parts of Mill Valley's quality of life.

The community valuing of recreation/open space, and the balancing of potential development versus conservation for recreation/open space, have long been codified in the City's General Plan land use and zoning designations. The balancing of competing goals, such as development versus recreation/open space, is a tension that occurs in every city in the Bay Area. This current analysis does not seek to alter these land use designations; the work conducted every 8 years to prepare the City's Housing Element Update is meant to address those larger policy questions.

Criteria Used in Analysis. With a few exceptions as described later in this memorandum, the City-owned sites analysis considered a current zoning designation of Open Space as a given, thereby not permitting any new multifamily housing development. The few exceptions described later in this memorandum represent potential building sites located within larger open space areas, sited to be on frontage roads so as to not disturb recreation/open space enjoyment.

Parcel Size and Development Density

In Mill Valley, even though the City owns parcels of various sizes throughout the city, these assets are not easily identifiable on the ground. Mill Valley, with its desirable location, climate, and lifestyle, has long been “built-out,” meaning no obvious tracts of undeveloped land await development. The downtown layout, primarily in a historic village pattern, further limits development opportunities on publicly-owned parcels.¹

A review of Mill Valley’s zoning designations indicates that the City’s most dense category of residential development caps out at 29 dwelling units per acre, with these opportunities generally located in the downtown center. This density typically translates into a 3-story multifamily building with surface parking.

For 100% affordable housing projects (including housing for very low, low, and moderate income households), the California Density Bonus Law (found in California Government Code Sections 65915 – 65918) provides developers with a substantial “density bonus” of an 80% increase in density. For Mill Valley’s current most dense residential zone category, this would yield projects with a density of 52 units per acre (1.8 X 29).

Almost all affordable rental housing developers seek yield and scale in their projects (in terms of number of units), due to the complexities and cost involved in creating these projects. In Mill Valley, this combination of relatively low maximum allowable density and typical parcel size mean that even with a density bonus, almost all professional organizations will not be able to expend the time and resources necessary to develop on very small parcels.² In addition, even post-development, most affordable housing projects require an on-site property manager living in one of the units, which is generally not sustainable in terms of operating costs in projects with less than 40 units, although exceptions to this rule of thumb can be found for slightly smaller projects if management is shared by the same owner with another small project nearby. The result of these scale and yield considerations means that parcels likely to attract a qualified affordable rental housing developer would need to be at least 0.75 acres (which would yield 39

¹ It should be noted that downtown Mill Valley has numerous examples of privately-owned parcels that are currently underutilized (e.g., aging one-story commercial structures and/or underutilized parking lots). While these parcels were not analyzed directly in this memorandum, they should be reconsidered as potential housing or mixed-use sites during the City’s upcoming Housing Element update process, because downtown infill locations typically create very desirable locations with services for multifamily projects. These kinds of projects also serve to activate streets, bring new shoppers, and contribute to a vibrant village center.

² Some for-profit developers of market-rate housing are able to develop on small parcels, due to the typical high profit margins available in a higher-value area such as Mill Valley. Yield and scale affect these two housing segments differently.

units per acre if zoned for 29 units and the maximum density bonus were applied).

Criteria Used in Analysis: Due to the resulting infeasibility of affordable housing development on small parcels, City-owned parcels less than 0.75 acres are considered not developable for this purpose. However, separately, some of these smaller sites may have monetary value to raise funds for a project located elsewhere, and are assessed in this memorandum for that purpose.

Degree of Slope

Due to topography, location near sensitive wetlands, areas which experience flooding, and other environmental factors, Mill Valley sites require a fine-grained assessment to determine physical development feasibility. This analysis focuses on two key physical factors: slope and floodplain/floodway status.

Steep slopes adversely affect affordable multifamily development in several ways, all of which combine to increase project costs without an ability to obtain compensation through commonly-used funding sources. Costs rise in steep slope situations because of extra site grading, design challenges, accessibility challenges for people with disabilities, and seismic safety structural mitigations. In addition, often steep slopes face erosion and other constraining soil conditions, all of which also add to project costs. Most affordable housing developers will seek other opportunities elsewhere that do not pose these increased cost risks.³

Criteria Used in Analysis: Sites with an average slope greater than 10% were considered infeasible for affordable housing project development. However, there are a few exceptions noted later in this memorandum, where site visits indicated that flatter building pads may exist among large parcels with otherwise average steeper slopes.

³ It should be noted that these slope-related factors do not necessarily constrain high value new construction townhouse or single-family homes in the same way; these types of buildings can often maximize views and/or incorporate other creative design features on steeply-sloped lots, adding value to offset increased costs.

Floodplain/Floodway Status

Some portions of Mill Valley’s flatter, more developed sections are affected by several waterways which can reach impactful flood stages currently defined by the Federal Emergency Management Agency (FEMA) as having a 1% chance of flooding each year (formerly called “100 year floodplain”). In simple terms, these areas require annual flood insurance premiums, which add to the operating costs in affordable projects. In some subzones of these areas, FEMA recommends architectural and engineering methods to reduce flood damage; while these may add to construction costs, they can sometimes be incorporated without creating project infeasibility (such as raising the dwelling areas above flood levels with parking on the ground floor).

In other floodplain areas, based on waterway hydrology and topography analyses, FEMA designates certain portions as Floodways, which means any building placed on the site needs to be designed so that its structure does not demonstrably impede receding water flow in the event of a flood. In simple terms, this requirement is in place to ensure that floodwaters can flow, unimpeded by structure, causing more damage elsewhere. Building housing structures in floodways is therefore quite difficult to infeasible, and sites in FEMA-designated floodways are not recommended for further consideration by the City of Mill Valley.

Criteria Used in Analysis: Parcels with a FEMA floodplain designation of “AE” or “AO” are considered as possible for development (albeit not ideal), while parcels designated as Floodway are considered not feasible for affordable housing development.

The results of applying the above criteria to the City-owned and other tax-exempt parcels are described in the following section with supporting tables included as Appendices B through D.

Potential City-Owned Affordable Housing Development Sites

The approximately 75 City-owned parcels were evaluated based on criteria outlined above, including a minimum size of at least 0.75 acres and an average slope of 10% or less.

A summary of the resulting “short list” of potentially developable affordable housing sites is shown below. Each of these sites was also visited in-person by The Housing Workshop and evaluated further per other potential site or regulatory constraints, as described below.

Table 1: City-Owned Sites with Potential Feasibility for Multifamily Affordable Rental Housing

Site #	Site Location	APN	Acres	Avg Slope (%)	Zoning	Flood-plain (a)	Flood-way	# of Units (b)	Notes
1	1 Hamilton Public Safety Building parking lot serving Hauke Field	030-250-01	0.75	10.0%	Open Area (O-A)	No	No	22-39 units	Site size estimated (part of larger parcel). Needs design study to confirm suitable building pad with sufficient distance from Bayland Corridor boundary. Parcel would require subdivision and rezoning.
2	Portion of Boyle Park Tennis courts and part of field behind it	029-212-24, possibly part of another parcel	0.80	< 10%	Open Area (O-A)	No	No	23-41 units	Site size estimated (portion of Boyle park inc. 5 tennis courts and field/parking lot at end of East Drive)
3	Edgewood (MV Reservoir)	046-070-02, 046-061-52	4.37	24.6%	Open Area (O-A)/Single Family (RS)	No	No	29-52 units	Site size and location estimated (part of larger parcel). Review of 1967 grant deed shows covenant to keep as a park. This parcel is relatively large and has some slope areas, so a portion could be removed from covenant w MMWD agreement. Yield estimate assumes 1 buildable acre within larger sloped site.
4	Portion of Mill Valley Golf Course along Vista Linda Drive	029-131-07	45.68	16.5%	Open Area (O-A)	AO	No	22-39 units	Site would be portion along Vista Linda Drive/ edge of golf course. Yield assumes a .75 acre parcel could be identified. May require relocation/redesign of nearby golf hole. Yield may be reduced depending on parcel shape and golf course safety requirements.

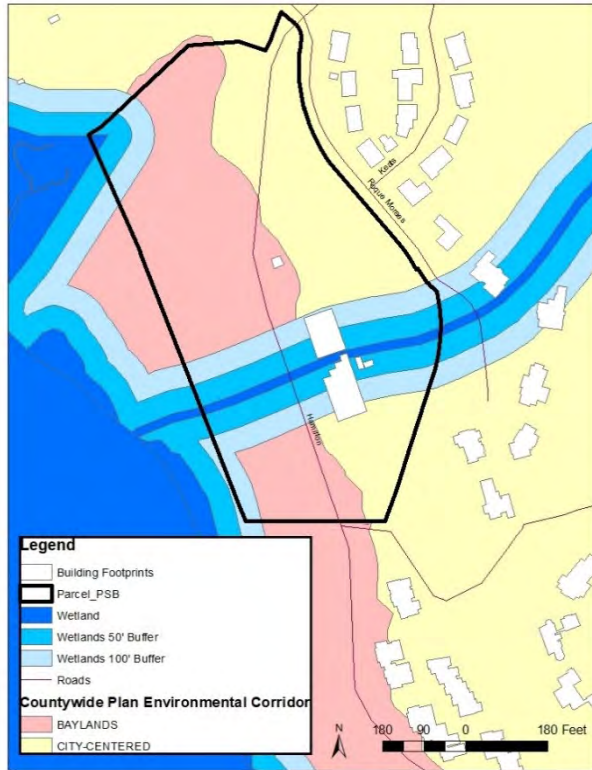
Notes:

a) AE and AO indicate location in FEMA floodplain. AE indicates FEMA has established baseline flood elevation, but project could be designed to accommodate.

AO indicates shallow sheet flooding without known baseline, but could be established and designed for. Both types would also require flood insurance.

b) Low end of range assumes zoning for 29 units/acre. High end assumes application of state density bonus law (80% bonus for 100% affordable projects), which would yield 52 units/ ac

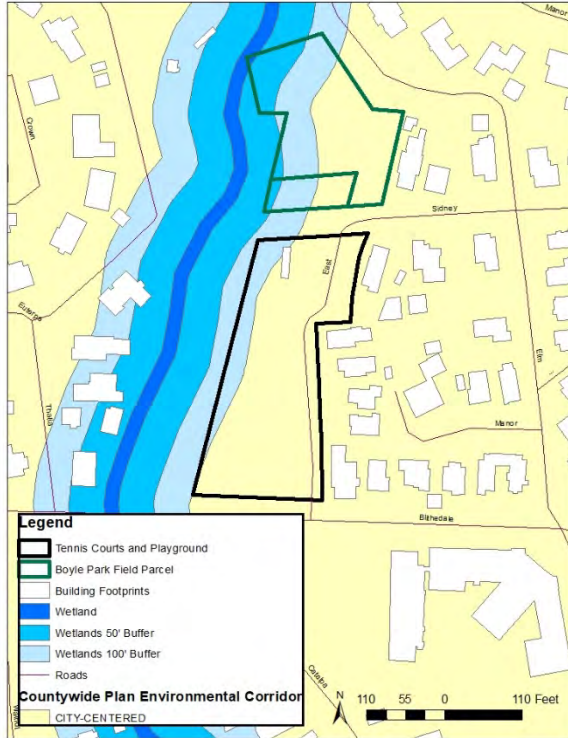
Site 1: Public Safety Building/Hauke Field Parking Lot



Potential 0.75 acre Housing Site

This potential housing site lies adjacent to the City’s Public Safety Building complex, on its northern side. This area currently provides parking and restrooms for recreation fields located nearby. The potential housing site is impacted by its location near the boundaries of the Marin County Baylands Corridor, as described in the County General Plan. This designation identifies uplands adjacent to sensitive wetlands, and requires special biological assessment studies to protect habitat for plants and animals. According to the Marin County General Plan, development sites of between 0.5 and 1 acre require a 30-foot setback from the Baylands boundary. Until further biological and survey studies can be conducted, it is assumed the identified housing site could provide 0.75 acres for development, creating sufficient scale to develop a physically feasible project. Current restrooms and parking area for Hauke Field may need to be relocated elsewhere on the PSB site.

Site 2: Portion of Boyle Park

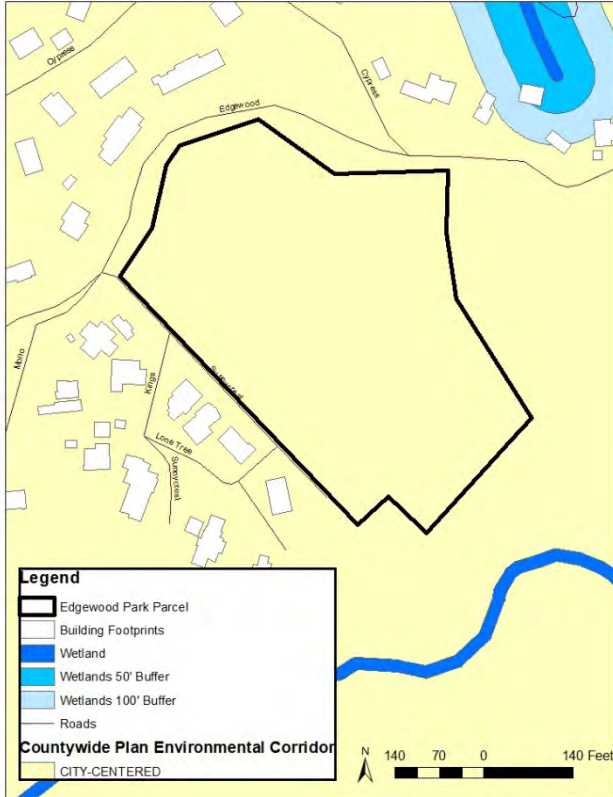


Potential 0.75 acre Housing Site

This site would be subdivided and developed in the portion of Boyle Park containing 5 tennis courts, along E. Blithedale Avenue. While reducing recreational facilities for Mill Valley’s residents is less than ideal, this site is included in this memorandum because it would create a sufficiently-sized and shaped parcel in a pleasant residential neighborhood without prohibitive environmental constraints (e.g., floodplain, sensitive habitat, etc.). From an objective affordable housing development point of view, this is the best of the 4 identified sites. As described in this memorandum, identifying sites with sufficient size and yield, that also do not create extraordinary cost challenges, means that other tradeoffs would need to be made to leverage public lands.

As shown in the map on the left, although not in a floodplain or floodway, the tennis courts are located near sensitive wetlands, and would need to be designed carefully to allow for the medium blue 50 foot buffer. The lost tennis courts could potentially be relocated elsewhere in this part of Mill Valley or designed to be placed on the roof of the new housing project with separate public access provided.

Site 3: Edgewood (aka Mill Valley Reservoir)

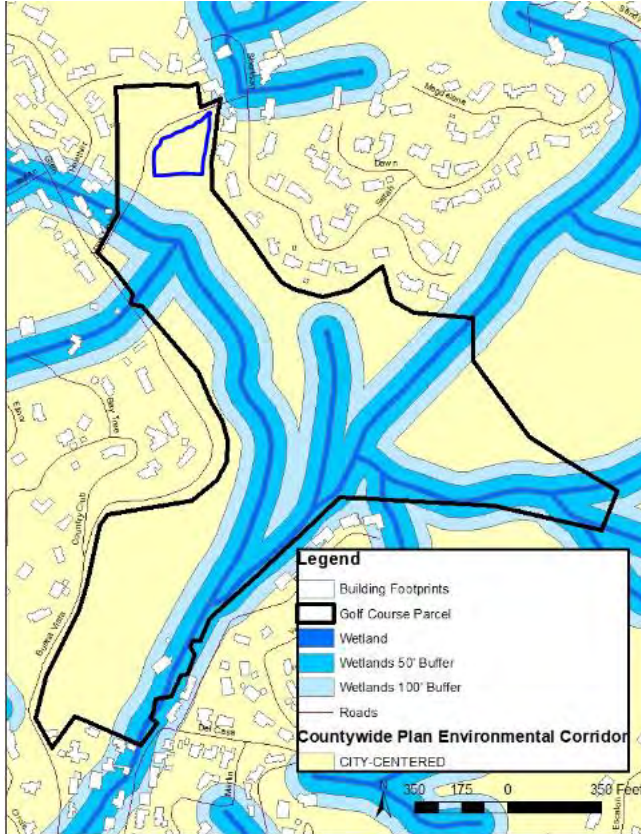


Potential 1 acre Housing Site

The Edgewood parcel contains over 4 acres, with portions containing steep slopes. The site is used as an informal open space area but has not been improved as a public park. Based on topographic map review, it is estimated that a 1-acre or more buildable portion with a feasible slope could be identified. Another development constraint is that this site was deeded by the Marin Municipal Water District to the City in 1967, with a covenant in the recorded deed that the site be maintained by the City and used as a park. However, since this site has not been improved as a park and given the age (50+ years) and nature of the grand deed, it may be possible to amend the deed to remove this covenant for a portion of the site through agreement with the MMWD.

The strategy outlined above has the additional benefit of creating a buildable parcel of 1 acre or more, allowing for a higher unit yield than the other tightly-fitted 0.75 acre sites which limit unit yield with no room to spare. In addition, it may be possible to improve other portions of this site as a park, providing new benefits to the surrounding community in exchange for supporting the 1 acre portion for use as affordable housing.

Site 4: Portion of Mill Valley Municipal Golf Course



Potential 0.75 acre Housing Site

The Mill Valley Municipal Golf Course was purchased by the City from a private owner in the 1930s and has been operated by the City since that time. It has reportedly suffered operating losses in recent years. However, any change in use status of the golf course as a whole will require a more lengthy discussion than the scope of this memorandum, and cannot be addressed here. Thus, as the City considers the future of the 45 acre, 9-hole course, for this memorandum a portion of its greenway buffering along Linda Vista was identified that may be suitable for multifamily affordable housing development in the near term.

It should be noted that the potential housing development site shown above, is across the street along Linda Vista Drive from a recently-proposed public parcel currently used as a playing field, which engendered substantial community resistance to any development. In addition, further design of a potential building site as shown above may impact the adjacent golf hole; research indicated that 9-hole courses typically require 20 to 48 acres of land, so at 45 acres, the Mill Valley course may well be reconfigurable in this section to accommodate the housing site.

City-Owned Sites Considered as Infeasible For Development

Appendix B provides a summary of six additional City-owned sites which were of sufficient size to consider, but have other constraints making them infeasible for near-term multifamily rental housing at affordable levels. These constraints are outlined below.

City Hall/Fire House Parking Lots. The first set of 3 lots are the parking lots and open space surrounding City Hall, including the entry parking area between City Hall and the Mill Valley Market, the back parking lot behind City Hall, and the open space on the far side of the historic fire house adjacent to City Hall. As noted in Appendix B, these parcels are either too small and/or in the case of the back parking lot, designated a Floodway. The table notes that either of the “side” parcels could be developed as a small number (2 to 3) moderate income ownership townhouses, with the most practical site on the open space adjacent to the fire house. This product type does not require an on-site property manager and thus can be developed at a smaller unit yield. These are often more challenging to finance, since many of the commonly-used funding sources such as Low Income Housing Tax Credits do not apply; however, with City-contributed land, there are ways to arrange for this type of housing. In the even the fire house itself were no longer needed, that historic structure could also likely be rehabilitated and converted to possibly 2 more townhouses.

Historic Depot Plaza. This 0.77 acre site is the paved, improved Plaza along with a long, linear parking lot bordering the Plaza area adjacent to and behind the historic Depot in downtown Mill Valley. Although the site is large enough to yield a feasible affordable housing project, it functions as a vital public gathering place, along with much-needed parking for downtown merchants. As such, it would require extensive further study such as a downtown parking study, and likely an urban redesign plan, to replace any public gathering plaza lost to development.

Public Parking Lot Behind D’Angelos. The parking lot behind D’Angelos, accessed from Throckmorton in downtown Mill Valley, has an infeasible configuration due to its linear alley-style parking abutting other buildings. This shape renders the site infeasible for housing of any type.

Community Center Parking Lot. The parking lot adjacent to the Mill Valley Community Center, a portion of which currently contains solar panels, is located partially within or near the Baylands Corridor boundary, meaning that only approximately a 0.5 acre potential development site could be identified. This site size is infeasible for affordable rental housing, as described previously. In addition, the soils on this property are reportedly experiencing substantial subsidence; thus, further soil and biological assessments would need to be conducted to determine if any portion

could be suitable for development. It is likely that a best-case scenario would yield a small developable parcel, which could be used to construct moderate income ownership townhouses.

Public Parking Lot at 411 Miller Avenue. The City-owned parking lot at 411 Miller Avenue offers a good rectangular set of parcels, albeit at an insufficient size for affordable multifamily residential development (smaller than the 0.75 acre threshold). In addition, a substantial portion of the site is located in a FEMA-designated Floodway, rendering new development infeasible. However, due to recent flood improvements in the area, there may be the possibility of requesting a change to the FEMA designation (which may also benefit other parcels that are privately-owned along Miller and adjacent locations such as Sloat Nursery). This would require relatively expensive hydrology studies to demonstrate to FEMA that the current situation has been improved and the Floodway finding in the area no longer applies. This process, including the necessary studies, may be fundable by state or local grants. The City should consult with the Flood Control District to ascertain next steps. If the Floodway designation could be removed, the City-owned portion, with approximately 0.54 acres, would become suitable for moderate income ownership townhouses, which do not require an on-site property manager.

Other City-Owned Parcels

Appendix C shows a summary of dozens of other city-owned parcels deemed infeasible for near-term affordable housing development for one or more of the following reasons:

- Average slopes greater than 10%, with site visits confirming steep slopes throughout parcel
- Small site size below 0.75 acres, limiting yield
- Other prohibitive environmental conditions (see Appendix C)

Potential to Monetize City-Owned Parcels

Among these infeasible-for-development parcels, there were several that may have potential value if offered for sale as a single family lot, as noted in Appendix C. The criteria used to identify salable lots were size and zoning; the parcel must be at least 6,000 square feet (the minimum single family lot size for new construction in Mill Valley) and zoned as some form of residential use. The zoning factor was applied because it is unlikely for retail lot purchasers to undertake a zoning change, especially when most of these parcels are zoned as highly-treasured Open Space.

The value of parcels potentially marketable for single family use involved analyzing sales of single family retail lots in Mill Valley that have occurred over the past 3 years (see Appendix D). As shown, the sales ranged widely, depending on slope (and cost of grading), location, size, and marketing assertions about “approved plans.”⁴ Because the 3 City-owned parcels identified as sufficient in size and zoning to create marketable lots shown in Appendix C are all zoned to require a minimum lot size of 1.5 acres per unit, a total of 10 potential retail lots could be identified on these 3 parcels, with a maximum retail lot value after broker commission and other selling costs was conservatively estimated at up to \$1,000,000 per lot.

This analysis yields a potential total value of up to \$10,000,000, but will very likely decline when more detailed site assessments are conducted to ascertain availability of utilities, identification of building sites amongst the very steep slopes, and other factors impacting marketability and value.

⁴ “Approved plans” described in listing descriptions were not confirmed with the City, and are assumed to contribute only minor additions to value.

Other Tax-Exempt Parcels with Affordable Housing Development Potential

In addition to the direct potential to develop affordable housing on City-Owned parcels, Mill Valley contains numerous parcels owned by other tax-exempt agencies, non-profits, and religious organizations. These parcels were reviewed for size and slope, along with known likelihood of interest in providing land for development.

The following criteria were used to exclude tax-exempt parcels from further consideration:

- Parcels owned by Marin Open Space
- Parcels owned by Marin Municipal Water District
- Parcels owned by public school districts (which may have potential development sites, but should be considered first by the school district)

Remaining non-City owned tax-exempt parcels, described below, are owned by utilities (AT&T) and religious organizations. These parcels may have some longer-term potential for collaboration with the City of Mill Valley for affordable housing development.

Mt. Tamalpais United Methodist Church (410 Sycamore Avenue)



The church provides worship services along with childcare and other community services in a complex of buildings on a relatively large site. While the complex could possibly be envisioned in a reconfigured layout that could incorporate an affordable housing project (a possible 0.75 acre site is outlined in yellow), it is a challenging process, particularly given several environmental constraints including location near the sewage treatment plant making the site potentially unsuitable for

new housing development. In addition, other buildings currently on the site would likely need to be demolished but the functions in them could be incorporated into a housing project (e.g.,

ground floor childcare facility and/or meeting rooms). The leadership of this church may be interested in partnering with the City for housing but does not have near-term plans to undertake such an initiative.

First Church of Christ, Scientist, Mill Valley (279 Camino Alto)

This church sits atop a knoll with substantial land devoted to parking, open space, and



circulation. The building itself, pictured here, is relatively small but with sweeping vistas in keeping with a spiritual center. The site could be potentially reconfigured to place a 0.75 acre housing site on it that would be located beyond the requisite wetland buffer, as shown in yellow outline here. However, this would require new access driveways and reconfigured parking lots. It is not known if the leadership of this institution would be interested in collaborating with the City of Mill Valley.

AT&T Building (300 E. Blithedale)

This site contains an historic Tudor-style 3-story commercial building on a 0.48 acre parcel, which in the past has housed both telephone operations and small commercial tenants. Its current occupancy and use are not known, although it is still owned by AT&T. The building size and condition for potential rehabilitation into affordable housing are not known. Adjacent to the building is another parcel owned by AT&T configured as a parking lot to serve the building; however most of the parking lot lies in a floodway, constraining future development. If the City wished to collaborate on the building site, it or a development partner would need to most likely purchase the site from AT&T at market rates, thereby losing the benefit of leveraging publicly-owned property as a direct subsidy to a project.

Appendix A: List of Plans and Other Resources

Marin Countywide Plan 2007 (County General Plan)

<https://www.marincounty.org/depts/cd/divisions/planning/2007-marin-countywide-plan>

Marin County Housing Element Information (for unincorporated areas of Marin County only)

<https://www.marincounty.org/depts/cd/divisions/housing/housing-element>

Mill Valley 2040 (City of Mill Valley General Plan)

<https://www.cityofmillvalley.org/gov/departments/building/planning/longrangeplannig/default.htm>

City of Mill Valley Housing Element Update 2013-2023 (note: the City will soon be updating the Housing Element for the next 8-year cycle)

<https://www.cityofmillvalley.org/civicax/filebank/blobdload.aspx?BlobID=24590>

About FEMA Flood Zones (portal to many web pages)

<https://www.fema.gov/glossary/flood-zones>

FEMA Information on Changing Flood Zone Maps (relevant for 411 Miller Ave Floodway)

<https://www.fema.gov/flood-maps/change-your-flood-zone>

Additional Explanation of FEMA Flood Zones AE AO, and Floodways Related to Insurance

<https://www.amica.com/en/products/flood-insurance/what-is-an-ae-flood-zone.html>

Appendix B: Infeasible City-Owned Lots Due to Size, Environmental, or Configuration Factors

Site Location	APN	Acres	Avg Slope (%)	Zoning	Flood-plain (a)	Flood-way	# of Units (b)	Notes
30 Corte Madera City Hall Portion of Parking Lot (by Fire Dept)	028-014-06	0.14	5.3%	O-A	AE	No	2-3 townhouses	Small site but could potentially be a few aff townhouse units
26 Corte Madera City Hall Portion of Parking Lot (by MMarket)	028-014-21	0.19	6.4%	C-D	AE	No	2-3 townhouses	Small site but could potentially be a few aff townhouse units
26 Corte Madera City Hall and Back Portion of Parking Lot	028-014-16	0.49	6.5%	O-A	AE	Yes	N/A	Floodway makes infeasible
Plaza & Parking Lot	028-013-15	0.77	1.3%	Downtown Commercial (C-D)	AE	No	N/A	Site is public plaza plus has long, narrow parking lot, which makes it challenging to design a housing project without eliminating vital downtown space. Reconfiguring developable area by adding portion of private parking lot next door on sunnyside was considered, but that parcel is in Floodway.
Parking Lot behind D'Angelos	028-061-35	0.71	8.1%	Downtown Commercial (C-D)	AE	Yes	N/A	Small street frontage, narrow lot, units would abut other buildings. Very hard to design as infill.
Portion of Com Center parking lot	030-111-09	0.50	2.0%	Community Facilities (C-F)	mixed No/AE	No	7-10 moderate income townhouses	Buildable site is smaller than parking lot due to location of Bayland Corridor boundary and required 50' setback. Site also likely has soil subsidence issues. Replacement parking may also need to be arranged. Needs further analysis.
411 Miller Miller Parking Lot	030-271-70, 030-071-28	0.54	<2.5%	Open Area (O-A) & Commercial (C-N)	AE	Yes	7-10 moderate income townhouses	Site is impacted by existing Floodway designation, but recent improvements have enable a change by FEMA. Would require hydrology studies to demonstrate and obtain change.
Notes:								
a) AE and AO indicate location in FEMA floodplain. AE indicates FEMA has established baseline flood elevation, but project could be designed to accommodate. AO indicates shallow sheet flooding without known baseline, but could be established and designed for. Both types would also require flood insurance.								
b) Assumes townhouse development at approximately 15-18 units per acre..								

Appendix D: Other City-Owned Parcels for Potential Sale

(Includes all City-Owned Parcels > minimum single family lot size of 6,000 square feet)

Location	APN	Acres	Gross Square Feet	Avg Slope (%)	Zoning	Flood-plain (a)	Flood-way	Allowed # of Units	Notes	# of Lots	Per Lot	Total
Camino Alto and Stanton Way . Not maintained by DPW	033-102-18	5.25	228,690	42.0	RSP-5A	No		1 DU/1.5 acres	steep slope	3	\$1,000,000	\$3,000,000
Vasco Court / Corner of Edna Maguire	033-240-15	0.86	37,462	16.3	RSP-2A	No		1 DU/1.5 acres	Does not meet zoning			
Vasco Court / Corner across from Edna Maguire / Creek runs through property/ Bike Path	033-240-01	0.49	21,344	20.0	RSP-2A			1 DU/1.5 acres	Does not meet zoning			
Tenderfoot Trail/Zig Zag Trail. Not maintained by DPW	046-010-25	18.59	809,780	46.2	RSP-10A	No		1 DU/1.5 acres	Trail site			
Corner of Tenderfoot trail. Land Locked/ No Access. Not maintained DPW	046-010-34	0.41	17,644	40.2	RSP-10A			1 DU/1.5 acres	Does not meet zoning			
Marsh/Margarite ROW Creek runs through site two ways.	027-272-01	0.23	9,924	19.4	RS-43	AO		7 DU/acre	Difficult to develop			
Tenderfoot trail. Not maintained by DPW	046-030-29	9.70	422,532	42.2	RS-10A	No		1 DU/1.5 acres	Nested in trails	6	\$1,000,000	\$6,000,000
Fern Canyon. Not maintained by DPW	027-066-40	2.07	90,155	61.1	RS-10A			1 DU/1.5 acres	May be 1 lot. Steep slope.	1	\$1,000,000	\$1,000,000
Next to 226 Rose. Not maintained by DPW	027-252-43	0.49	21,300	72.8	RS-10			7 DU/acre	very steep slope; likely not marketable			
Miller Grove/AE Floodway	029-101-01	11.70	509,865	20.0	O-A	AE	Yes	N/A	Floodway. Not marketable.			
Fern canyon (near old railroad grade). Not maintained by DPW	027-066-50	7.89	343,688	63.9	O-A			N/A	Not marketable due to zoning.			
cascade park (lovell and cascade)	027-106-09	7.40	322,344	24.2	O-A	AE		N/A	Not marketable due to zoning.			
Marsh/Ralston Drive/Blithedale Canyon. Not maintained by DPW	027-033-29	6.80	296,208	36.6	O-A	No		N/A	Not marketable due to zoning.			
Edgewood/Cypress/Rose. Not maintained by DPW	046-320-01	5.47	238,273	62.4	O-A			N/A	Not marketable due to zoning.			
Park/Warner Canyon (Buena Vista/Camelita)	029-192-16	4.99	217,165	11.0	O-A	AE		N/A	Not marketable due to zoning.			
Fern canyon (near old railroad grade). Not maintained by DPW	027-280-03	4.01	174,676	53.7	O-A			N/A	Not marketable due to zoning.			
MonteVista / Tenderfoot trail. Not maintained by DPW	027-162-01	3.84	167,160	49.1	O-A	No		N/A	Not marketable due to zoning.			
tenderfoot trail. Not maintained by DPW	046-030-20	3.22	140,263	39.9	O-A	No		N/A	Not marketable due to zoning.			
Evelyn/Cascade Dam. Not maintained by DPW	046-010-14	3.02	131,551	49.2	O-A	No		N/A	Not marketable due to zoning.			
Golf Club House	029-084-01	2.26	98,446	33.1	O-A	No		N/A	Not marketable due to zoning.			
Old Mill Park (lower)	028-102-12	2.08	90,605	16.4	O-A	AE	Yes	N/A	Not marketable due to zoning.			
MonteVista / Tenderfoot trail. Not maintained by DPW	027-161-26	2.00	87,120	57.5	O-A			N/A	Not marketable due to zoning.			
Old Mill Park (upper near structure/bathrooms)	028-091-09	1.73	75,359	13.6	O-A	AE		N/A	Not marketable due to zoning.			
Cascade/Throckmorton. Not maintained by DPW	027-161-15	1.39	60,600	48.7	O-A	AE		N/A	Not marketable due to zoning.			
Sycamore/Corner of MVMS/MMWD Easement	030-161-12	1.33	58,000	14.8	O-A	No		N/A	Not marketable due to zoning.			
Molino /Cascade (Other side of Old Mill Park). Not maintained by DPW	028-132-09	1.04	45,344	59.4	O-A			N/A	Not marketable due to zoning.			
Cascade/Throckmorton. Not maintained by DPW	027-161-05	1.00	43,512	47.0	O-A	AE		N/A	Not marketable due to zoning.			
MonteVista/Earnscliff Park	027-235-28	0.90	39,282	30.9	O-A	No		N/A	Not marketable due to zoning.			
Norris Memorial Park (Molino/Helens). Not Maintained by DPW	028-161-02	0.65	28,509	30.9	O-A	No		N/A	Not marketable due to zoning.			
Fairway Drive (near Golf Course). Not maintained by DPW. Between RS-10 SFR. Could be split into two lots and sold?	029-161-47	0.59	25,760	34.5	O-A	No		N/A	Not marketable due to zoning.			
Narrow ROW near Azalea/Camino Alto and Pathway. Not maintained by DPW	033-112-01	0.53	23,000	29.4	O-A	No		N/A	Not marketable due to zoning.			
Library and back of/AE Floodplain. Maintained by DPW	028-091-11	0.48	20,757	23.8	O-A			N/A	Not marketable due to zoning.			
Norris Memorial Park (Molino/Helens). Not Maintained by DPW	028-161-01	0.41	17,650	34.2	O-A			N/A	Not marketable due to zoning.			
MonteVista / Tenderfoot trail. Not maintained by DPW	046-030-23	0.39	16,944	46.5	O-A	No		N/A	Not marketable due to zoning.			
Sycamore/ROW/AE Floodplain. 18' wide.	030-101-22	0.27	11,765	10.2	O-A	AE		N/A	Not marketable due to zoning.			
Norris Memorial Park (Molino/Helens). Not Maintained by DPW	028-161-03	0.16	6,825	46.1	O-A			N/A	Not marketable due to zoning.			
Behind 700 East Blithedale/ Roque Mar /AE Floodplain. 47' wide	030-124-11	0.16	7,171	34.9	C-G	AE		29 DU/acre	Too small for cost of building in flood plain unless combined with 700 Blithedale			

Appendix D: Recent Single Family Lot Sales






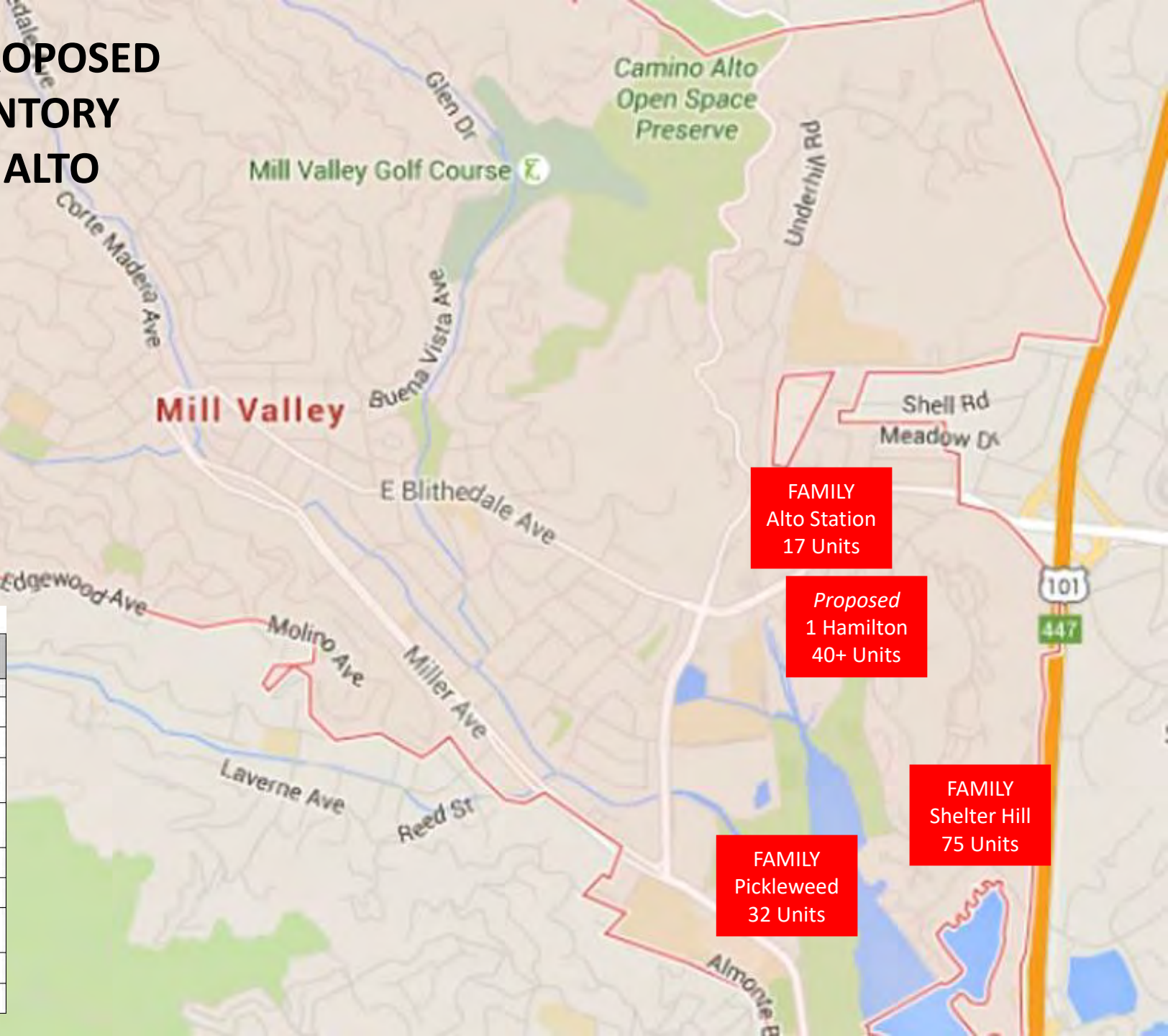
	Address	Acreage	square Feet	Sale Date	Sale Price	Price/Sq. Ft. of Land	Notes
	50 Sandy Lane	1.154	50,268	10/20/2020	\$ 1,250,000	\$ 24.87	1.15 acre parcel above the Mill Valley golf course. Lot features views of the San Francisco Bay and the ridges to the West. Located at the end of a quiet cul de sac with utilities to the lot line. Near trails.
	201 Marion	0.240	10,454	3/24/2019	\$ 450,000	\$ 43.05	Appears to have slope. Site formerly had 1962 house on it (now demolished, foundation visible). Sold previously in 2016 for \$300,000.
	390 N. Ferndale	0.130	5,662	2/24/2019	\$ 559,000	\$ 98.73	Description says site has "approved plans" for 1,800 sf new home. Had former (demolished) 1918 home on it. Note: site size below min lot of 6,000 sf.
	316 W. Blithedale	0.200	8,712	7/25/2018	\$ 1,050,000	\$ 120.52	Sold 4 months earlier for \$800,000 (\$91.83 per sq. ft.). Also sold for 1.05M in 2004.
	321 Loring Avenue	0.132	5,760	6/25/2018	\$ 450,000	\$ 78.13	Description says "approved plans, shovel ready." Note: below min lot size.

EXHIBIT C

MILL VALLEY 2022 CURRENT & PROPOSED ASSISTED FAMILY HOUSING INVENTORY 100% LOCATED EAST OF CAMINO ALTO

Table A.26: Assisted Housing Inventory

Project Name	Year Built	Tenant Type	Total units/ Affordable units	Deed Restriction Source	Potential Subsidy Expiration	Ownership/ Management
Publicly-Assisted Rental Housing						
Homestead Terrace 100 Linden Lane	1969	Senior/ disabled	28	Public housing- HUD	perpetuity	MHA
Kruger Pines 47 North Knoll Road	1971	Senior/ disabled	56	Public housing- HUD	perpetuity	MHA
The Redwoods 40 Camino Alto	1972	Senior/ disabled	149 / 60	HUD Section 231	2028	Non-profit Community Church of Mill Valley
Shelter Hill 37 Miwok Way	1977	Family	75	Refinanced in 2011 – Tax Credits	2066	Non-profit EAH
Camino Alto Apts 260 Camino Alto Court	1983	Disabled	24	HUD Section 202 CDBG, Section 8	2028	Non-profit Mercy Housing
Pickleweed Apts 651 Miller Avenue	1986	Family	32	CHFA bond City Ground-lease	2031	Non-profit BRIDGE Housing
Alto Station Apts 290 Camino Alto Court	1995	Family	17	HOME State RHCP City Ground-lease	2047	Non-profit BRIDGE Housing
Mill Creek Apts 60 Camino Alto	2004	Disabled	9	Section 202 Section 8	2029	Non-profit N Bay Rehab Services
Fireside Apartments (outside City limits)	2009	Family/ Senior	49	Low Income Tax Credit	2064	Non-profit Eden Housing



MILL VALLEY 2022 CURRENT & PROPOSED ASSISTED SENIOR/DISABLED HOUSING INVENTORY

92% LOCATED EAST OF CAMINO ALTO

Table A.26: Assisted Housing Inventory

Project Name	Year Built	Tenant Type	Total units/ Affordable units	Deed Restriction Source	Potential Subsidy Expiration	Ownership/ Management
Publicly-Assisted Rental Housing						
Homestead Terrace 100 Linden Lane	1969	Senior/ disabled	28	Public housing- HUD	perpetuity	MHA
Kruger Pines 47 North Knoll Road	1971	Senior/ disabled	56	Public housing- HUD	perpetuity	MHA
The Redwoods 40 Camino Alto	1972	Senior/ disabled	149 / 60	HUD Section 231	2028	Non-profit Community Church of Mill Valley
Shelter Hill 37 Miwok Way	1977	Family	75	Refinanced in 2011 – Tax Credits	2066	Non-profit EAH
Camino Alto Apts 260 Camino Alto Court	1983	Disabled	24	HUD Section 202 CDBG, Section 8	2028	Non-profit Mercy Housing
Pickleweed Apts 651 Miller Avenue	1986	Family	32	CHFA bond City Ground-lease	2031	Non-profit BRIDGE Housing
Alto Station Apts 290 Camino Alto Court	1995	Family	17	HOME State RHCP City Ground-lease	2047	Non-profit BRIDGE Housing
Mill Creek Apts 60 Camino Alto	2004	Disabled	9	Section 202 Section 8	2029	Non-profit N Bay Rehab Services
Fireside Apartments (outside City limits)	2009	Family/ Senior	49	Low Income Tax Credit	2064	Non-profit Eden Housing

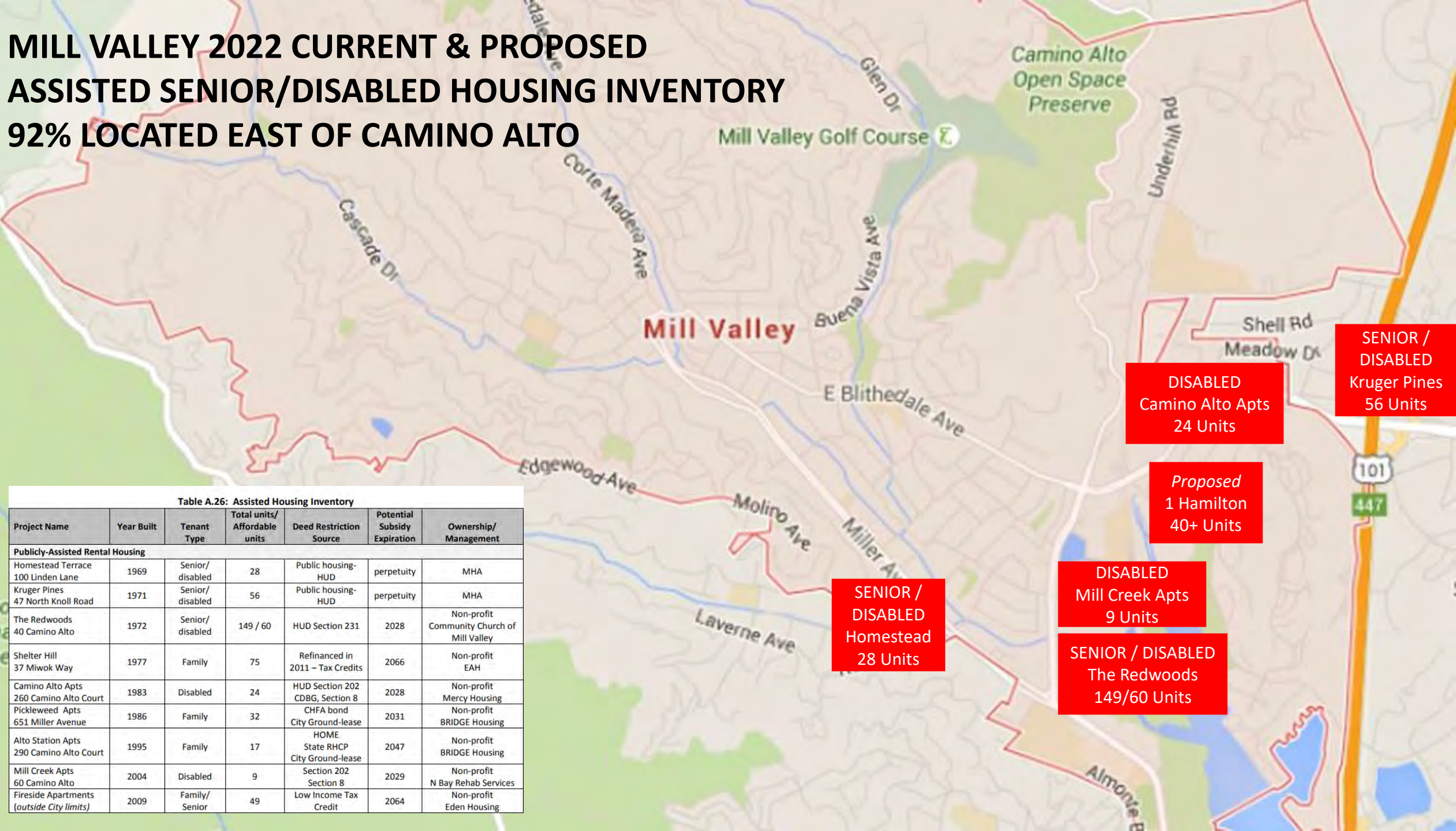


EXHIBIT G



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510 8th Street · Sacramento, CA 95814

March 27, 2023

SENT VIA EMAIL
(dstaude@cityofmillvalley.org)

Danielle Staude, Senior Planner
City of Mill Valley
26 Corte Madera Avenue
Mill Valley, California 94941

RE: Draft Subsequent Environmental Impact Report (SEIR) for the City of Mill Valley's 2023-2031 Housing Element Update

Dear Ms. Staude:

On behalf of Friends of Hauke Park ("FOHP"), this letter provides additional comments regarding the City of Mill Valley's ("City") Draft Environmental Impact Report ("DEIR") for the City of Mill Valley's 2023-2031 Housing Element Update ("Project").

On February 16, 2023, the City released its revised Housing Element Update ("Revised HEU") purporting to respond to comments on the draft Housing Element Update ("Draft HEU"). Disregarding CEQA's public disclosure mandates, the Revised HEU was publicly released well after the City released the DEIR for the Revised HEU. This letter provides comments regarding the Revised HEU and implications for the DEIR.¹

This letter addresses two criteria used by the City to exclude properties from the site inventory, namely the minimum parcel size of 0.75 acres and maximum slope of 10 percent. These two criteria are more restrictive than HCD's criteria of 0.5 acres and 50 percent slope. Flouting HCD's comment urging the City to reconsider these criteria, the Revised HEU reaffirms their use and steadfastly refuses to identify any suitable City-owned properties other than One Hamilton. With respect to the 0.75-acre minimum parcel size, the Revised HEU states:

¹ The City will likely attempt to argue that these comments are untimely. This position is without merit. These comments relate to the Revised HEU, which was not released until February 16, 2023. These comments are timely submitted within 45 days from release of the Revised HEU.

City staff has worked through the Housing Advisory Committee on this Housing Program to evaluate and initiate a potential publicly owned site for redevelopment. A third-party consultant was hired as part of the evaluation and to confirm the Committee's assumptions of *the parcel size required to build a fully affordable housing apartment complex* and if additional funds were necessary to build the housing. The third-party analysis indicated that a parcel of at least .75 acres could be successfully used to fully finance a low-income rental apartment complex of at least 40 units on the site.

(Revised HEU, p. IV-15, emphasis added.)

The Revised HEU conspicuously fails to attach these referenced Housing Workshop reports, which contradict the City's claims regarding the 0.75-acre minimum parcel size criteria. These two reports are attached. (See Exhs. 1, 2.)²

Contrary to the City's claim, the so-called "financial analysis" in no way concludes that a parcel must be a minimum of 0.75 acres in order to be suitable for affordable housing. (See, e.g., Revised HEU, p. B-273 ["the need for parcels that are at least 3/4 of an acre that can be dedicated to affordable housing, noted in the Housing Workshop memo"].) In fact, this "financial analysis" was never intended as setting a minimum parcel size at all, but rather to determine whether development of One Hamilton, "assum[ing] a 0.75 acre (gross) development site," would require a public subsidy. (Exh. 2, p. 6.)³ This distinction is critical because while the "financial analysis" estimated that the One Hamilton as proposed would require a \$100,000 subsidy, the

² The Revised HEU makes no attempt to justify its exclusion of sites with more than 10 percent slope. In fact, the Revised HEU conceals its use of this criteria, stating in the "Screening for Sites" section, "All properties included in the sites inventory have less than a 50% slope." (Revised HEU, p. C-12.) The Housing Workshop report plainly belies this statement, "Sites with an average slope greater than 10% were considered infeasible for affordable housing project development." (Exh. 1, p. 5.)

³ The level of project detail required to prepare the "Pro Forma Analysis of Affordable Housing Project on PSB Sites" further supports our earlier argument that the City has long possessed sufficient information to perform more detailed CEQA review in the HEU DEIR. (Exh. 2.) Indeed, the report explains, "[T]he site will require specialized habit and related studies to determine impacts on wetlands areas conserved by the Baylands Corridor designation in the County's General Plan." (Exh. 2, p. 6.) The City's feigned ignorance about the One Hamilton project is not credible.

report expressly noted that the need for a higher subsidy would not make a project infeasible, explaining in relevant part:

One key to understanding these findings is that seeking subsidy from available state and regional sources is common to affordable housing projects, and ***lack of available local subsidy dollars does not constrain project implementation.***

(Exh. 2, p. 3, emphasis added.)

In other words, the City's claimed third-party "financial analysis" did not find that a minimum parcel size of 0.75 acres was necessary for an affordable housing project specifically because the potential need for a higher subsidy "does not constrain project implementation."

The source of the City's claimed 0.75-acre size criterion is instead based on The Housing Workshop's separate "Analysis of Tax-Exempt Site," which expressly bases the 0.75-acre limitation on the City's existing zoning density restrictions. (Exh. 1, p. 4.) The analysis used to derive this is as follows:

- "For Mill Valley's current most dense residential zone category, this would yield projects with a density of 52 units per acre (1.8 x 29)."
- "[M]ost affordable housing projects require an on-site property manager living in one of the units, which is generally not sustainable in terms of operating costs in projects with less than 40 units . . ."
- "The result of these scale and yield considerations means that parcels likely to attract a qualified affordable rental housing developer would need to be at least 0.75 acres (which would yield 39 units per acre if zoned for 29 units and the maximum density bonus were applied)."

(Exh. 1, p. 4.)

Setting aside The Housing Workshop's wholly unsubstantiated representations regarding (i) the need for an on-site manager, and (ii) that 40 units is necessary to support an on-site manager (or its expertise to opine on such matters), there is no question that the 0.75-acre minimum size is based on the City's existing zoning densities. This is nonsensical, however, since the statutory definition of "land suitable for residential development" includes city-owned properties that can be rezoned to allow greater densities than existing conditions. (Gov. Code, § 65583.2, subd. (a)(4).) Thus, the City's claimed reliance on a 0.75-acre minimum size is both unsupported by substantial

evidence and contrary to law. Indeed, The Housing Workshop report itself concedes that its analysis of city-owned sites was never intended to be used in HEU, stating, “This current analysis does not seek to alter these land use designations; the work conducted every 8 years to prepare the City’s Housing Element Update is meant to address those larger policy questions.” (Exh. 1, p. 3.)

In summary, the two Housing Workshop reports in no way support the City’s use of a 0.75 minimum parcel size and maximum 10 percent slope as criteria to exclude numerous City-owned sites from the Revised HEU’s site inventory. Further, the HEU’s reliance on claimed fire risk to exclude properties has also been refuted. (See Exh. 3.)

Not only does the use of manipulated site selection criteria violate the State Housing Element Law and the City’s duty to affirmatively further fair housing, it also violates the “rule of reason” standard under CEQA for consideration of alternatives. (Revised HEU DEIR, p. 17-1-2 [rejecting the “removal or modification of site locations” project alternative in part because “the City has evaluated the ability to construct low-income housing on City-owned sites and has deemed that there currently is not a suitable alternative location to the 1 Hamilton site based on analysis conducted to date, including a third-party analysis of sites indicating that a parcel at least 0.75 acres is required to finance the construction of a development that is fully affordable to lower income households”].) Here, the record, viewed as a whole, reveals that the City manipulated its site selection criteria in order to avoid considering feasible project alternatives — including alternative city-owned sites for affordable housing.

Further, the Revised HEU’s response to comments on these issues highlights the City’s failure to articulate a lawful justification for its actions.

In response to Carlos Montalvan’s comment number 42, the Revised HEU asserts, “By law, the sites inventory can only include those parcels or sites that are zoned or identified as active housing projects, such as 1 Hamilton.” (Revised HEU, p. B-39.) This response is flawed for several reasons.

First, the City tellingly identifies no “law” supporting this statement. Second, as we have repeatedly explained, this statement does not justify including One Hamilton since it is not currently “zoned” to allow any residential uses whatsoever. Third, the response’s claim to limit site to those “identified as active housing projects” represents at best circular logic. The only reason that One Hamilton is identified as an “active housing project[s]” is because the City chose to include it in the HEU. Nothing prevents the City from identifying additional sites. Setting that aside, the response provides no definition of “active housing projects.” One Hamilton is not an “active” housing site, as the

Danielle Staude, Senior Planner
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March 27, 2023
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response incorrectly asserts, because (i) its General Plan land use designation prohibits any and all residential uses, and (ii) the City has repeatedly stated that it has not yet committed to any housing development at that site and cannot lawfully do so until it first certifies an EIR for that project. The City's attempt to distinguish One Hamilton from Boyle Park Tennis Courts and the Mill Valley Golf Course site is riddled with unsubstantiated assertions as well circular and flawed.

Further, our prior letter on the Draft HEU explained:

[T]he Housing Workshop Report distinguished the 11 sites that it was evaluating for “affordable housing” from the 37 sites that it was evaluating “for sale.” Of these 37 sites, 29 of them were dismissed because they are “not marketable due to zoning” or “does not meet zoning.” (Exhibit M, p. 19.) This justification may be adequate for an analysis limited to whether a parcel is marketable, but it is not adequate to assess suitability for housing under the Housing Element law since the definition of “land suitable for residential development” specifically includes “[s]ites zoned for nonresidential use that can be . . . rezone[d] . . . to permit residential use.” (Gov. Code, § 65583.2, subd. (a)(4).) Thus, the Housing Workshop Report, and by extension the draft Housing Element, excludes 29 of the purported 75 sites based on a rationale that is inconsistent with the Housing Element law.

(Soluri Meserve letter dated October 31, 2022, p. 21.)

These properties are identified on page 19 of Exhibit 1. Incredibly, the Revised HEU does not include any of these 29 properties on the site inventory while simultaneously making no attempt to respond to this comment. Thus, the public is left in the dark as to why 29 City-owned properties were excluded from the site inventory “due to zoning” even though they could be rezoned as part of the HEU in order to allow for affordable housing.

Unfortunately, the answer is obvious. The City cannot justify its disparate treatment of One Hamilton specifically because no lawful explanation is possible. The City's true reason for its disparate treatment of One Hamilton — capitulating to NIMBYism by Mill Valley's most wealthy and politically powerful residents — cannot be acknowledged publicly. This is the hallmark of unlawful arbitrary governmental

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conduct. (*Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.* (1983) 463 U.S. 29, 43 [“Normally, an agency rule would be arbitrary and capricious if the agency has relied on factors which Congress has not intended it to consider”].)

Very truly yours,

SOLURI MESERVE
A Law Corporation

By:



Patrick M. Soluri

PS/mre

Attachments:

- Exhibit 1 February 10, 2021, The Housing Workshop Memorandum re: Analysis of Tax-Exempt Sites for Affordable Housing Development
- Exhibit 2 March 12, 2021, The Housing Workshop Memorandum re: Financial Analysis of Example Affordable Housing Projects
- Exhibit 3 November 19, 2022, Soluri Meserve Letter to California Department of Housing and Community Development re: Additional Comments to City of Mill Valley’s Draft Housing Element

cc (via email):

City of Mill Valley

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(jwickham@cityofmillvalley.org)
Urban Carmel, Vice Mayor
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Stephen Burke, Councilmember
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City of Mill Valley
March 27, 2023
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California Department of Justice, Office of the Attorney General

David Pai, Supervising Deputy Attorney General (david.pai@doj.ca.gov)

EXHIBIT 1

To: Danielle Straude, Senior Planner, City of Mill Valley
From: Janet Smith-Heimer, The Housing Workshop
Re: Analysis of Tax-Exempt Sites for Affordable Housing Development
Date: 2-10-21

Introduction and Summary of Findings

This memo summarizes an initial analysis of a list of approximately 75 parcels of land owned by the City of Mill Valley, for the purposes of identifying a short list of parcels suitable for potential affordable housing development. In addition, the analysis for this memo included a review of all other identifiable property tax-exempt parcels located within City limits (e.g., owned by Marin Open Space, Marin Municipal Water District, several religious organizations, etc.). The source for identifying tax-exempt parcels, the County Assessor's database, lists all land parcels in Mill Valley by identifying number, size, owner, and tax-exempt or taxable status.

The analysis of publicly-owned/tax-exempt land parcels was commissioned by the City of Mill Valley, and prepared under the guidance of City staff and the Housing Advisory Committee. Following discussion of this initial analysis, The Housing Workshop will conduct an in-depth financial analysis of potential housing projects on two of the best-suited sites to demonstrate feasibility and facilitate potential next steps by the City.

Purpose of the Analysis

This initial study phase was conducted with two objectives: to identify City-owned or other tax-exempt parcels that could be developed into affordable housing, and to identify any parcels that could potentially be monetized (e.g., sold or leased) by the City to private parties to raise local funds that could help subsidize affordable housing projects. The review of City-owned properties aligns well with policy initiatives promoted by housing policy experts as well as the State of California, to leverage publicly-owned land assets to address the current housing crisis. This memorandum does not outline or analyze housing affordability issues in Mill Valley; several key resources to further explore those issues are referenced in Appendix A of this memorandum.

Leveraging publicly-owned land assets by making them available, typically at reduced or no cost to a non-profit affordable housing developer, is a direct method of subsidizing and creating this type of development, which otherwise faces major challenges in acquiring developable land and

raising sufficient funding to build new units. In other words, eliminating the time and cost of acquiring land (because it is contributed by a city or public agency to a project), immediately reduces the need for funding by 20 to 40% of total project cost, depending on the cost of that land. This concept, sometimes called “land write-down,” was used very successfully throughout California for decades through local redevelopment agencies tasked with funding new affordable housing projects. Nearby examples of this concept can be found in San Rafael and other Marin locations.

Summary of Findings

As detailed in the following memorandum, the initial analysis concluded the following:

- Among the numerous City-owned parcels, just 4 sites were identified for further analysis, including:
 1. Public Safety Building/Hauke Field Parking Lot
 2. Boyle Park Tennis Courts
 3. Portion of Edgewood (aka Mill Valley Reservoir)
 4. Portion of Mill Valley Golf Course along Linda Vista Drive
- The factors affecting this conclusion – parcel size, degree of slope, recreation/open space designations, and environmental constraints – render many of the subject parcels infeasible for multifamily affordable housing development.
- A review of other non-City owned, tax-exempt parcels indicates that there are likely no short-term opportunities to partner with property owners.
- There are limited opportunities to monetize City-owned parcels, due to likely infeasibility of creating retail single family lots matching zoning requirements for parcel size. Three parcels that may yield up to 10 lots in total were identified as potentially saleable, but require further analysis to determine their marketability and value. It should also be noted that raising funds for potential use as subsidy in future projects does not directly resolve the lack of available project development sites.

Next steps in the study process will include preparing a financial analysis for 2 of the 4 sites identified as having near-term development potential for affordable housing. If these sites “pencil,” The Housing Workshop will recommend a series of future actions to undertake City-sponsored affordable housing development on those sites.

Affordable Housing Development Challenges in Mill Valley

There are several key development constraints facing Mill Valley's publicly-owned parcels, all of which were converted into criteria to apply to the list of parcels for the analysis. These are summarized below.

Current Zoning Designations

Mill Valley owns numerous tracts of land used for active recreation (e.g., ballfields, tennis courts) along with extensive networks of trails, gardens, public parks, and designated open space areas with heritage trees. These recreation/open space lands are treasured by residents, and are considered important parts of Mill Valley's quality of life.

The community valuing of recreation/open space, and the balancing of potential development versus conservation for recreation/open space, have long been codified in the City's General Plan land use and zoning designations. The balancing of competing goals, such as development versus recreation/open space, is a tension that occurs in every city in the Bay Area. This current analysis does not seek to alter these land use designations; the work conducted every 8 years to prepare the City's Housing Element Update is meant to address those larger policy questions.

Criteria Used in Analysis. With a few exceptions as described later in this memorandum, the City-owned sites analysis considered a current zoning designation of Open Space as a given, thereby not permitting any new multifamily housing development. The few exceptions described later in this memorandum represent potential building sites located within larger open space areas, sited to be on frontage roads so as to not disturb recreation/open space enjoyment.

Parcel Size and Development Density

In Mill Valley, even though the City owns parcels of various sizes throughout the city, these assets are not easily identifiable on the ground. Mill Valley, with its desirable location, climate, and lifestyle, has long been “built-out,” meaning no obvious tracts of undeveloped land await development. The downtown layout, primarily in a historic village pattern, further limits development opportunities on publicly-owned parcels.¹

A review of Mill Valley’s zoning designations indicates that the City’s most dense category of residential development caps out at 29 dwelling units per acre, with these opportunities generally located in the downtown center. This density typically translates into a 3-story multifamily building with surface parking.

For 100% affordable housing projects (including housing for very low, low, and moderate income households), the California Density Bonus Law (found in California Government Code Sections 65915 – 65918) provides developers with a substantial “density bonus” of an 80% increase in density. For Mill Valley’s current most dense residential zone category, this would yield projects with a density of 52 units per acre (1.8 X 29).

Almost all affordable rental housing developers seek yield and scale in their projects (in terms of number of units), due to the complexities and cost involved in creating these projects. In Mill Valley, this combination of relatively low maximum allowable density and typical parcel size mean that even with a density bonus, almost all professional organizations will not be able to expend the time and resources necessary to develop on very small parcels.² In addition, even post-development, most affordable housing projects require an on-site property manager living in one of the units, which is generally not sustainable in terms of operating costs in projects with less than 40 units, although exceptions to this rule of thumb can be found for slightly smaller projects if management is shared by the same owner with another small project nearby. The result of these scale and yield considerations means that parcels likely to attract a qualified affordable rental housing developer would need to be at least 0.75 acres (which would yield 39

¹ It should be noted that downtown Mill Valley has numerous examples of privately-owned parcels that are currently underutilized (e.g., aging one-story commercial structures and/or underutilized parking lots). While these parcels were not analyzed directly in this memorandum, they should be reconsidered as potential housing or mixed-use sites during the City’s upcoming Housing Element update process, because downtown infill locations typically create very desirable locations with services for multifamily projects. These kinds of projects also serve to activate streets, bring new shoppers, and contribute to a vibrant village center.

² Some for-profit developers of market-rate housing are able to develop on small parcels, due to the typical high profit margins available in a higher-value area such as Mill Valley. Yield and scale affect these two housing segments differently.

units per acre if zoned for 29 units and the maximum density bonus were applied).

Criteria Used in Analysis: Due to the resulting infeasibility of affordable housing development on small parcels, City-owned parcels less than 0.75 acres are considered not developable for this purpose. However, separately, some of these smaller sites may have monetary value to raise funds for a project located elsewhere, and are assessed in this memorandum for that purpose.

Degree of Slope

Due to topography, location near sensitive wetlands, areas which experience flooding, and other environmental factors, Mill Valley sites require a fine-grained assessment to determine physical development feasibility. This analysis focuses on two key physical factors: slope and floodplain/floodway status.

Steep slopes adversely affect affordable multifamily development in several ways, all of which combine to increase project costs without an ability to obtain compensation through commonly-used funding sources. Costs rise in steep slope situations because of extra site grading, design challenges, accessibility challenges for people with disabilities, and seismic safety structural mitigations. In addition, often steep slopes face erosion and other constraining soil conditions, all of which also add to project costs. Most affordable housing developers will seek other opportunities elsewhere that do not pose these increased cost risks.³

Criteria Used in Analysis: Sites with an average slope greater than 10% were considered infeasible for affordable housing project development. However, there are a few exceptions noted later in this memorandum, where site visits indicated that flatter building pads may exist among large parcels with otherwise average steeper slopes.

³ It should be noted that these slope-related factors do not necessarily constrain high value new construction townhouse or single-family homes in the same way; these types of buildings can often maximize views and/or incorporate other creative design features on steeply-sloped lots, adding value to offset increased costs.

Floodplain/Floodway Status

Some portions of Mill Valley’s flatter, more developed sections are affected by several waterways which can reach impactful flood stages currently defined by the Federal Emergency Management Agency (FEMA) as having a 1% chance of flooding each year (formerly called “100 year floodplain”). In simple terms, these areas require annual flood insurance premiums, which add to the operating costs in affordable projects. In some subzones of these areas, FEMA recommends architectural and engineering methods to reduce flood damage; while these may add to construction costs, they can sometimes be incorporated without creating project infeasibility (such as raising the dwelling areas above flood levels with parking on the ground floor).

In other floodplain areas, based on waterway hydrology and topography analyses, FEMA designates certain portions as Floodways, which means any building placed on the site needs to be designed so that its structure does not demonstrably impede receding water flow in the event of a flood. In simple terms, this requirement is in place to ensure that floodwaters can flow, unimpeded by structure, causing more damage elsewhere. Building housing structures in floodways is therefore quite difficult to infeasible, and sites in FEMA-designated floodways are not recommended for further consideration by the City of Mill Valley.

Criteria Used in Analysis: Parcels with a FEMA floodplain designation of “AE” or “AO” are considered as possible for development (albeit not ideal), while parcels designated as Floodway are considered not feasible for affordable housing development.

The results of applying the above criteria to the City-owned and other tax-exempt parcels are described in the following section with supporting tables included as Appendices B through D.

Potential City-Owned Affordable Housing Development Sites

The approximately 75 City-owned parcels were evaluated based on criteria outlined above, including a minimum size of at least 0.75 acres and an average slope of 10% or less.

A summary of the resulting “short list” of potentially developable affordable housing sites is shown below. Each of these sites was also visited in-person by The Housing Workshop and evaluated further per other potential site or regulatory constraints, as described below.

Table 1: City-Owned Sites with Potential Feasibility for Multifamily Affordable Rental Housing

Site #	Site Location	APN	Acres	Avg Slope (%)	Zoning	Flood-plain (a)	Flood-way	# of Units (b)	Notes
1	1 Hamilton Public Safety Building parking lot serving Hauke Field	030-250-01	0.75	10.0%	Open Area (O-A)	No	No	22-39 units	Site size estimated (part of larger parcel). Needs design study to confirm suitable building pad with sufficient distance from Bayland Corridor boundary. Parcel would require subdivision and rezoning.
2	Portion of Boyle Park Tennis courts and part of field behind it	029-212-24, possibly part of another parcel	0.80	< 10%	Open Area (O-A)	No	No	23-41 units	Site size estimated (portion of Boyle park inc. 5 tennis courts and field/parking lot at end of East Drive)
3	Edgewood (MV Reservoir)	046-070-02, 046-061-52	4.37	24.6%	Open Area (O-A)/Single Family (RS)	No	No	29-52 units	Site size and location estimated (part of larger parcel). Review of 1967 grant deed shows covenant to keep as a park. This parcel is relatively large and has some slope areas, so a portion could be removed from covenant w MMWD agreement. Yield estimate assumes 1 buildable acre within larger sloped site.
4	Portion of Mill Valley Golf Course along Vista Linda Drive	029-131-07	45.68	16.5%	Open Area (O-A)	AO	No	22-39 units	Site would be portion along Vista Linda Drive/ edge of golf course. Yield assumes a .75 acre parcel could be identified. May require relocation/redesign of nearby golf hole. Yield may be reduced depending on parcel shape and golf course safety requirements.

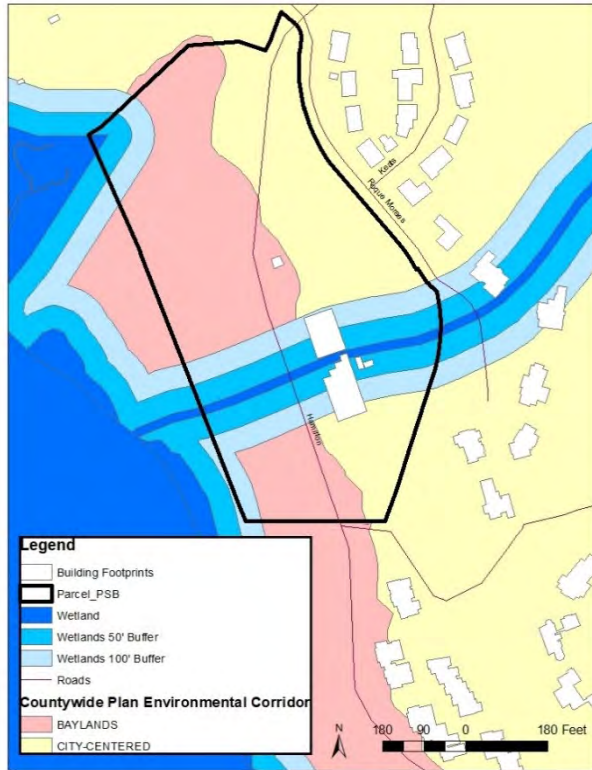
Notes:

a) AE and AO indicate location in FEMA floodplain. AE indicates FEMA has established baseline flood elevation, but project could be designed to accommodate.

AO indicates shallow sheet flooding without known baseline, but could be established and designed for. Both types would also require flood insurance.

b) Low end of range assumes zoning for 29 units/acre. High end assumes application of state density bonus law (80% bonus for 100% affordable projects), which would yield 52 units/ ac

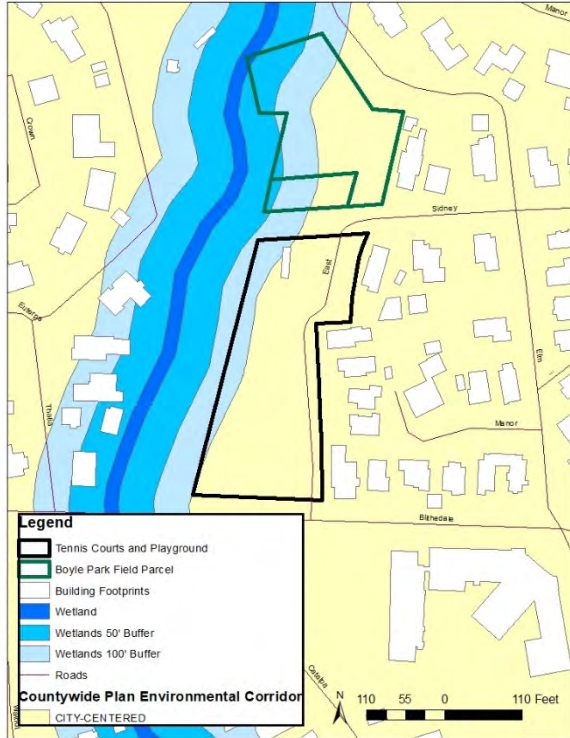
Site 1: Public Safety Building/Hauke Field Parking Lot



Potential 0.75 acre Housing Site

This potential housing site lies adjacent to the City’s Public Safety Building complex, on its northern side. This area currently provides parking and restrooms for recreation fields located nearby. The potential housing site is impacted by its location near the boundaries of the Marin County Baylands Corridor, as described in the County General Plan. This designation identifies uplands adjacent to sensitive wetlands, and requires special biological assessment studies to protect habitat for plants and animals. According to the Marin County General Plan, development sites of between 0.5 and 1 acre require a 30-foot setback from the Baylands boundary. Until further biological and survey studies can be conducted, it is assumed the identified housing site could provide 0.75 acres for development, creating sufficient scale to develop a physically feasible project. Current restrooms and parking area for Hauke Field may need to be relocated elsewhere on the PSB site.

Site 2: Portion of Boyle Park

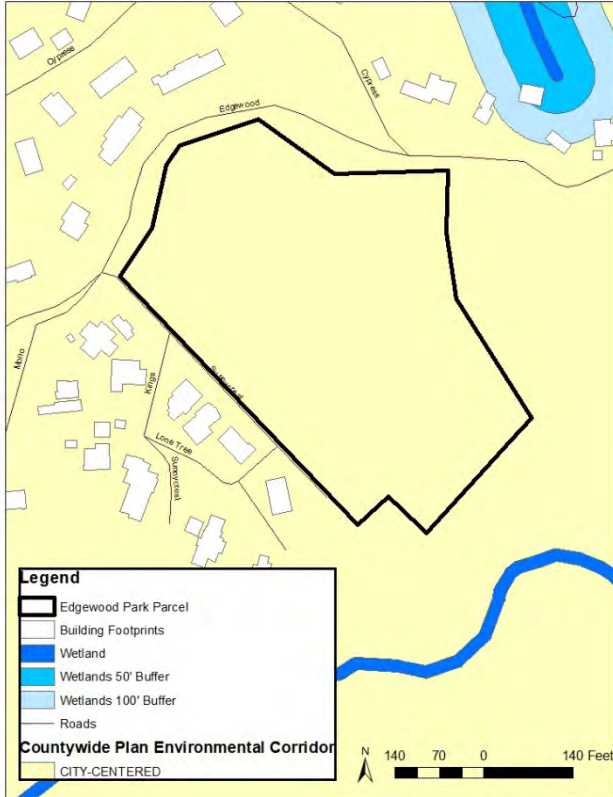


Potential 0.75 acre Housing Site

This site would be subdivided and developed in the portion of Boyle Park containing 5 tennis courts, along E. Blithedale Avenue. While reducing recreational facilities for Mill Valley’s residents is less than ideal, this site is included in this memorandum because it would create a sufficiently-sized and shaped parcel in a pleasant residential neighborhood without prohibitive environmental constraints (e.g., floodplain, sensitive habitat, etc.). From an objective affordable housing development point of view, this is the best of the 4 identified sites. As described in this memorandum, identifying sites with sufficient size and yield, that also do not create extraordinary cost challenges, means that other tradeoffs would need to be made to leverage public lands.

As shown in the map on the left, although not in a floodplain or floodway, the tennis courts are located near sensitive wetlands, and would need to be designed carefully to allow for the medium blue 50 foot buffer. The lost tennis courts could potentially be relocated elsewhere in this part of Mill Valley or designed to be placed on the roof of the new housing project with separate public access provided.

Site 3: Edgewood (aka Mill Valley Reservoir)

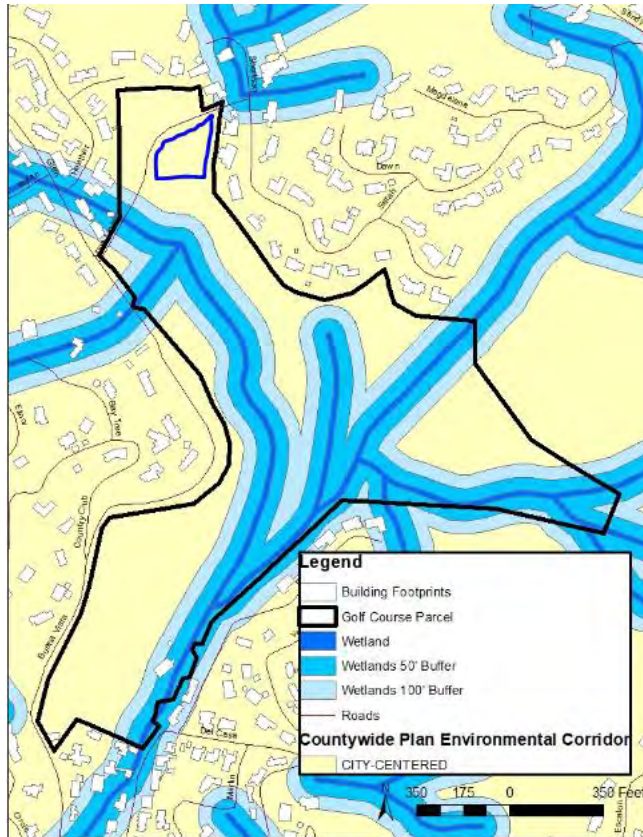


Potential 1 acre Housing Site

The Edgewood parcel contains over 4 acres, with portions containing steep slopes. The site is used as an informal open space area but has not been improved as a public park. Based on topographic map review, it is estimated that a 1-acre or more buildable portion with a feasible slope could be identified. Another development constraint is that this site was deeded by the Marin Municipal Water District to the City in 1967, with a covenant in the recorded deed that the site be maintained by the City and used as a park. However, since this site has not been improved as a park and given the age (50+ years) and nature of the grand deed, it may be possible to amend the deed to remove this covenant for a portion of the site through agreement with the MMWD.

The strategy outlined above has the additional benefit of creating a buildable parcel of 1 acre or more, allowing for a higher unit yield than the other tightly-fitted 0.75 acre sites which limit unit yield with no room to spare. In addition, it may be possible to improve other portions of this site as a park, providing new benefits to the surrounding community in exchange for supporting the 1 acre portion for use as affordable housing.

Site 4: Portion of Mill Valley Municipal Golf Course



Potential 0.75 acre Housing Site

The Mill Valley Municipal Golf Course was purchased by the City from a private owner in the 1930s and has been operated by the City since that time. It has reportedly suffered operating losses in recent years. However, any change in use status of the golf course as a whole will require a more lengthy discussion than the scope of this memorandum, and cannot be addressed here. Thus, as the City considers the future of the 45 acre, 9-hole course, for this memorandum a portion of its greenway buffering along Linda Vista was identified that may be suitable for multifamily affordable housing development in the near term.

It should be noted that the potential housing development site shown above, is across the street along Linda Vista Drive from a recently-proposed public parcel currently used as a playing field, which engendered substantial community resistance to any development. In addition, further design of a potential building site as shown above may impact the adjacent golf hole; research indicated that 9-hole courses typically require 20 to 48 acres of land, so at 45 acres, the Mill Valley course may well be reconfigurable in this section to accommodate the housing site.

City-Owned Sites Considered as Infeasible For Development

Appendix B provides a summary of six additional City-owned sites which were of sufficient size to consider, but have other constraints making them infeasible for near-term multifamily rental housing at affordable levels. These constraints are outlined below.

City Hall/Fire House Parking Lots. The first set of 3 lots are the parking lots and open space surrounding City Hall, including the entry parking area between City Hall and the Mill Valley Market, the back parking lot behind City Hall, and the open space on the far side of the historic fire house adjacent to City Hall. As noted in Appendix B, these parcels are either too small and/or in the case of the back parking lot, designated a Floodway. The table notes that either of the “side” parcels could be developed as a small number (2 to 3) moderate income ownership townhouses, with the most practical site on the open space adjacent to the fire house. This product type does not require an on-site property manager and thus can be developed at a smaller unit yield. These are often more challenging to finance, since many of the commonly-used funding sources such as Low Income Housing Tax Credits do not apply; however, with City-contributed land, there are ways to arrange for this type of housing. In the even the fire house itself were no longer needed, that historic structure could also likely be rehabilitated and converted to possibly 2 more townhouses.

Historic Depot Plaza. This 0.77 acre site is the paved, improved Plaza along with a long, linear parking lot bordering the Plaza area adjacent to and behind the historic Depot in downtown Mill Valley. Although the site is large enough to yield a feasible affordable housing project, it functions as a vital public gathering place, along with much-needed parking for downtown merchants. As such, it would require extensive further study such as a downtown parking study, and likely an urban redesign plan, to replace any public gathering plaza lost to development.

Public Parking Lot Behind D’Angelos. The parking lot behind D’Angelos, accessed from Throckmorton in downtown Mill Valley, has an infeasible configuration due to its linear alley-style parking abutting other buildings. This shape renders the site infeasible for housing of any type.

Community Center Parking Lot. The parking lot adjacent to the Mill Valley Community Center, a portion of which currently contains solar panels, is located partially within or near the Baylands Corridor boundary, meaning that only approximately a 0.5 acre potential development site could be identified. This site size is infeasible for affordable rental housing, as described previously. In addition, the soils on this property are reportedly experiencing substantial subsidence; thus, further soil and biological assessments would need to be conducted to determine if any portion

could be suitable for development. It is likely that a best-case scenario would yield a small developable parcel, which could be used to construct moderate income ownership townhouses.

Public Parking Lot at 411 Miller Avenue. The City-owned parking lot at 411 Miller Avenue offers a good rectangular set of parcels, albeit at an insufficient size for affordable multifamily residential development (smaller than the 0.75 acre threshold). In addition, a substantial portion of the site is located in a FEMA-designated Floodway, rendering new development infeasible. However, due to recent flood improvements in the area, there may be the possibility of requesting a change to the FEMA designation (which may also benefit other parcels that are privately-owned along Miller and adjacent locations such as Sloat Nursery). This would require relatively expensive hydrology studies to demonstrate to FEMA that the current situation has been improved and the Floodway finding in the area no longer applies. This process, including the necessary studies, may be fundable by state or local grants. The City should consult with the Flood Control District to ascertain next steps. If the Floodway designation could be removed, the City-owned portion, with approximately 0.54 acres, would become suitable for moderate income ownership townhouses, which do not require an on-site property manager.

Other City-Owned Parcels

Appendix C shows a summary of dozens of other city-owned parcels deemed infeasible for near-term affordable housing development for one or more of the following reasons:

- Average slopes greater than 10%, with site visits confirming steep slopes throughout parcel
- Small site size below 0.75 acres, limiting yield
- Other prohibitive environmental conditions (see Appendix C)

Potential to Monetize City-Owned Parcels

Among these infeasible-for-development parcels, there were several that may have potential value if offered for sale as a single family lot, as noted in Appendix C. The criteria used to identify salable lots were size and zoning; the parcel must be at least 6,000 square feet (the minimum single family lot size for new construction in Mill Valley) and zoned as some form of residential use. The zoning factor was applied because it is unlikely for retail lot purchasers to undertake a zoning change, especially when most of these parcels are zoned as highly-treasured Open Space.

The value of parcels potentially marketable for single family use involved analyzing sales of single family retail lots in Mill Valley that have occurred over the past 3 years (see Appendix D). As shown, the sales ranged widely, depending on slope (and cost of grading), location, size, and marketing assertions about “approved plans.”⁴ Because the 3 City-owned parcels identified as sufficient in size and zoning to create marketable lots shown in Appendix C are all zoned to require a minimum lot size of 1.5 acres per unit, a total of 10 potential retail lots could be identified on these 3 parcels, with a maximum retail lot value after broker commission and other selling costs was conservatively estimated at up to \$1,000,000 per lot.

This analysis yields a potential total value of up to \$10,000,000, but will very likely decline when more detailed site assessments are conducted to ascertain availability of utilities, identification of building sites amongst the very steep slopes, and other factors impacting marketability and value.

⁴ “Approved plans” described in listing descriptions were not confirmed with the City, and are assumed to contribute only minor additions to value.

Other Tax-Exempt Parcels with Affordable Housing Development Potential

In addition to the direct potential to develop affordable housing on City-Owned parcels, Mill Valley contains numerous parcels owned by other tax-exempt agencies, non-profits, and religious organizations. These parcels were reviewed for size and slope, along with known likelihood of interest in providing land for development.

The following criteria were used to exclude tax-exempt parcels from further consideration:

- Parcels owned by Marin Open Space
- Parcels owned by Marin Municipal Water District
- Parcels owned by public school districts (which may have potential development sites, but should be considered first by the school district)

Remaining non-City owned tax-exempt parcels, described below, are owned by utilities (AT&T) and religious organizations. These parcels may have some longer-term potential for collaboration with the City of Mill Valley for affordable housing development.

Mt. Tamalpais United Methodist Church (410 Sycamore Avenue)



The church provides worship services along with childcare and other community services in a complex of buildings on a relatively large site. While the complex could possibly be envisioned in a reconfigured layout that could incorporate an affordable housing project (a possible 0.75 acre site is outlined in yellow), it is a challenging process, particularly given several environmental constraints including location near the sewage treatment plant making the site potentially unsuitable for

new housing development. In addition, other buildings currently on the site would likely need to be demolished but the functions in them could be incorporated into a housing project (e.g.,

ground floor childcare facility and/or meeting rooms). The leadership of this church may be interested in partnering with the City for housing but does not have near-term plans to undertake such an initiative.

First Church of Christ, Scientist, Mill Valley (279 Camino Alto)

This church sits atop a knoll with substantial land devoted to parking, open space, and



circulation. The building itself, pictured here, is relatively small but with sweeping vistas in keeping with a spiritual center. The site could be potentially reconfigured to place a 0.75 acre housing site on it that would be located beyond the requisite wetland buffer, as shown in yellow outline here. However, this would require new access driveways and reconfigured parking lots. It is not known if the leadership of this institution would be interested in collaborating with the City of Mill Valley.

AT&T Building (300 E. Blithedale)

This site contains an historic Tudor-style 3-story commercial building on a 0.48 acre parcel, which in the past has housed both telephone operations and small commercial tenants. Its current occupancy and use are not known, although it is still owned by AT&T. The building size and condition for potential rehabilitation into affordable housing are not known. Adjacent to the building is another parcel owned by AT&T configured as a parking lot to serve the building; however most of the parking lot lies in a floodway, constraining future development. If the City wished to collaborate on the building site, it or a development partner would need to most likely purchase the site from AT&T at market rates, thereby losing the benefit of leveraging publicly-owned property as a direct subsidy to a project.

Appendix A: List of Plans and Other Resources

Marin Countywide Plan 2007 (County General Plan)

<https://www.marincounty.org/depts/cd/divisions/planning/2007-marin-countywide-plan>

Marin County Housing Element Information (for unincorporated areas of Marin County only)

<https://www.marincounty.org/depts/cd/divisions/housing/housing-element>

Mill Valley 2040 (City of Mill Valley General Plan)

<https://www.cityofmillvalley.org/gov/departments/building/planning/longrangeplannig/default.htm>

City of Mill Valley Housing Element Update 2013-2023 (note: the City will soon be updating the Housing Element for the next 8-year cycle)

<https://www.cityofmillvalley.org/civicax/filebank/blobdload.aspx?BlobID=24590>

About FEMA Flood Zones (portal to many web pages)

<https://www.fema.gov/glossary/flood-zones>

FEMA Information on Changing Flood Zone Maps (relevant for 411 Miller Ave Floodway)

<https://www.fema.gov/flood-maps/change-your-flood-zone>

Additional Explanation of FEMA Flood Zones AE AO, and Floodways Related to Insurance

<https://www.amica.com/en/products/flood-insurance/what-is-an-ae-flood-zone.html>

Appendix B: Infeasible City-Owned Lots Due to Size, Environmental, or Configuration Factors

Site Location	APN	Acres	Avg Slope (%)	Zoning	Flood-plain (a)	Flood-way	# of Units (b)	Notes
30 Corte Madera City Hall Portion of Parking Lot (by Fire Dept)	028-014-06	0.14	5.3%	O-A	AE	No	2-3 townhouses	Small site but could potentially be a few aff townhouse units
26 Corte Madera City Hall Portion of Parking Lot (by MMarket)	028-014-21	0.19	6.4%	C-D	AE	No	2-3 townhouses	Small site but could potentially be a few aff townhouse units
26 Corte Madera City Hall and Back Portion of Parking Lot	028-014-16	0.49	6.5%	O-A	AE	Yes	N/A	Floodway makes infeasible
Plaza & Parking Lot	028-013-15	0.77	1.3%	Downtown Commercial (C-D)	AE	No	N/A	Site is public plaza plus has long, narrow parking lot, which makes it challenging to design a housing project without eliminating vital downtown space. Reconfiguring developable area by adding portion of private parking lot next door on sunnyside was considered, but that parcel is in Floodway.
Parking Lot behind D'Angelos	028-061-35	0.71	8.1%	Downtown Commercial (C-D)	AE	Yes	N/A	Small street frontage, narrow lot, units would abut other buildings. Very hard to design as infill.
Portion of Com Center parking lot	030-111-09	0.50	2.0%	Community Facilities (C-F)	mixed No/AE	No	7-10 moderate income townhouses	Buildable site is smaller than parking lot due to location of Bayland Corridor boundary and required 50' setback. Site also likely has soil subsidence issues. Replacement parking may also need to be arranged. Needs further analysis.
411 Miller Miller Parking Lot	030-271-70, 030-071-28	0.54	<2.5%	Open Area (O-A) & Commercial (C-N)	AE	Yes	7-10 moderate income townhouses	Site is impacted by existing Floodway designation, but recent improvements have enable a change by FEMA. Would require hydrology studies to demonstrate and obtain change.
Notes:								
a) AE and AO indicate location in FEMA floodplain. AE indicates FEMA has established baseline flood elevation, but project could be designed to accommodate. AO indicates shallow sheet flooding without known baseline, but could be established and designed for. Both types would also require flood insurance.								
b) Assumes townhouse development at approximately 15-18 units per acre..								

Appendix D: Other City-Owned Parcels for Potential Sale

(Includes all City-Owned Parcels > minimum single family lot size of 6,000 square feet)

Location	APN	Acres	Gross Square Feet	Avg Slope (%)	Zoning	Flood-plain (a)	Flood-way	Allowed # of Units	Notes	# of Lots	Per Lot	Total
Camino Alto and Stanton Way . Not maintained by DPW	033-102-18	5.25	228,690	42.0	RSP-5A	No		1 DU/1.5 acres	steep slope	3	\$1,000,000	\$3,000,000
Vasco Court / Corner of Edna Maguire	033-240-15	0.86	37,462	16.3	RSP-2A	No		1 DU/1.5 acres	Does not meet zoning			
Vasco Court / Corner across from Edna Maguire / Creek runs through property/ Bike Path	033-240-01	0.49	21,344	20.0	RSP-2A			1 DU/1.5 acres	Does not meet zoning			
Tenderfoot Trail/Zig Zag Trail. Not maintained by DPW	046-010-25	18.59	809,780	46.2	RSP-10A	No		1 DU/1.5 acres	Trail site			
Corner of Tenderfoot trail. Land Locked/ No Access. Not maintained DPW	046-010-34	0.41	17,644	40.2	RSP-10A			1 DU/1.5 acres	Does not meet zoning			
Marsh/Margarite ROW Creek runs through site two ways.	027-272-01	0.23	9,924	19.4	RS-43	AO		7 DU/acre	Difficult to develop			
Tenderfoot trail. Not maintained by DPW	046-030-29	9.70	422,532	42.2	RS-10A	No		1 DU/1.5 acres	Nested in trails	6	\$1,000,000	\$6,000,000
Fern Canyon. Not maintained by DPW	027-066-40	2.07	90,155	61.1	RS-10A			1 DU/1.5 acres	May be 1 lot. Steep slope.	1	\$1,000,000	\$1,000,000
Next to 226 Rose. Not maintained by DPW	027-252-43	0.49	21,300	72.8	RS-10			7 DU/acre	very steep slope; likely not marketable			
Miller Grove/AE Floodway	029-101-01	11.70	509,865	20.0	O-A	AE	Yes	N/A	Floodway. Not marketable.			
Fern canyon (near old railroad grade). Not maintained by DPW	027-066-50	7.89	343,688	63.9	O-A			N/A	Not marketable due to zoning.			
cascade park (lovell and cascade)	027-106-09	7.40	322,344	24.2	O-A	AE		N/A	Not marketable due to zoning.			
Marsh/Ralston Drive/Blithedale Canyon. Not maintained by DPW	027-033-29	6.80	296,208	36.6	O-A	No		N/A	Not marketable due to zoning.			
Edgewood/Cypress/Rose. Not maintained by DPW	046-320-01	5.47	238,273	62.4	O-A			N/A	Not marketable due to zoning.			
Park/Warner Canyon (Buena Vista/Camelita)	029-192-16	4.99	217,165	11.0	O-A	AE		N/A	Not marketable due to zoning.			
Fern canyon (near old railroad grade). Not maintained by DPW	027-280-03	4.01	174,676	53.7	O-A			N/A	Not marketable due to zoning.			
MonteVista / Tenderfoot trail. Not maintained by DPW	027-162-01	3.84	167,160	49.1	O-A	No		N/A	Not marketable due to zoning.			
tenderfoot trail. Not maintained by DPW	046-030-20	3.22	140,263	39.9	O-A	No		N/A	Not marketable due to zoning.			
Evelyn/Cascade Dam. Not maintained by DPW	046-010-14	3.02	131,551	49.2	O-A	No		N/A	Not marketable due to zoning.			
Golf Club House	029-084-01	2.26	98,446	33.1	O-A	No		N/A	Not marketable due to zoning.			
Old Mill Park (lower)	028-102-12	2.08	90,605	16.4	O-A	AE	Yes	N/A	Not marketable due to zoning.			
MonteVista / Tenderfoot trail. Not maintained by DPW	027-161-26	2.00	87,120	57.5	O-A			N/A	Not marketable due to zoning.			
Old Mill Park (upper near structure/bathrooms)	028-091-09	1.73	75,359	13.6	O-A	AE		N/A	Not marketable due to zoning.			
Cascade/Throckmorton. Not maintained by DPW	027-161-15	1.39	60,600	48.7	O-A	AE		N/A	Not marketable due to zoning.			
Sycamore/Corner of MVMS/MMWD Easement	030-161-12	1.33	58,000	14.8	O-A	No		N/A	Not marketable due to zoning.			
Molino /Cascade (Other side of Old Mill Park). Not maintained by DPW	028-132-09	1.04	45,344	59.4	O-A			N/A	Not marketable due to zoning.			
Cascade/Throckmorton. Not maintained by DPW	027-161-05	1.00	43,512	47.0	O-A	AE		N/A	Not marketable due to zoning.			
MonteVista/Earnscliff Park	027-235-28	0.90	39,282	30.9	O-A	No		N/A	Not marketable due to zoning.			
Norris Memorial Park (Molino/Helens). Not Maintained by DPW	028-161-02	0.65	28,509	30.9	O-A	No		N/A	Not marketable due to zoning.			
Fairway Drive (near Golf Course). Not maintained by DPW. Between RS-10 SFR. Could be split into two lots and sold?	029-161-47	0.59	25,760	34.5	O-A	No		N/A	Not marketable due to zoning.			
Narrow ROW near Azalea/Camino Alto and Pathway. Not maintained by DPW	033-112-01	0.53	23,000	29.4	O-A	No		N/A	Not marketable due to zoning.			
Library and back of/AE Floodplain. Maintained by DPW	028-091-11	0.48	20,757	23.8	O-A			N/A	Not marketable due to zoning.			
Norris Memorial Park (Molino/Helens). Not Maintained by DPW	028-161-01	0.41	17,650	34.2	O-A			N/A	Not marketable due to zoning.			
MonteVista / Tenderfoot trail. Not maintained by DPW	046-030-23	0.39	16,944	46.5	O-A	No		N/A	Not marketable due to zoning.			
Sycamore/ROW/AE Floodplain. 18' wide.	030-101-22	0.27	11,765	10.2	O-A	AE		N/A	Not marketable due to zoning.			
Norris Memorial Park (Molino/Helens). Not Maintained by DPW	028-161-03	0.16	6,825	46.1	O-A			N/A	Not marketable due to zoning.			
Behind 700 East Blithedale/ Roque Mar /AE Floodplain. 47' wide	030-124-11	0.16	7,171	34.9	C-G	AE		29 DU/acre	Too small for cost of building in flood plain unless combined with 700 Blithedale			

Appendix D: Recent Single Family Lot Sales






	Address	Acreage	square Feet	Sale Date	Sale Price	Price/Sq. Ft. of Land	Notes
	50 Sandy Lane	1.154	50,268	10/20/2020	\$ 1,250,000	\$ 24.87	1.15 acre parcel above the Mill Valley golf course. Lot features views of the San Francisco Bay and the ridges to the West. Located at the end of a quiet cul de sac with utilities to the lot line. Near trails.
	201 Marion	0.240	10,454	3/24/2019	\$ 450,000	\$ 43.05	Appears to have slope. Site formerly had 1962 house on it (now demolished, foundation visible). Sold previously in 2016 for \$300,000.
	390 N. Ferndale	0.130	5,662	2/24/2019	\$ 559,000	\$ 98.73	Description says site has "approved plans" for 1,800 sf new home. Had former (demolished) 1918 home on it. Note: site size below min lot of 6,000 sf.
	316 W. Blithedale	0.200	8,712	7/25/2018	\$ 1,050,000	\$ 120.52	Sold 4 months earlier for \$800,000 (\$91.83 per sq. ft.). Also sold for 1.05M in 2004.
	321 Loring Avenue	0.132	5,760	6/25/2018	\$ 450,000	\$ 78.13	Description says "approved plans, shovel ready." Note: below min lot size.

EXHIBIT 2

THEHOUSINGWORKSHOP

Janet Smith-Heimer MBA
housingworkshop.com • 707.847.3098

To: Danielle Straude, Senior Planner, City of Mill Valley
From: Janet Smith-Heimer, The Housing Workshop
Re: Financial Analysis of Example Affordable Housing Projects
Date: 3-12-21

Introduction and Summary of Findings

This memo summarizes a second phase of analysis of potential development of affordable housing projects on City-owned sites. The first phase memo evaluated over 100 parcels owned by the City of Mill Valley or other tax-exempt entities, to identify both sites developable for 100% affordable housing projects, and sites that could be sold for market-rate use to raise funds to be applied to affordable housing built elsewhere.

The primary focus of this memo is on the Public Safety Building (PSB) Hauke Field Parking Area, a 0.75 acre site currently improved with restrooms and parking to serve field visitors. This was the only City-owned site determined to be of sufficient size, likely environmental clearance, and with only limited reduction in recreational opportunities. The current uses would need to be relocated, most likely on the other site of the street adjacent to the fields. The purpose of the financial analysis conducted herein is test feasibility and / or to estimate the need for public subsidies in addition to City of Mill Valley land contribution at no cost, to implement a 100% affordable project on the PSB site.

Summary of Findings for PSB Site

The financial analysis provided herein for the PSB site indicates that if several current development regulations were relaxed (e.g, height limit to accommodate the assumed density bonus, and parking ratios so that surface parking could be provided instead of a more expensive garage), and the City contributed the site at zero cost to a non-profit affordable housing developer, the following findings and next steps are recommended.

- Development at this site would likely be feasible using Low Income Housing Tax Credits as its primary subsidy source. Only a limited additional amount of subsidy would be necessary (less than \$200,000), which may be obtainable from the City's impact fee fund and/or other local or state sources.

Given the strong financial outlook and relatively small amounts of gap funding needed for this site, it is recommended that the City take the following “next steps”.

- Review wetlands, habitat/biologic, geotechnical, soil conditions, and related environmental constraints with Marin County staff
- Commission a preliminary study of conditions needed to ascertain development feasibility and environmental constraints. Complete all further recommended biologic/geologic studies recommended.
- Initiate a public input process, leading to requisite rezoning (however City typically would conduct). The City may also want to adopt specific Density Bonus concessions/waivers that would accommodate this site and other privately-owned sites in advance of the up to 4 concessions/waivers that recent state law allows developers to request. Examples would be height limit relaxation (will be needed even for 100% affordable projects on privately-owned land), and parking ratio reductions.
- Survey the potential parcel to prepare for an administrative parcel subdivision.
- Prepare an RFP for the site and distribute to potential eligible developers.
- Review and select a development partner.
- Negotiate appropriate property agreements, subdivide parcel if appropriate, provide site control (needed for Low Income Housing Tax Credit application), and oversee development on behalf of the City.

Additional Analysis of Repurposed Portion of an Existing Recreational Site

In addition to the PSB, which was the only nearly vacant City-owned site with sufficient size and likely adequate environmental clearance potential identified in the prior memo, the City owns several other active and passive recreational lands which contain smaller portions that would make strong affordable housing sites if there was community interest in accepting a reduction in recreational uses. Sites like this, identified in the prior memo, include the tennis courts at Boyle Park (which could be replaced by new public courts on the roof of a residential building), various 0.75 acre or larger portions of the Mill Valley Municipal Golf Course that currently buffer along the street edge, and a portion of Edgewood Park.

To illustrate this type of site development, the Edgewood site (aka Mill Valley Reservoir) serves as one example. This site is currently used informally as a park. It is a 4+ acre site along Edgewood Drive, with sweeping views of Richardson’s Bay and Mill Valley. The concept would

be to select a 1-acre portion of this site for affordable housing development, leaving a 3+ acre site still used for public recreation. It should be noted that this site is not legally feasible to develop unless the MMWD amends the recorded deed covenant, as described previously. This would require City Council and MMWD Board agreement/approval. A survey and legal description of the requested subject area would also be needed.

Financial feasibility was analyzed similarly to the PSB project, for a 1-acre portion of Edgewood Park assumed to be located at the highest point along Edgewood Drive (at the level gravel parking lot), extending southward along the downslope below as needed to accommodate 52 units. The analysis (see Appendix D), due to increased site studies costs, increased hard construction costs, and results in a funding gap of approximately \$0.5M+, indicating the need for outside additional subsidies.

One key to understanding these findings is that seeking subsidy from available state and regional sources is common to affordable housing projects, and lack of available local subsidy collars does not constrain project implementation. Because Mill Valley has not experienced new affordable housing development in the past 10 years of this type, a goal of this memo is to broaden the understanding that there are numerous non-local subsidy funding sources.

Financial Analysis of PSB Site

Overview of Methodology

The methodology used to analyze financial feasibility for an affordable project on the PSB site relies on a simple model known as a “static pro forma.” This model estimates the size, square footage, unit mix, construction costs, soft costs, and related assumptions for a project on a particular site, based on zoning and parking regulations and associated land use guidance. These assumptions are combined into an estimate of land acquisition (in this case assumed as zero), total site work, hard construction costs, parking and landscaping costs, construction period financing charges, etc. Next, because this is an affordable project, rather than estimating revenues, capitalized value, and return on investment (profit) on the development, the project’s net operating income is estimated and converted to a supportable conventional permanent mortgage loan amount. In addition, Low Income Housing Tax Credits (LIHTC) are assumed, which are a common subsidy source of equity dollars for these types of affordable projects.¹

The static pro forma shown for this project ends with an estimate of the gap in financing, after the supportable debt and LIHTC equity funding. Because the project is constructed in this case as inexpensively as possible (e.g., zero cost land, surface parking), and because Marin County’s affordable housing income thresholds and corresponding rents are relatively high compared to other Bay Area counties, the project atypically almost “pencils.” Very little additional subsidy will likely be needed. In the event subsidy is needed, this memo includes a brief overview of several larger multifamily affordable housing funding sources to describe how the gap could be filled.

The model assumptions and static pro forma for the PSB project are shown on the following pages, following a page illustrating what the project could look like (based on Mill Lot 7, an affordable project under development in Healdsburg). The underlying cost data informing model cost assumptions is included in the Appendix (based on several other LIHTC recent projects in Sonoma County). The Appendices also include detailed rental rates per income category as regulated, adjusted for a utility allowance deduction from those gross rent numbers.

¹ Low Income Housing Tax Credits (LIHTCs) are a key, well-established affordable housing financing mechanism. These are obtained based on a US Treasury program initiated in 1986, and ongoing. It allocates “tax credits” that can be sold to investors, raising equity funds for a project in exchange for dollar-for-dollar credits to the buyer against federal tax obligations, meaning that buyers of the credits are typically corporations with substantial taxable income. In most states, including California, there is a companion, smaller state tax credit in addition (not calculated herein). LIHTC involves complex rules, not fully described here, but available to developers of affordable housing targeting up to an average of 60% of Area Median Income (AMI). LIHTC awards to a project are highly competitive and require careful project structuring to successfully win the award each round. Demand (applications) for the credits far exceed supply, which is controlled by a per-capita federal “allocation.”

Illustrative Example of 100% Affordable Project: Mill Lot 7, Healdsburg, CA

This project, currently in pre-development, will contain 40 affordable units and one manager's unit on a 1.1 acre site. Parking will be provided in a surface lot, with one space per unit. Half of this parking is open surface parking, with the other half provided as ground level tuck under parking under a portion of the building (not shown in rendering).

The unit mix and configuration of this project is similar to that assumed for the PSB site.



Summary of Assumptions for PSB Financial Analysis

Picturing a project similar to Mill Lot 7 in Healdsburg, but tailored to the PSB site, the following describes key assumptions. The pro forma itself is shown on the following page.

- **Project Size, Density, and Parking.** The pro forma assumes a 0.75 acre (gross) development site. Further, it assumes that this site could be rezoned to the City's highest multifamily density level (e.g., 29 units/acre), and that California's density bonus law (80% density bonus for affordable projects) would be applied. This results in a density of just over 52 units per acre. Mill Valley requires 2 parking spaces per unit, plus a 0.25 space for guest parking, in its multifamily zones. The pro forma assumes a waiver of this regulation, to reduce parking to 1.5 spaces per unit, which is a common action for cities to take to reduce the costs of affordable projects.
- **Project Bio/Geo Studies.** As outlined in the first memo and summarized in the site description in Appendix A, this site will require specialized habitat and related studies to determine impacts on wetlands areas conserved by the Baylands Corridor designation in the County's General Plan. The analysis assumes that the studies will be able to identify a developable area without impacts.
- **Unit Mix and Target AMI Thresholds.** For the pro forma, the target income threshold is shown at 50% of Area Median Income (AMI). This target is slightly lower than the maximum for some projects, but was selected to render the project more competitive in the Low Income Housing Tax Credit allocation process.
- **Construction Costs.** Dramatically rising construction costs have been a major obstacle to building affordable housing during the past decade. Contractors have faced the twin challenges of strong demand for their services (as market rate construction rose after the Great Recession) and dwindling available labor in the region (as employment boomed and other sectors offered higher salaries). Currently, materials costs have also risen dramatically (especially lumber) as Covid has impacted global supply chains. To estimate construction costs, data for several nearby current projects was collected, as shown in the appendices.

Summary of Project Funding Gap

As indicated, the gap after supportable debt and LIHTC proceeds is likely to be relatively low, at less than \$100,000. This gap could be filled locally, or from among several other funding sources (see next section).

Table 1: Pro Forma Analysis of Affordable Housing Project on PSB Site

Key Development Assuptions		Public Safety Building: All Affordable Rental @ 50% AMI
Development Program:		
Density (DU/Acre) (inc. 80% density bonus)		52.2
Site Gross Acreage		0.75
Gorss Site Size (sf)		32,670
Number of Affordable Units		39
Manager's Unit		1
<i>Total Number of Units</i>		<i>40</i>
Affordable Rental Unit Mix		
Studios	0%	-
1 Bedroom units	40%	16
2 Bedroom Units	30%	12
3 Bedroom Units	30%	12
<i>Total Units</i>		<i>39</i>
Parking and Development Footprint		
Flats - Average Unit Size		900
Flats Common Area	20%	180
Total Flats Residential Sq. Ft.		43,200
Number of Stories		4
Footprint of Residential Building		10,800
Parking Ratio		1.5
Total Number of Parking Spaces (Surface)		60
Land Area for Parking	350	21,000
Remaing Landscaped Open Space (sf)		11,670
Affordable Rents - Flats (inc. utility allowance)		
Studios		\$ 1,467
1 Bedroom units		\$ 1,565
2 Bedroom Units		\$ 1,867
3 Bedroom Units		\$ 2,148
Development Costs		
Site Work Per Sq.Ft. of Land- Estimated (a)		\$ 15
Hard Costs - Flats Building Per Sq. Ft.		\$ 350
Surface Parking + Landscaping (per space)		\$ 4,000
MMWD Connection Fee per unit (b)		\$ 36,296
Bio/Geo Studies - Estimated (c)		\$ 350,000
Other Soft Costs (as % of Hard Costs) (d)		25%
Dev Fee		\$ 2,200,000
Construction Financing Costs		
Loan to Cost Ratio		100.0%
Interest Rate		5.0%
Loan Fees		1.0%
Construction Period (months)		24
Avg. Outstanding Bal During Construction		60.0%
OPEX per Unit + Reserves		\$ 8,000
Debt Coverage Ratio		1.15
Permanent Financing Costs		
Term		30
Interest Rate		5.0%

Development Costs	Public Safety Building: All Affordable Rental @ 50% AMI
Land Acquisition	\$ -
Construction Costs	
Site Work	\$ 490,050
Hard Building Costs	\$ 15,120,000
Parking and Landscaping Costs	\$ 240,000
<i>Subtotal Hard Costs</i>	<i>\$ 15,850,050</i>
MMWD Connection Fees	\$ 1,451,840
Bui/Geo Studies	\$ 350,000
Other Soft Costs	\$ 3,962,513
Dev Fee	\$ 2,200,000
Total Development Cost Before Financing	\$ 23,814,403
Construction Period Financing Costs	
Points	\$ 238,144
Construction Period Interest	\$ 1,428,864
Total Financing Cost	\$ 1,667,008
Total Development Costs Including Financing	\$ 25,481,411
<i>Total Development Cost per Unit exc. Land</i>	<i>\$ 637,035</i>
Permanent Financing and Gap Analysis	
Rental Operations	
Gross Revenue	\$ 856,674
Less: Vacancy Rate @ 5%	\$ (42,834)
Less OPEX	\$ (320,000)
Net Operating Income (NOI)	\$ 493,840
Capital Stack	
Supportable Perm Loan	\$ 6,601,336
LIHTC Proceeds (E)	\$ 18,782,348
Total Before Other Subsidies	\$ 25,383,683
Less: Dev Costs	\$ (25,481,411)
Gap to be Funded by Other Sources	\$ (97,727)

Notes:

- a) Includes grading, relo/demo of existing improvements. Does not cover any new improvement costs for relocated restrooms/parking for Hauke Field.
- b) Marin Water connection fee
- c) Estimated bio/geo studies needed to determine site development feasibility per Marin County Baylands conservation regulations and related geotech issues.
- d) Other soft costs include survey, architectural, engineering, plan check, etc. This category would also cover small roadway fund and school impact fees.
- e) Annual applicable for 9% LIHTC 9.00%
- % of total dev costs assumed as eligible basis 90.0%
- Credit price \$ 0.91

Source: The Housing Workshop, 2021.

About Potential Funding Sources for Affordable Housing

Although the above analysis of the PSB site indicates that a new affordable housing project at that location may not require outside subsidies, as Mill Valley advances its Housing Element Update and other affordable housing initiatives, it is important to understand that a myriad of affordable housing funding sources are available in addition to Low Income Housing Tax Credits. Each funding source comes with complexities of eligibility, timing, target population, and other constraints. The following highlights two of the larger, more common sources. Additional resources describing available programs are available at: <https://www.hcd.ca.gov/grants-funding/index.shtml>

State of California: Multifamily Housing Program (MHP)

This program assists new construction, rehabilitation and preservation of permanent and transitional rental housing for lower income households. MHP offers deferred payment loans with a 55-year term; with a 3 percent simple interest on unpaid principal balance, except under certain conditions. Eligible activities include new construction, rehabilitation, or acquisition and rehabilitation of permanent or transitional rental housing, and the conversion of nonresidential structures to rental housing. Projects are not eligible if construction has commenced as of the application date, or if they are receiving 9 percent federal low-income housing tax credits (but 4% credits are eligible). MHP funds will be provided for post-construction permanent financing only. Eligible costs include the cost of child care, after-school care, and social service facilities integrally linked to the assisted housing units; real property acquisition; refinancing to retain affordable rents; necessary on-site and off-site improvements; reasonable fees and consulting costs; and capitalized reserves.

Eligible applicants include local public entities, for-profit and nonprofit corporations, limited equity housing cooperatives, individuals, Indian reservations and Rancherias, and limited partnerships in which an eligible applicant or an affiliate of an applicant is a general partner. Applicants or their principals must have successfully developed at least one affordable housing project.

State of California: Permanent Local Housing Allocation (PLHA)

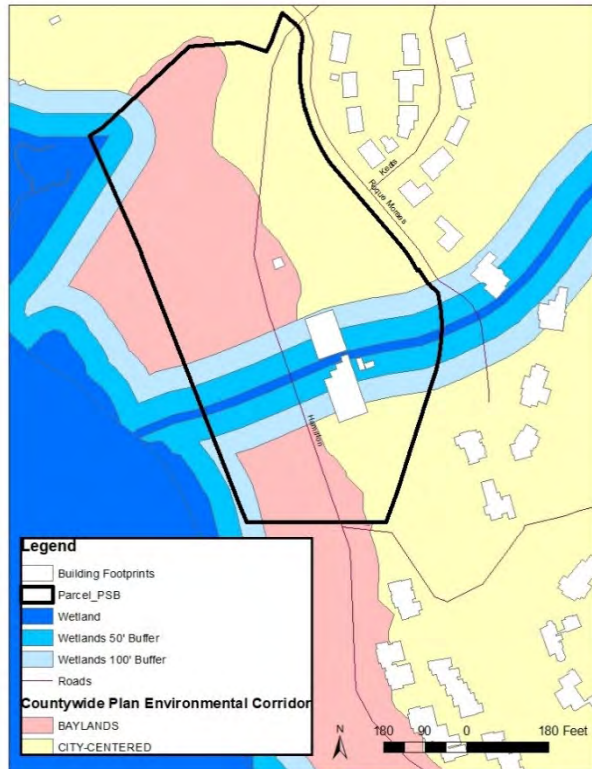
In 2017, Governor Brown signed a [15-bill housing package](#) aimed at addressing the state's housing shortage and high housing costs. Specifically, it included the [Building Homes and Jobs Act](#) (SB 2, 2017), which established a \$75 recording fee on real estate documents to increase the supply of affordable homes in California. Because the number of real estate transactions recorded in each county will vary from year to year, the revenues collected will fluctuate. The chart

below shows how revenues will be allocated.

This program provide a permanent source of funding to all local governments in California to help cities and counties implement plans to increase the affordable housing stock. There are two types of assistance under PLHA:

- Formula grants to entitlement and non-entitlement jurisdictions based on the formula prescribed under federal law for the Community Development Block Grant.
- Competitive grants to non-entitlement jurisdictions. Funding amounts will vary based on annual revenues to the Building Homes and Jobs Trust Fund.

Appendix A: Overview of Public Safety Building/Hauke Field Parking Lot



Potential 0.75 acre Housing Site

This potential housing site lies adjacent to the City's Public Safety Building complex, on its northern side. This area currently provides parking and restrooms for recreation fields located nearby. The potential housing site is impacted by its location near the boundaries of the Marin County Baylands Corridor, as described in the County General Plan. This designation identifies uplands adjacent to sensitive wetlands and requires special biological assessment studies to protect habitat for plants and animals. According to the Marin County General Plan, development sites of between 0.5 and 1 acre require a 30-foot setback from the Baylands boundary. Until further biological and survey studies can be conducted, it is assumed the identified housing site could provide 0.75 acres for development, creating sufficient scale to develop a physically feasible project. Current restrooms and parking area for Hauke Field will need to be relocated elsewhere on the PSB site.

Appendix B: Household Income Limits and Rent Limits for Marin County, 2020

2020 Household Income Limits

	1-Person HH	2-Person HH	3- Person HH	4-Person Household	5-Person Household
30% AMI	\$ 36,550	\$ 41,800	\$ 47,000	\$ 52,200	\$ 56,400
50% AMI	\$ 60,900	\$ 69,600	\$ 78,300	\$ 87,000	\$ 94,000
80% AMI	\$ 97,600	\$ 111,550	\$ 125,500	\$ 139,400	\$ 150,600

Source: California HCD 2020 Income Limits.

California Low income Housing Tax Credit Maximum Rents, 2020

California Tax Credit Allocation Committee, 2020, for buildings placed in service after 4-1-20.

	Studio	1-Bedroom	2-Bedroom	3-Bedroom	4-Bedroom
30% AMI	\$ 913	\$ 978	\$ 1,174	\$ 1,357	\$ 1,514
50% AMI	\$ 1,522	\$ 1,631	\$ 1,957	\$ 2,262	\$ 2,523
60% AMI	\$ 1,827	\$ 1,957	\$ 2,349	\$ 2,715	\$ 3,028
80% AMI	\$ 2,346	\$ 2,610	\$ 3,132	\$ 3,620	\$ 4,038

Less: Utility Allowance Adjustment (a)

Utility Allowance	\$55	\$66	\$90	\$114	
Net Rent at 50% AMI	\$1,467	\$1,565	\$1,867	\$2,148	

a) Utility Allowance is sum of (all electric) allowances for heating, cooking, lights, air conditioning, and hot water heating.

Sources: California Tax Credit Allocation Committee Gross Rent Limits, 2020;
Marin County Housing Authority Utility Allowance for MFR, 2020.
The Housing Workshop, 2021.

Appendix C: Costs for Affordable Projects in Sonoma County, 2020

Project Name	Mill District Lot 7	Cotati Station Apartments	BHDC Comstock	Woodmark Apartments	Woodmark Apartments	River City Senior	Average
Year Applied for Tax Credits	2020 (9%)	2020 (9%)	2020 (9%)	2020 (9%)	2020 (9%)	2020 (4%)	
Developer	Eden Housing	BRIDGE Housing	Burbank Housing	Pacific West	Pacific West	PEP Housing	
Target Group	Large Family	Large Family	Large Family	Large Family	Large Family	Senior	
Location	Healdsburg	Cotati	Healdsburg	Sebastopol	Sebastopol	Petaluma	
Site Area (SF)	37,897	104,853	125,888	155,074	101,059	57,064	
Housing Type	4-story	3-story	3-story	3-story	3-story	3-story	
Building Area (GSF)	44,841	103,339	41,673	74,921	45,941	45,640	
Number of Units	41	74	36	84	48	54	
SF/Unit	1,094	1,396	1,158	892	957	845	
Unit Mix (Percent Studio/1BR/2BR/3BR)	0/19/11/11	0/6/41/27	0/13/14/9	0/12/36/36	0/0/24/24	0/53/1/0	
Development Costs							
Acquisition Cost	\$ 5,990,000	\$ 6,290,000	\$ 2,500,000	\$ 3,975,000	\$ 2,590,449	\$ 1,300,000	
Hard Cost	\$ 16,609,026	\$ 27,632,447	\$ 11,870,227	\$ 26,447,682	\$ 17,025,913	\$20,179,802	
Soft Cost (excludes reserves)	\$ 4,987,976	\$ 7,348,774	\$ 3,961,092	\$ 4,838,714	\$ 3,524,890	\$ 4,548,201	
Developer Fee	\$ 2,000,000	\$ 2,200,000	\$ 2,200,000	\$ 2,200,000	\$ 2,200,000	\$ 3,048,949	
Total Development Cost	\$ 29,587,002	\$ 43,471,221	\$ 20,531,319	\$ 37,461,396	\$ 25,341,252	\$29,076,952	\$ -
Acquisition Cost per Site SF	\$ 158	\$ 60	\$ 20	\$ 26	\$ 26	\$ 23	\$ 52
Acquisition Cost per Building SF	\$ 134	\$ 61	\$ 60	\$ 53	\$ 56	\$ 28	\$ 65
Development Costs per Building Area SF							
Hard Cost	\$ 370	\$ 267	\$ 285	\$ 353	\$ 371	\$ 442	\$ 348
Soft Cost (excludes reserves)	\$ 111	\$ 71	\$ 95	\$ 65	\$ 77	\$ 100	\$ 86
Developer Fee	\$ 45	\$ 21	\$ 53	\$ 29	\$ 48	\$ 67	\$ 44
Total Development Cost (excluding land)	\$ 526	\$ 360	\$ 433	\$ 447	\$ 495	\$ 609	\$ 478
Total Development Cost (including land)	\$ 660	\$ 421	\$ 493	\$ 500	\$ 552	\$ 637	\$ 544
Total Acquisition Cost per Unit	\$ 146,098	\$ 85,000	\$ 69,444	\$ 47,321	\$ 53,968	\$ 24,074	\$ 70,984
Total Hard Cost per Unit	\$ 405,098	\$ 373,411	\$ 329,729	\$ 314,853	\$ 354,707	\$ 373,700	\$ 358,583
Total Soft Cost per Unit	\$ 121,658	\$ 99,308	\$ 110,030	\$ 57,604	\$ 73,435	\$ 84,226	\$ 91,043
Total Development Cost per Unit (exc. land)	\$ 575,537	\$ 502,449	\$ 500,870	\$ 398,648	\$ 473,975	\$ 514,388	\$ 494,311
Total Development Cost (including land)	\$ 721,634	\$ 587,449	\$ 570,314	\$ 445,969	\$ 527,943	\$ 538,462	\$ 565,295
Total Operating Expenses per Unit (b/f Reserves)	\$6,843	\$7,275	\$5,966	\$4,751	\$4,729	\$6,278	\$5,974
Share of Tax Credit Equity as % of Total Sources	55%	79%	75%	70%	61%	50%	
Notes	1 residential building	3 res bldgs; 3,600 sf retail	1 residential building	6 residential buildings	Farmworker housing; 4-residential buildings	19 homeless units, 3 residential buildings	
Perm Funding Sources							
Tax Credit Equity	\$ 16,400,614	\$ 34,306,145	\$ 15,332,319	\$ 26,161,396	\$ 15,541,252	\$14,594,866	
Perm Loan	\$ 3,447,800	\$ 7,569,000	\$ 2,699,000	\$ 11,300,000	\$ 7,800,000	\$ 2,881,000	
City Funds		\$ 750,000				\$ 1,608,000	
County Funds	\$ 1,500,000	\$ 605,000				\$ 1,575,000	
State Funds						\$ 5,922,684	
Federal Funds (USDA)					\$ 1,000,000		
Deferred Developer Fee	\$ 477,923	\$ 200,000			\$ 1,000,000	\$ 945,302	
Land Donation	\$ 5,990,000		\$ 2,500,000			\$ 1,300,000	
Other (GP Capital/Deferred Interest)	\$ 1,770,665	\$ 41,076				\$ 250,100	
	\$ 29,587,002	\$ 43,471,221	\$ 20,531,319	\$ 37,461,396	\$ 25,341,252	\$29,076,952	

Sources: California Tax Credit Allocation Committee, 2020 Second Funding Round for 9% Tax Credits, 2020 Second Cycle Funding for 4% Tax Credits

Appendix D: Pro Forma for Edgewood Park Parcel

Key Development Assuptions	Edgewood Park: All Affordable Rental @ 50% AMI	
Development Program:		
Density (DU/Acre) (inc. 80% density bonus)		52.2
Site Gross Acreage		1.00
Gorss Site Size (sf)		43,560
Number of Affordable Units		51
Manager's Unit		1
<i>Total Number of Units</i>		<i>52</i>
Affordable Rental Unit Mix		
Studios	0%	-
1 Bedroom units	40%	20
2 Bedroom Units	30%	15
3 Bedroom Units	30%	15
<i>Total Units</i>		<i>51</i>
Parking and Development Footprint		
Flats - Average Unit Size		900
Flats Common Area	20%	180
Total Flats Residential Sq. Ft.		56,160
Number of Stories		4
Footprint of Residential Building		14,040
Parking Ratio		1.5
Total Number of Parking Spaces (Surface)		78
Land Area for Parking	350	27,300
Remaing Landscaped Open Space (sf)		16,260
Affordable Rents - Flats (inc. utility allowance)		
Studios	\$	1,467
1 Bedroom units	\$	1,565
2 Bedroom Units	\$	1,867
3 Bedroom Units	\$	2,148
Development Costs		
Site Work Per Sq.Ft. of Land- Estimated (a)	\$	35
Hard Costs - Flats Building Per Sq. Ft.	\$	365
Surface Parking + Landscaping (per space)	\$	4,000
MMWD Connection Fee per unit (b)	\$	36,296
Bio/Geo Studies - Estimated (c)	\$	500,000
Other Soft Costs (as % of Hard Costs) (d)		25%
Dev Fee	\$	2,200,000
Construction Financing Costs		
Loan to Cost Ratio		100.0%
Interest Rate		5.0%
Loan Fees		1.0%
Construction Period (months)		24
Avg. Outstanding Bal During Construction		60.0%
OPEX per Unit + Reserves	\$	8,000
Debt Coverage Ratio		1.15
Permanent Financing Costs		
Term		30
Interest Rate		5.0%

Development Costs		Edgewood Park: All Affordable Rental @ 50% AMI
Land Acquisition		\$ -
Construction Costs		
Site Work	\$	1,524,600
Hard Building Costs	\$	20,498,400
Parking and Landscaping Costs	\$	312,000
<i>Subtotal Hard Costs</i>	\$	<i>22,335,000</i>
MMWD Connection Fees	\$	1,887,392
Bui/Geo Studies	\$	500,000
Other Soft Costs	\$	5,583,750
Dev Fee	\$	2,200,000
Total Development Cost Before Financing	\$	32,506,142
Construction Period Financing Costs		
Points	\$	325,061
Construction Period Interest	\$	1,950,369
Total Financing Cost	\$	2,275,430
Total Development Costs Including Financing	\$	34,781,572
<i>Total Development Cost per Unit exc. Land</i>	\$	668,876
Permanent Financing and Gap Analysis		
Rental Operations		
Gross Revenue	\$	1,120,266
Less: Vacancy Rate @ 5%	\$	(56,013)
Less OPEX	\$	(416,000)
Net Operating Income (NOI)	\$	648,253
Capital Stack		
Supportable Perm Loan	\$	8,665,420
LIHTC Proceeds (E)	\$	25,637,497
Total Before Other Subsidies	\$	34,302,917
Less: Dev Costs	\$	(34,781,572)
Gap to be Funded by Other Sources	\$	(478,655)

Notes:

- a) Includes grading, relo/demo of existing improvements. Does not cover any new improvement costs for relocated restrooms/parking for Hauke Field.
- b) Marin Water connection fee
- c) Estimated bio/geo studies needed to determine site development feasibility per Marin County Baylands conservation regulations and related geotech issues.
- d) Other soft costs include survey, architectural, engineering, plan check, etc. This category would also cover small roadway fund and school impact fees.
- e) Annual applicable for 9% LIHTC 9.00% applied to eligible basis X 10 years
Eligible basis assumed to be 90.0% of total dev costs
Credit price \$ 0.91

Source: The Housing Workshop, 2020.

EXHIBIT 3



tel: 916.455.7300 · fax: 916.244.7300
510 8th Street · Sacramento, CA 95814

November 18, 2022

SENT VIA EMAIL (Reid.Miller@hcd.ca.gov)

Reid Miller
California Department of Housing and Community Development
c/o Land Use and Planning Unit
2020 W. El Camino Avenue, Suite 500
Sacramento, California 95833

RE: Additional Comments to City of Mill Valley's Draft Housing Element

Dear Mr. Miller:

On behalf of Friends of Hauke Park ("FOHP"), this letter provides additional comments regarding the City of Mill Valley's ("City") draft Housing Element that are prompted by statements made by a City official on November 16, 2022.

During a Zoom conference entitled, *Understanding the State's Housing Element Requirement and its Impacts on Marin Cities and Towns*¹, the City's Planning Director presented the City's housing inventory map and relied heavily on fire danger as reasoning for the locations, stating that "65% of Mill Valley is with a high fire danger zone." This asserted basis for excluding 65 percent of the City's land area from its site inventory is inconsistent with the City's General Plan.

Following last night's presentation, we reviewed the City's General Plan and zoning ordinance to determine if residential development is prohibited in the very high fire hazard severity zone ("Fire Zone").² It is not. To wit:

- The Land Use Element does not mention fire hazard at all. The only policy in the Land Use Element that could arguably include consideration of fire hazard provides, "LU.1-3 The residential density (dwelling units per acre) of a new or redeveloped residential development project or residential development as part of a mixed-use project may be reduced to below the minimum density established by this General Plan where there is adequate evidence in the record that the physical

¹ <https://marinpost.org/notices/2022/10/19/understanding-the-states-housing-element-requirement-and-its-impacts-on-marin-cities-and-towns>

² Figure I-2 of the City's draft Housing Element identifies the scope of the Fire Zone.

characteristics of the site (including but not limited to lot size, slope, habitat value, soil conditions, flood hazard, etc.) or other conditions identified through the environmental review process clearly indicate that the minimum density cannot be met without appropriate mitigation or is determined to be detrimental to the health, safety, or welfare of the community.” However, this language only limits density.

- **Hazard and Public Safety Element.** The Hazard and Public Safety Element discusses fire hazard areas (p. 184), but it does not provide any potential prohibitions. Additionally, Policy HZ.6-1 states, “Maintain an ongoing fire inspection program to reduce fire hazards associated with commercial and multi-family residential buildings, older buildings, critical facilities, public assembly facilities, and residential parcels in high-risk areas.” This language suggests that there are no prohibitions to building in high fire risk areas.
- **Zoning Ordinance.** We also reviewed the City’s zoning ordinances. A few ordinances mention prohibitions for residential properties in high fire areas, but they all have exceptions. Thus, there are no prohibitions.

Since the City’s General Plan does not prohibit residential development in the Fire Zone, excluding otherwise-suitable properties on this basis creates inconsistency with the General Plan. Further, the City has now made it clear that it intends to amend the Land Use Element for “consistency” with the Housing Element. If the City were legitimately concerned about residential development in the Fire Zone, then the City could concurrently amend its General Plan to prohibit residential development in the Fire Zone. Its failure to do this is telling.

This is another example of how the City’s site inventory is arbitrary and capricious, and further supports our concern that the City is intentionally constricting the scope of its housing inventory in order to justify its reliance on 1 Hamilton.

Very truly yours,

SOLURI MESERVE
A Law Corporation

By: 

Patrick M. Soluri

cc: City of Mill Valley:
Jim Wickham, Mayor
(jwickham@cityofmillvalley.org)

Reid Miller
California Department of Housing and Community Development
November 18, 2022
Page 3 of 3

Urban Carmel, Vice Mayor
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EXHIBIT H



tel: 916.455.7300 · fax: 916.244.7300
510 8th Street · Sacramento, CA 95814

May 15, 2023

SENT VIA EMAIL
(dstaude@cityofmillvalley.org)

Danielle Staude, Senior Planner
City of Mill Valley
26 Corte Madera Avenue
Mill Valley, California 94941

RE: The City of Mill Valley’s 2023-2031 Housing Element Update Revisions

Dear Ms. Staude:

On behalf of Friends of Hauke Park (“FOHP”), this letter provides additional comments regarding the City of Mill Valley’s (“City”) revisions to the 2023-2031 Housing Element Update (“Project”). On February 16, 2023, the City released its revised Housing Element Update (“Revised HEU”), purporting to respond to comments received on the draft Housing Element Update. This letter details FOHP’s ongoing concerns that the Revised HEU does not adequately comply with the City’s duty to affirmatively further fair housing (“AFFH”) throughout Mill Valley and violates Government Code sections 8899.50 and 65583.

1. The Revised HEU Fails to Promote Housing Throughout Mill Valley

As FOHP has repeatedly explained over the past year, the City fails to comply with its duty to AFFH throughout the community. The Revised HEU perpetuates this same failure while attempting to justify the lack of affordable housing proposed west of Camino Alto. In response to comments, the Revised HEU asserts that it provides clarification and more detail for the sites inventory process and the AFFH analysis. (Revised HEU, p. I-12.) Although the Revised HEU provides additional information, that information does nothing to allay public concerns regarding the City’s disregard of its AFFH duties. Indeed, the new information confirms FOHP’s earlier statements, and even highlights the City’s failure to overcome historic trends in discrimination.

The City’s Revised HEU’s *Appendix E: Affirmatively Furthering Fair Housing* fails to establish that the City is taking meaningful action to satisfy its AFFH duties. The duty to AFFH is codified in Government Code section 8899.50, which provides:

“Affirmatively furthering fair housing” means taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, **affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns**, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws. The duty to affirmatively further fair housing extends to all of a public agency’s activities and programs relating to housing and community development.

(Emphasis added.) This duty is clarified further by Government Code section 65593, subdivision (c)(5), which requires cities to “Promote and affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons[.]”

In addition to the statutory requirements, a recent published appellate decision determined “as a matter of law” that a violation of Government Code section 65583 establishes “that the City has failed to ‘affirmatively further fair housing’ in violation of section 8899.50, subdivision (b)(1).” (*Martinez v. City of Clovis* (April 7, 2023, F082914) ___ Cal.App.5th ___ [2023 Cal.App.LEXIS 268, at *136] (*Martinez*)). The Revised HEU fails to take meaningful actions to overcome patterns of segregation, rectify disparities, or promote housing in other areas of the City. (Gov. Code, §§ 8899.50, 65583, subd. (c)(5).)

2. The Revised HEU’s New Information Illustrates the Need for Affordable Housing in Other Parts of the City

FOHP has repeatedly expressed concern about the City’s failure to consider other City-owned parcels located west of Camino Alto for purposes of meeting the City’s Regional Housing Need Assessment (“RHNA”) obligations. (See FOHP’s July 29, 2022, Letter to the City Council re: Draft Housing Element.) Unfortunately, the City doggedly refuses to include either Boyle Park or Mill Valley Municipal Golf Course (or any other city-owned sites) located west of Camino Alto. Rather than include these sites, the Revised HEU purports to provide additional information in an apparent effort to justify the City’s myopic focus on 1 Hamilton. This effort fails.

The Revised HEU provides new information regarding the City's previously-identified three census tracts in the AFFH analysis (tracts 1261, 1262, and 1270).¹ (Revised HEU, p. E-7.) The Revised HEU conceded that tract 1262, which contains the 1 Hamilton parcel, also "includes all six of the subsidized affordable-housing facilities operated in Mill Valley." (Revised HEU, p. E-7.) Therefore, if 1 Hamilton is approved, tract 1262 — which the Revised HEU acknowledges is "the smallest in size (1.49 square miles) and current population (4,224 residents)" — would contain all seven publicly-subsidized affordable housing facilities in Mill Valley. Without promoting any such affordable projects west of Camino Alto, the City is failing to take affirmative action to replace segregated living patterns. (See Gov. Code, § 8899.50, subd. (a).)

The City inserts new language in the "Integration and Segregation" section of Appendix E. The new language provides information regarding household income, subsidized housing in Mill Valley, and the Sites Inventory. (Revised HUE, pp. E-17-21.) For example, the Revised HUE states, "Despite the concentration of subsidized housing and rental units in tract 1262, the median income (\$116,528) in this eastern tract of Mill Valley is higher than the median household income in the Country (\$62,843), the State (\$75,235), and the County (\$115,246)." (Revised HEU, p. E-17.) The Revised HEU conspicuously fails to explain how this comparison is at all relevant. It is not at all relevant and appears to be provided in a cynical effort to distract from the significant disparities in median income between the neighborhoods east and west of Camino Alto. For example, tract 1270's (west) median household income is \$176,778, tract 1261 (west) is \$213,811, and tract 1282 (southwest) is \$157,321. (Revised HEU, p. E-17; see also p. E-21.) All of these tracts are substantially higher than tract 1262's (east) median income at \$116,528.

To summarize, census tract 1262 is the City's smallest, least populous and least wealthy census tract in the City, which also happens to contain all six of the City's subsidized affordable housing projects. Indeed, the Revised HEU discloses for the first time the pervasive impact on census tract 1262 from the City's existing pattern of directing all public housing to that area. The Revised HEU first notes, "Subsidized housing in tract 1262 totals 218 units, excluding assisted living and skilled nursing beds at The Redwoods II, which represents 11.2 percent of the total number of households in the tract." (Revised HEU, E-17.) For reference, the percentage in each of the other census tracts is 0. The Revised HEU further discloses the impact of this extreme concentration of public housing on median income:

¹ Tract 1262 is east of Camino Alto and tracts 1261 and 1270 are west of Camino Alto.

Lower household median income in tract 1262 can, in part, be attributed to the six subsidized affordable housing facilities located in that section of Mill Valley (listed below), as well as the larger portion of rental units in this tract, combined with other factors such as smaller representative population of Mill Valley and other contributing factors such as household race, disability status, and age, which is discussed in detail below.

(HEU, p. E-17.)

The Revised HEU's new information confirms that the City has historically steered affordable housing sites located east of Camino Alto, which has contributed to significant economic disparities between tract 1262 and the rest of the City. Tract 1262 already contains all the other subsidized housing facilities and has a disproportionate share of renters. (Revised HUE, p. E-17.) Rather than take action to overcome the City's historic patterns of segregation and barriers that restrict access to opportunity by proposing public affordable housing in other areas of the City, particularly the significantly more affluent areas located west of Camino Alto, the City perpetuates its historic trend by myopically focusing on just a single project (1 Hamilton) to be located, once again, east of Camino Alto. These actions do not AFFH. To the contrary, the City's actions will necessarily exacerbate the differences in mean income between tract 1262 and the balance of the City.

The new information provided in the Revised HEU inexplicably breaks down tract 1262 into three different census block groups.² The Revised HEU fails to explain why it performs this analysis for tract 1262, and also why it fails to perform the same analysis for the significantly more affluent census tracts located in the City. In the absence of any explanation in the Revised HEU itself, it appears this breakdown is an attempt to show that median family income is not uniform throughout census tract 1262. This argument, however, does not justify the City's actions to isolate all public housing to tract 1262 because the Revised HEU now discloses that tract 1262, block 2 — which is where 1 Hamilton would be located — has a median income of merely \$92,778. (Revised HEU, p. E-18.) Thus, it appears that the City selected the least affluent area of the City for its only proposed public affordable housing project.

Setting this aside, the Revised HEU's purposed AFFH analysis concludes by noting, "Thus, within tract 1262, the City identifies more capacity in the block group that has higher median income (thereby distributing affordable housing *within the census tract*)." (Revised HEU, p. E-19.) This in no way supports the lawfulness of the City's

² The Revised HUE does not breakdown other tracts into block groups.

conduct since its AFFH duty is not to distribute affordable housing within a single census tract, but rather “[p]romote and affirmatively further fair housing opportunities and promote housing *throughout the community*.” (Gov. Code, § 65583, subd. (c)(5), emphasis added.) All of the City’s public affordable housing is located in tract 1262. The Revised HUE’s discussion of different block groups within tract 1262 has no bearing on the City’s failure to promote affordable housing in other census tracts (i.e., “throughout the community”) located primarily west of Camino Alto.

The Revised HEU newly-minted “Integration and Segregation” section purports to respond to substantial community opposition by asserting, “Eighty percent of all RHNA units, including 66 percent of lower income units, are located outside of tract 1262 blocks groups 2 and 3 entirely.” (Revised HEU, p. E-19.) The statement fails to acknowledge, however, that all of these other “RHNA units” are privately-owned sites, including ADU sites. The City’s implicit argument is that these sites somehow balance out the disparate burden on neighborhoods located in tract 1262 exacerbated by 1 Hamilton. But these properties are all privately-owned and so, unlike 1 Hamilton, the City has no control over whether any of those sites will ever be developed. Indeed, the City previously made this very point, explaining, “The City continues to note to HCD, as well as state legislators, that *the City does not build new units*, but rather facilitates development through land use, zoning regulations and City-related services such as design review and building inspections.” (City staff report dated April 19, 2021 [Housing Element Annual Progress Report], p. 5, emphasis added.)

The recent release of the Final Environmental Impact Report (“FEIR”) for the City’s Housing Element Update confirms the important distinction between city-owned and private-owned sites for affordable housing (FEIR, p. 2-993). The City finds it is “legally infeasible” to exclude 1 Hamilton from the sites inventory because that would force the City to rely on private-owned parcels to satisfy its RNHA requirements, which cannot be relied upon for affordable housing development:

An alternative that eliminates the 1 Hamilton Drive site from the sites inventory was not considered, as such an alternative would result in the reduction of 40-50 deed restricted very low- and low-income units and eliminate the recommended “buffer” (discussed below). *The removal of 1 Hamilton would also solely rely on private development to satisfy all of the City’s very low and low income RHNA housing units*; whereas the development of privately owned parcels is more likely to include a variety

of housing types and affordability levels yet to be determined (based on future private development applications and proposals).

(FEIR, p. 2-993, emphasis added.)

Since the City has now resolved to change course and instead partner with developers to affirmatively “build new units” on City-owned properties, the City’s actions in selecting suitable sites must be consistent with its duty to affirmatively further fair housing throughout the City. The City’s statutory duty is not satisfied by pointing to mirages in the form of private development and ADUs that are merely a “gleam in a planner’s eye.” (*Laurel Heights Improvement Assn. v. Regents of the University of Cal.* (1988) 47 Cal.3d 388, 398). To summarize: the City acknowledges that it cannot control private development, but it can control development on City-owned properties, which appears to be precisely why it has identified 1 Hamilton as the only “suitable” city-owned site for affordable housing. This is inexcusable, and the City’s attempted misdirection fails.

In a final attempt to dispel public concerns about the City’s arbitrary and capricious focus on 1 Hamilton, the Revised HEU suggests that the City is also focused on other City-owned sites, asserting, “Additional sites, such as the portion of the Mill Valley Golf Course along Linda Vista Drive would be further considered as part of leveraging funds for affordable housing projects. This approach is still the intent of program 10.” (Revised HEU, p. B-39.)³ This additional attempt at misdirection is also refuted by the City’s own actions and documents. In addition to the Revised HEU’s failure to include any city-owned “suitable” sites located west of Camino Alto, recent City planning documents reveal no intention to pursue such projects in the future. The City’s Annual City Council Retreat Agenda, March 23, 2023, provides three priorities for Council and staff projects. Priority I is “Must Complete/Deliver,” Priority II is “Need to Complete/Deliver,” and Priority III is “Would be Nice to Complete/Deliver.” (Exhibit 1,

³ The Revised HEU purports to justify this disparate treatment by asserting, “By law, the sites inventory can only include those parcels or sites that are zoned or identified as active housing projects, such as 1 Hamilton.” (Revised HEU, p. B-39.) As we have repeatedly explained, this argument is without any legal merit whatsoever. 1 Hamilton’s current zoning and General Plan land use designations — which apply today — prohibit all residential uses in their entirety. The only reason why other sites such as the portion of the golf court along Vista Linda Drive, the Boyle park Tennis Courts, or Edgewood are not “zoned or identified as active housing projects” is because the City made the policy decision not to characterize these sites as such based on arbitrary and capricious considerations that also violate the City’s duty to AFFH.

April 17, 2023, City Council Staff Report, Attachment 1, p. 2 [Agenda].) Further, the City’s 2023 Work Plan lists various categories and projects it intends to pursue this year. However, the Work Plan only mentions “affordable housing” once, and the only identified project is 1 Hamilton. (Exhibit 1, April 17, 2023, City Council Staff Report, Attachment 3 [2023 Workplan].) Other than 1 Hamilton, which is Priority I, no other housing project is identified — at any priority level. This new staff report shows that the City has completely disregarded the other city-owned properties previously identified as potential sites for affordable housing.⁴ Thus, the City’s claim that it is “further considering” other sites is false and is yet another example of the City’s failure to comply with its AFFH duties.⁵

The Revised HEU also makes general assertions regarding the City’s provision of affordable housing in various areas of the City. The Revised HEU states, “Most of the central and western areas of the City are zoned for residential and open space uses. The eastern side of the City where there are larger populations of racial/ethnic minorities, renter-occupied households, and lower median incomes have larger sections zoned for General Commercial (C-G), Multi-Family Bayfront (RM-B), Multi-Family Parkway (RM-P), Multi-Family Marsh (RM-M), Limited Commercial (C-L), and Commercial Recreational (C-R).” (Revised HEU, p. E-31.) This argument is nonsensical since the statutory definition of “suitable” sites expressly includes sites that can be rezoned to accommodate residential uses. (Gov. Code, § 65583.2, subd. (a)(4).) Rather than rezone open space uses west of Camino Alto, the City has inexplicably chosen to “rezone” the open space parcel at 1 Hamilton. (Revised HEU, IV-17 [“As part of the review and approval process, the City will rezone and amend the land use for the designated northern portion of 1 Hamilton to ‘multi-family residential.’”].)⁶

⁴ In 2021, The Housing Workshop produced an Analysis of Tax-Exempt Sites for Affordable Housing Development. The analysis determined there were four City-owned sites that could be used for affordable housing. 1 Hamilton is the only one mentioned in the Revised HEU.

⁵ Far from “further consider[ing]” the golf course site, the City is expending public resources to thwart such consideration in the future. Following its identification as a possible affordable housing site, the City entered into a contract to “restore” and “revitalize” the “struggling” golf course. (See Exhibit 5.)

⁶ We have repeatedly explained that 1 Hamilton is not “suitable” for purposes of Government Code section 65583.2, subdivision (a)(4) because the property’s land use designation prohibits all residential development regardless of zoning designation. The Revised HEU ignores this important point.

The Revised HEU also relies on inaccurate demographic data to determine whether each tract in the City is a Racially Concentrated Area of Affluence (“RCAA”). For example, the Revised HEU states, “In Figure E-8, census tracts in yellow have less than 20 percent non-white population, indicating over 80 percent of the population is white.” (Revised HEU, p. E-73.) Figure E-8 shows that all tracts within Mill Valley are yellow, indicating that all census tracts are at least 80 percent white. (Revised HEU, p. E-26.) However, Figure E-8 shows that the racial demographics are from 2010. (Revised HEU, p. E-26.) Further, the Revised HEU contains a map depicting RCAAs; however, this data is from “ACS, 2015-2019.” (Revised HEU, p. E-76; see also Exhibit 2 [screenshot depicting outdated data used for RCAA determination].) In addition to the misleading map data in Figures E-8 and E-28, the Revised HEU also states, “Only one block group has a non-white population exceeding 20 percent. (Revised HEU, p. E-77.) This assertion is also inaccurate. Tract 1262 is only 70 percent white, thus calling into question all of the Revised HEU analyses that rely on this information. (Exhibit 3.) Further, the current data shows an additional significant discrepancy in the racial composition between Tract 1262 and Mill Valley as a whole (Compare Exhibits 3 and 4 [Tract 1262 is 70 percent white and Mill Valley is 83 percent white.].) It is arbitrary and capricious for the Revised HEU to rely on outdated and/or inaccurate demographic data to conceal the City’s failure to comply with its AFFH duties.

Last, the Revised HEU relies on the “very high fire hazard severity zone” (“VHFHSZ”) designation to excuse the City’s failure to comply with its AFFH duties. The Revised HEU states that many of the parcels in tracts 1261 and 1270 (west of Camino Alto) are steeply sloped, heavily forested, or within the VHFHSZ, whereas no parcels in tract 1262 are in the VHFHSZ. (Revised HEU, p. E-7.)⁷ As explained in FOHP’s letter to the California Department of Housing and Development, the VHFHSZ designation is not a valid excuse to exclude otherwise viable city-owned sites since the City’s own land use plans and policies in no way prohibit any residential uses based on the VHFHSZ designation. The City’s claimed reliance on VHFHSZ and other “environmental constraints” are pretext to misdirect from the City’s true policy goal of preventing any public affordable housing west of Camino Alto.

* * *

The Revised HEU has failed to address FOHP’s concerns regarding the City’s reluctance to provide public affordable housing in the “older” areas of the City located west of Camino Alto. The City’s ongoing strategy of running interference for Mill

⁷ There are several areas of the City, including downtown, that are not within the VHFHSZ. (See Revised HEU, p. E-9 [map depicting the VHFHSZ in the City].)

Danielle Staude, Senior Planner
City of Mill Valley
May 15, 2023
Page 9 of 9

Valley's most wealthy residents through its myopic focus on 1 Hamilton violates Government Code sections 8899.50 and 65583. If the City purports to take it upon itself to voluntarily identify and develop City-owned properties for the purpose of satisfying its RHNA obligations, the City's identification of "suitable" City-owned properties cannot be arbitrary and capricious. Unfortunately, there is ample evidence in the record demonstrating that the City's dogged insistence that 1 Hamilton is the only "suitable" city-owned property is advancing improper purposes. FOHP requests, once again, that the City take meaningful action to "[p]romote and affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons," and not develop 1 Hamilton for the purpose of steering public affordable housing away from Mill Valley's most affluent NIMBYs. (Gov. Code, § 65583, subd. (c)(5).)

Very truly yours,

SOLURI MESERVE
A Law Corporation

By: 
Patrick M. Soluri

cc (via email):

G. Inder Khalsa, City Attorney (gkhalsa@rwglaw.com)

David Pai, Supervising Deputy Attorney General, Office of the Attorney General
(David.Pai@doj.ca.gov)

Reid Miller, California Department of Housing & Community Development
(reid.miller@hcd.ca.gov)

Attachments: [Exhibit 1](#), April 17, 2023, City Council Staff Report
[Exhibit 2](#), Screenshot of HCD's RCAA Mapping Data
[Exhibit 3](#), CensusReporter, ACS 2021 Census Data for Tract 1262
[Exhibit 4](#), CensusReporter, ACS 2021 Census Data for Mill Valley
[Exhibit 5](#), Giuseppe Ricapito, *Mill Valley Golf Course to Get New Operator*, Marin Independent Journal (Feb. 23, 2022)

EXHIBIT 1



STAFF REPORT

TO: Mayor and City Council
FROM: Linn Walsh, Senior Management Analyst
Todd Cusimano, City Manager
SUBJECT: Confirmation of Outcomes from the 2023 City Council Annual Retreat
DATE: April 17, 2023

1 **Issue:** Review and confirm principal outcomes from the City Council's annual retreat.

2
3 **Recommendation:** Receive report and confirm outcomes.

4
5 **Background:** Council held a Special Meeting on March 23, 2023, in a retreat format to review
6 and confirm the City's Mission Statement, Core Values and Key Issues, and hold a discussion on
7 topics of interest.

8
9 **Discussion:** The following section gives a summary of retreat outcomes.

- 10
11 1. **Review City's Mission Statement, Core Values, and Key Issues:** Council requested
12 changes to Council's adopted Core Values and Key Issues (Attachment 2).
13
14 2. **Review and Discussion of 2022 Council Priorities**
15
16 3. **Financial Outlook and Infrastructure Needs:** Council reviewed the City's Long-Range
17 Financial Plan, the Capital Improvement Plan, long-term infrastructure needs, and discussed
18 revenue needs and opportunities.
19
20 4. **Discussion of 2023 Work Plan** – City Manager Cusimano reviewed ongoing programs,
21 projects, and new items. Council discussed the placement of Council/Staff projects and
22 priorities into categories (Attachment 3).
23
24

City Council Staff Report
Confirmation of the Outcomes of the 2023 City Council Annual Retreat
April 17, 2023

25 **Equity Impact:** Council and Staff discussed several Diversity, Equity and Inclusion initiatives
26 and included them in the 2023 Work Plan. Areas of specific focus include DEI Logic Model
27 Initiatives such as the Racial Equity Tool, Implementing the DEI Training Program, continued
28 emphasis on Community Engagement/Events, and expanded Paid Internship Program and an
29 Employee Engagement Survey. The Workplan also lists DEI initiatives such as the Housing
30 Element, Affordable Housing, Recruitment/Retention/Succession, Employee Wellness, Soft
31 Story Ordinance, enhanced Community Engagement, Cultural Arts District, ADA Transition
32 Plan and ADA Coordinator.

33

34 **Fiscal Impact:** None.

35

36 **Attachments:**

- 37 1. Special City Council Meeting Agenda
- 38 2. City's Mission Statement, Core Values, and Key Issues, Revised
- 39 3. 2023 Work Plan



**SPECIAL CITY COUNCIL MEETING
ANNUAL RETREAT¹
AGENDA**

**RALSTON WHITE RETREAT
2 EL CAPITAN AVENUE, MILL VALLEY
THURSDAY, MARCH 23, 2023
9:30 AM**

CALL TO ORDER

PUBLIC OPEN TIME: Persons wishing to address the City Council on subjects not on the agenda may do so at this time. The Council cannot discuss or take action during open time, but Councilmembers may briefly respond to statements made or questions proposed by the public, ask for clarification from staff, refer the matter to staff, request staff to report back to the Council at a subsequent meeting, or place a matter of business on a future agenda. When addressing the City Council, please: 1) State your name and address; 2) Address the Mayor; 3) State your views succinctly; 4) Avoid repetition; 5) Limit your comments to the specified time set by the Mayor. **Please note: The Mayor will allow time for public comment on each numbered agenda item.**

APPROVAL OF THE AGENDA ORDER

1. GENERAL MEETING OBJECTIVES AND REVIEW OF GUIDING PRINCIPLES

A. Review City's Mission Statement, Core Values, and Key Issues

- *This workshop is for the City Council to discuss short and long-term priorities and objectives for the City and therefore focus staff work. While general direction may be given to the City Manager, the City Council will not make specific decisions or take any actions. The City Council may direct the City Manager to place specific topics and items on the agenda of future, regular meetings.*

2. DISCUSSION OF COUNCIL PRIORITIES AND WORK PLAN

City Manager will facilitate discussion regarding 2023 City Council priorities and 2023 Staff Work Plan

A. Review and Discussion of 2022/2023 Council Priorities

- **Attachment 2A: (1) 2022 City Council Mission Statement and Priority Projects**

¹ Please note that due to the location, this meeting will not be webcast.

Annual City Council Retreat Agenda, March 23, 2023

- B. Financial Outlook and Infrastructure Needs
 - 1. Review Long-Range Financial Plan
 - 2. Review Capital Improvement Plan and Long-term Infrastructure Needs
 - 3. Discuss Revenue Needs/Opportunities
 - Attachment 2B: (1) 2022 Long-Range Financial Plan
(2) 5-Year CIP List Funded and Unfunded

- C. Discussion of 2023 Work Plan
 - 1. Ongoing Programs and Projects
 - 2. New Items
 - 3. Any Philosophical Changes to Guiding Principles?
 - 4. Placement of Council/Staff Projects and Priorities into Categories
 - **Priority I:** Must Complete/Deliver (*i.e. Fiscal, 1 Hamilton, Housing Element*)
 - **Priority II:** Need to Complete/Deliver (*i.e. CIP, Climate Action Initiatives*)
 - **Priority III:** Would Be Nice to Complete/Deliver (*i.e. Quality of Life Issues*)

3. OTHER DISCUSSION ITEMS

- A. Boards and Commissions – City Council Liaisons
- B. Role of The City Council in Emergency Operations
- C. Additional Discussion Items as Needed
 - Attachment 3B: (1) City Council Liaison Assignments (2022)
(2) Role of the City Council in Emergency Operations
PowerPoint

4. APPETIZER RECEPTION TO FOLLOW

ADJOURNMENT - To the next Regular City Council meeting which will be held on Monday, April 3, 2023.

Materials related to an item on this agenda submitted to the City Council after distribution of the agenda packet are available for public inspection on the City’s website at www.cityofmillvalley.org subject to staff’s ability to post the documents prior to the meeting.

The City of Mill Valley does not discriminate against any individual with a disability. Upon request, City publications will be made available in the appropriate format to persons with a disability. If you require assistance or accommodation to participate, please contact the City Clerk at 388-4033 (TTY 711) at least 24 hours prior to the meeting. The City will use its best efforts to make reasonable accommodations to provide as much accessibility as possible, while also maintaining public safety.

MEMORANDUM



To: Todd Cusimano, City Manager
From: Linn Walsh, Senior Management Analyst
Date: April 17, 2023
RE: Revised City Mission Statements, Core Values, and Key Issues.

BACKGROUND: At their March 23, 2023 retreat, Council directed staff to revise the City's Mission Statements, Core Values, and Key Issues.

DISCUSSION: Staff has drafted revised City Mission Statements, Core Values, and Key Issues (pages 3-4). The following are some notes on proposed changes:

1. Expanding our understanding of who we serve - The original text specifically cites "citizens," "residents," and "businesses." The suggested revision expands our understanding of the Mill Valley community to include workforce members, visitors, students, and other individuals regardless of immigration status, home address or business proprietorship.

2. Interrogating language - "heritage," "character," and "quality of life"

A. **Heritage** - The understanding of the City's "heritage" is subjective and varies depending on which lens you apply. When applying a racial equity lens, a picture of segregation and discrimination in Mill Valley becomes apparent. This has been noted in recent City and Council policy and statements:

- Council's July 2020 *Black Lives Matter Resolution* states: "Mill Valley has historically not fulfilled its stated intent to create a diverse, inclusive, and welcoming community for people of all racial and socioeconomic backgrounds, including all those who live, work, attend school and visit Mill Valley."
- In 2021 the City promoted participation in the [County of Marin's Restrictive Covenant Project](#), which aims to inform and educate Marin County residents of the history and significance of government policies and programs that were intentionally discriminatory and helped create segregated communities in Marin, including Mill Valley.
- Council's February 2023 *Black History Month Proclamation* states: "In the 1940s, thousands of Black Americans moved to Marin City to build the merchant marine of World War II. At the end of the war, redlining and restrictive racial covenants in the deeds of properties prohibited Black workers from owning properties in Marin County, including Mill Valley. Black people were excluded from desirable neighborhoods, schools, jobs, and as a result, were denied generational wealth."

ATTACHMENT 2

- B. **Character** - The word “character” is similarly vague and subjective, and recognized by land use scholars such as Richard Rothstein (*The Color of Law*, 2017) to have historical roots in racism, classism, and other forms of discrimination.
- As former [Fairfax Planning Commissioner Shelley Hamilton](#) writes, “After racist land use practices were outlawed, new language was created as a way to perpetuate and maintain the segregated residential patterns that were intentionally and legally created through policies and practices such as redlining, racial covenants, and racial zoning laws.” The word “character” is one such word that served to maintain the racially segregated status quo.
 - Hamilton challenges governments to describe specific attributes sought in land use and development policy. For example, the word “character” could be replaced with: “distinctive rural atmosphere,” “human-centric development pattern,” “historic elements,” “human-centered scale and sense of community,” “natural environment,” “qualities,” “architectural style,” and “design aesthetic.”
- C. **Quality of life** - This is another term that is subjective and ambiguous, with roots in academia when, after World War II, there was increasing awareness and recognition of social inequalities.
- The World Health Organization defines Quality of Life as “An individual's perception of their position in life in the context of the culture and value systems in which they live and in relation to their goals, expectations, standards and concerns.”
 - A word that is more specific and appropriate for the role of local government is “livability,” which includes the built environment (i.e., transportation, housing) natural environments, economic vitality, social services that support safety, stability and equity, educational opportunities, and cultural, entertainment, and recreation possibilities.
 - “Livability” provides a useful lens through which to measure and assess the facilities, services and amenities provided by the City that impact community members' lives.

3. Diversity, Equity, and Inclusion - Staff included diversity, equity, and inclusion in the revised language, and, where possible, intentionally noted specific qualities and actions as we work as a community towards these principles. Some definitions that are helpful are listed below (From [Unrealized Impact - The Case for Diversity, Equity, and Inclusion](#)):

- **Equity:** The process of ensuring equally high outcomes for all and removing the predictability of success or failure that currently correlate with any social, cultural, or racial factors.
- **Diversity:** The presence of different types of people (from a wide range of different identities and with different perspectives, experiences, etc.)
- **Inclusion:** The process of putting diversity into action by creating an environment, respect, and connection-where the richness of ideas, backgrounds, and perspectives are harnessed to create value.

4. Shifting Power Dynamics - Staff has updated the language to promote real, meaningful engagement, dialogue, and specific efforts dedicated to breaking down barriers to government processes and where community members are actively involved in policy and decision-making

Revised City Mission Statements, Core Values and Key Issues.

ORIGINAL	SUGGESTED REVISION
<p>City of Mill Valley and Mission Statement The mission of the City of Mill Valley is to provide a full range of municipal services to residents and businesses in accordance with the general plan and City Council policy and direction. City staff shall deliver those services in an efficient, effective and courteous manner with a commitment to operational excellence.</p>	<p>City of Mill Valley and Mission Statement The mission of the City of Mill Valley is to provide a full range of municipal services to community members in accordance with the general plan and City Council policy and direction. City staff shall deliver those services in an efficient, effective, equitable and respectful manner with a commitment to operational excellence.</p>
<p>Mill Valley City Council Mission Statement The mission of the Mill Valley City Council is to serve faithfully the residents and businesses of Mill Valley and nurture the City's overall quality of life. The Council does this by setting policy for the City and direction for Mill Valley's City Manager and its Boards and Commissions, at all times guided by values core to Mill Valley's heritage.</p>	<p>Mill Valley City Council Mission Statement The mission of the Mill Valley City Council is to serve faithfully Mill Valley community members and to create, strengthen and sustain a livable community for all. The Council does this by setting policy for the City and direction for Mill Valley's City Manager and its Boards and Commissions, at all times guided by their Core Values.</p>
CORE VALUES	CORE VALUES
<p>The health and safety of residents.</p>	<p>The health and safety of all community members.</p>
<p>Prudent fiscal policies and practices.</p>	<p>Prudent fiscal policies and practices.</p>
<p>Preservation of the community's high quality of life.</p>	<p>A livable community for all.</p>
<p>Preservation of a vibrant community that respects Mill Valley's small town character</p>	<p>Building a vibrant, diverse, equitable and welcoming community committed to a culture of inclusion and belonging.</p>
	<p>Preserving and enhancing the community's historical resources and human-centered scale and design, while encouraging continued diversity of housing, income levels and lifestyles.</p>
<p>A healthy natural environment with emphasis on conservation, open space, climate protection and sustainability.</p>	<p>A healthy natural environment with emphasis on conservation, open space, sustainability and climate change mitigation.</p>
<p>A balanced, inclusive, and open approach to policy-making and city leadership.</p>	<p>Transparent, inclusive and participatory policy-making processes and governance.</p>
<p>Citizen participation that promotes open communication, mutual respect, and the development of community leaders.</p>	<p>Community engagement that promotes open communication, mutual respect, and the development of community leaders from all backgrounds and life experiences.</p>
<p>Economic vitality with an emphasis on small and local serving businesses.</p>	<p>Economic vitality with an emphasis on small and local serving businesses.</p>
<p>Operational excellence.</p>	<p>Operational excellence, while providing equitable access to resources, programs and services.</p>

KEY ISSUES	KEY ISSUES
Emergency preparedness with a focus on fire, flood and earthquake.	Emergency preparedness with a focus on fire, flood, earthquake, cybersecurity and planning for Sea Level Rise .
Environmental conservation and sustainability, with a focus on climate protection.	Environmental conservation and sustainability, with a focus on climate protection.
Land use and housing – residential and commercial development with emphasis on affordable housing for workforce, elderly, and low-income residents at a scale and density consistent with Mill Valley's character .	Land use and housing – residential and commercial development with emphasis on affordable housing for workforce, elderly, and low-income residents at a scale and density consistent with Mill Valley's human-centered design and sense of community .
Traffic mitigation, multimodal transportation and parking.	Traffic mitigation, multimodal transportation and finding creative solutions to parking .
Infrastructure maintenance and enhancement.	Infrastructure maintenance and enhancement.
Attraction and retention of local serving businesses.	Attraction and retention of local serving businesses, and support business vitality through diversity in arts and cultural programming .
Budget management and mitigating fiscal impacts of the state and local economy.	Budget management and mitigating fiscal impacts of changes in economic conditions .
Effective two way communication between City staff/Council and the community.	Effective and meaningful engagement and communication between City staff/Council and the community.
Excellence in customer service.	Excellence in customer service.
Cultivation of community leadership and citizen participation on government commissions, boards and committees.	Breaking down barriers to community participation and leadership on government commissions, boards and committees.

2023 WORKPLAN

PRIORITY I

FISCAL SUSTAINABILITY

1. Develop recurring revenues for long-term infrastructure needs

TRAFFIC & INFRASTRUCTURE

1. East Blithedale
2. Downtown Project
3. Paving Plan 2023

LAND USE

1. Housing Element (April/May)
2. Rezoning Program
Parking Permit Program Study

AFFORDABLE HOUSING

1. Hamilton

CLIMATE ACTION

1. Sustainability Coordinator
Implement CAP
Reduce City's Carbon Footprint
Implement Zero Waste Ordinance
2. Green Building Code Ordinance
3. Foodware Ordinance

DIVERSITY, EQUITY & INCLUSION

1. Logic Model Initiatives
2. Racial Equity Tool
3. Implement Training Program
4. Community Engagement/Events
5. Paid Internship Program
6. Employee Engagement Survey

TOWN OPERATIONS

1. Cybersecurity
2. Recruitment/Retention/Succession
3. Employee Wellness
4. Election Date Change

EMERGENCY/DISASTER PREP

1. Soft Story Ordinance
2. Google Evacuation Study
3. LRAD

PRIORITY II

COMMUNITY ENGAGEMENT

1. Events
2. Podcast Series
3. Community Chats
4. Snapshots

LAND USE/ECONOMIC VITALITY

1. Update Land Use and Parking Regulations
2. Economic Analysis – Avenu
3. Objective Design & Development Standards Toolkit (ODDS)
4. Cultural Arts District

PRIORITY III

QUALITY OF LIFE ISSUES

1. Noise Ordinance
2. Traffic Calming Policy
3. Boyle Park Master Plan
4. Small Dog Park/Expansion of Dog Park
5. Plaza Expansion

SUSTAINABLE BEAUTIFICATION

1. Restoring Ecosystem
2. "Adopt" Medians

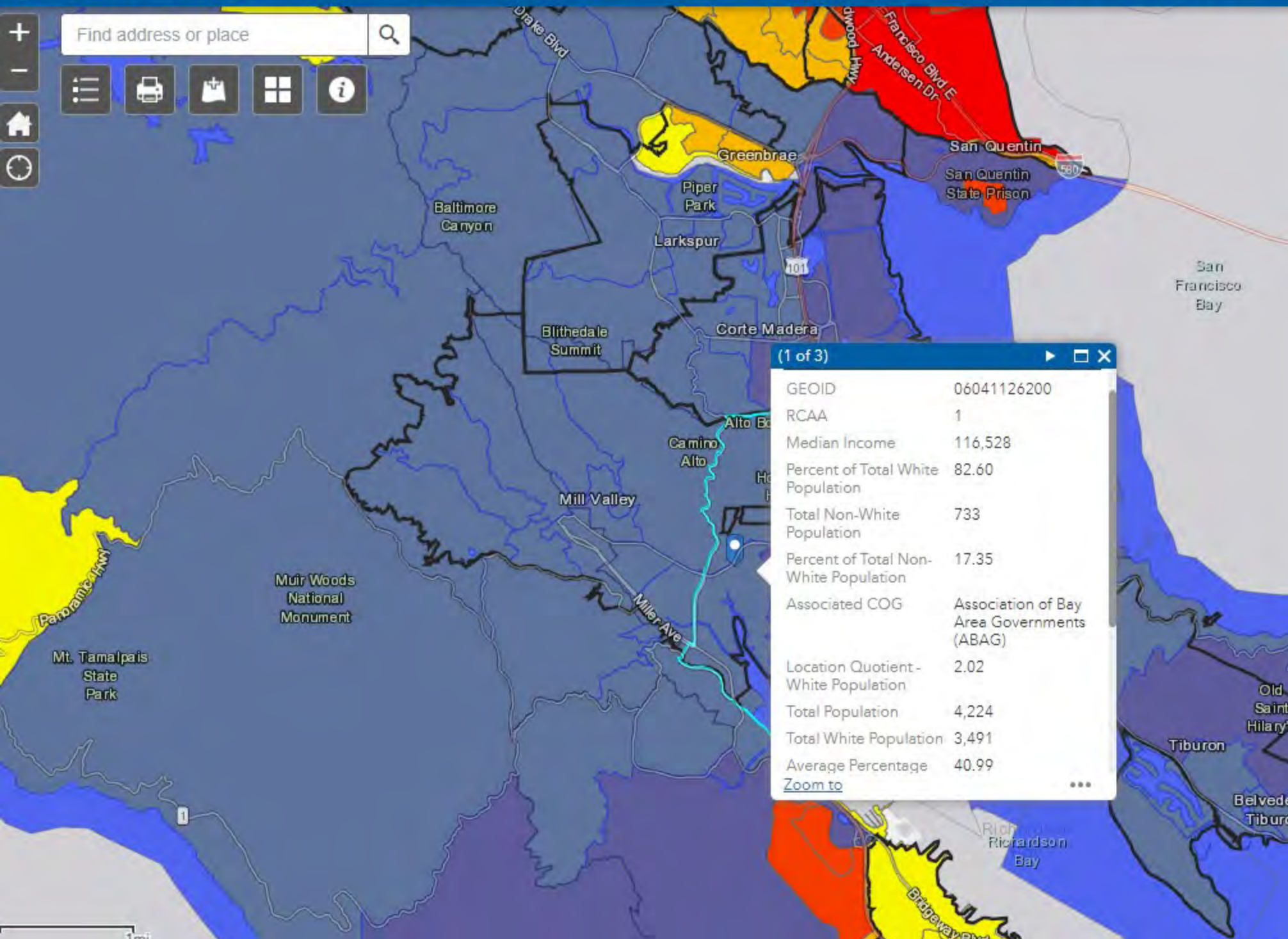
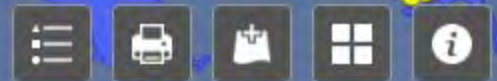
DIVERSITY, EQUITY & INCLUSION

1. ADA Transition Plan
2. ADA Coordinator

EXHIBIT 2



Find address or place



Racially/Ethnically Concentrated A...

- Layers
- (R) COG Geography TCAC Area of High Segregation and Poverty (2022) - Tract
 - (R) Racially or Ethnically Concentrated Areas of Poverty "R/ECAP'S" (HUD, 2009 - 2013) - Tract
 - (R) Racially Concentrated Areas of Affluence "RCAA" (ACS, 2015 - 2019) - Tract

(1 of 3)

GEOID	06041126200
RCAA	1
Median Income	116,528
Percent of Total White Population	82.60
Total Non-White Population	733
Percent of Total Non-White Population	17.35
Associated COG	Association of Bay Area Governments (ABAG)
Location Quotient-White Population	2.02
Total Population	4,224
Total White Population	3,491
Average Percentage	40.99
Zoom to	...

EXHIBIT 3

Census Tract 1262, Marin, CA

Census Tract in: [4 places](#), [Marin County, CA](#), [California](#), [United States](#)

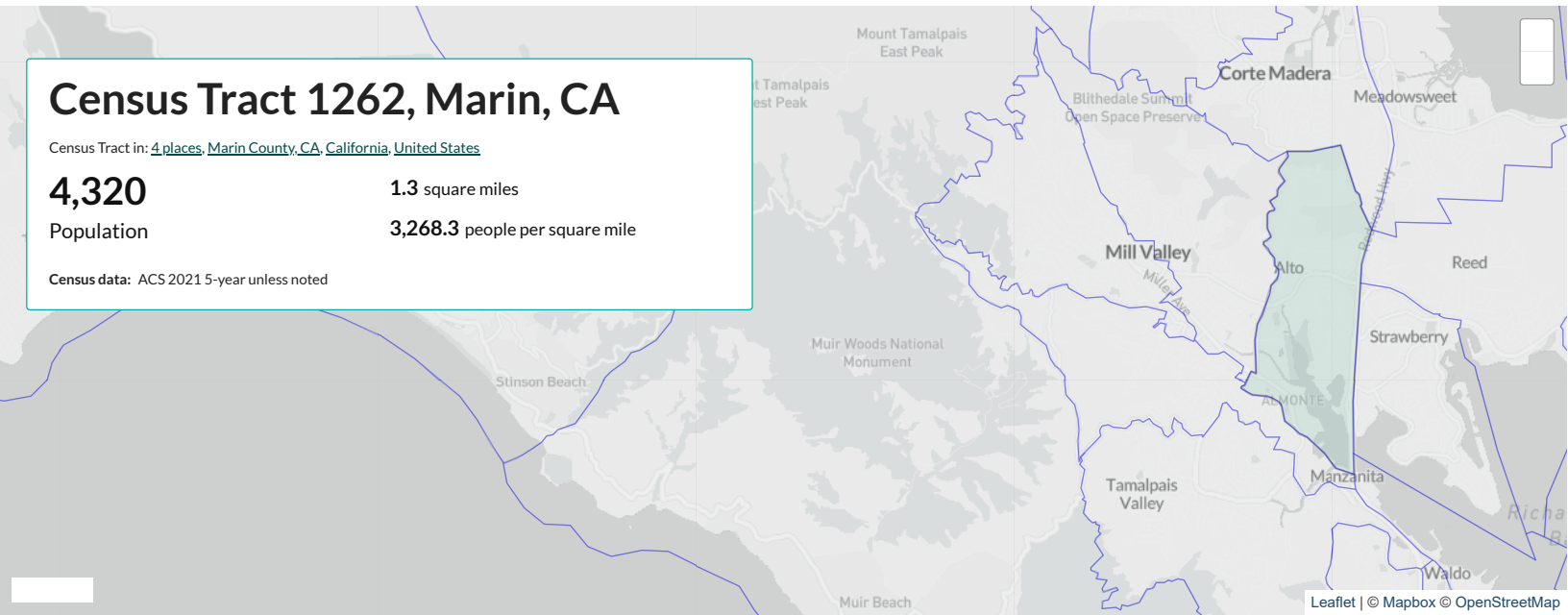
4,320

Population

1.3 square miles

3,268.3 people per square mile

Census data: ACS 2021 5-year unless noted



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Hover for margins of error and contextual data.

Demographics

Age

49.5

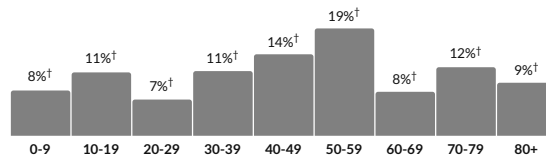
Median age

a little higher than the figure in Mill Valley: 47.9

a little higher than the figure in Marin County: 47.1

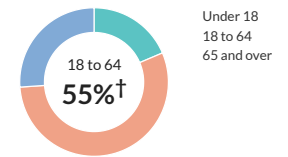
† Margin of error is at least 10 percent of the total value. Take care with this statistic.

Population by age range



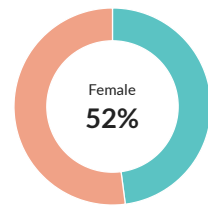
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Population by age category



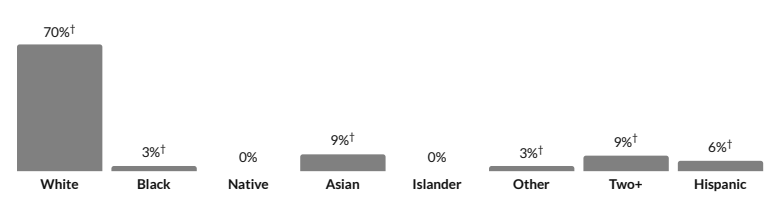
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Sex



† Margin of error is at least 10 percent of the total value. Take care with this statistic.

Race & Ethnicity



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* Hispanic includes respondents of any race. Other categories are non-Hispanic.

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Economics

Income

\$89,423

Per capita income

about 80 percent of the amount in Mill Valley: \$110,356 †

about 10 percent higher than the amount in Marin County: \$78,995

† Margin of error is at least 10 percent of the total value. Take care with this statistic.

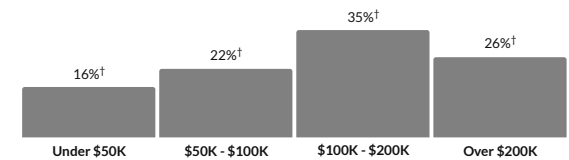
\$124,083

Median household income

about two-thirds of the amount in Mill Valley: \$179,529 †

a little less than the amount in Marin County: \$131,008

Household income



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Poverty

6.9%

Persons below poverty line

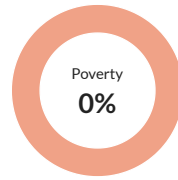
† Margin of error is at least 10 percent of the total

Children (Under 18)

Seniors (65 and over)

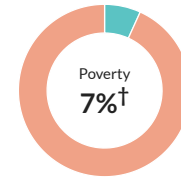
value. Take care with this statistic.

about 25 percent higher than the rate in Mill Valley: 5.5% †
about the same as the rate in Marin County: 6.9%



Poverty
Non-poverty

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Poverty
Non-poverty

Show data / Embed

Transportation to work

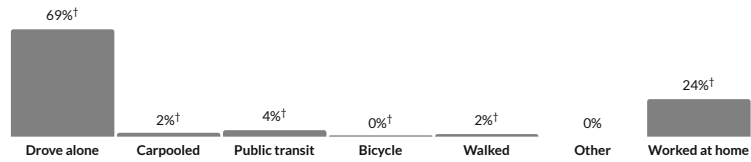
† Margin of error is at least 10 percent of the total value. Take care with this statistic.

26.4 minutes

Mean travel time to work

about 80 percent of the figure in Mill Valley: 33.2 †
about 90 percent of the figure in Marin County: 30.8

Means of transportation to work



* Universe: Workers 16 years and over

Show data / Embed

Families

† Margin of error is at least 10 percent of the total value. Take care with this statistic.

Households

1,762

Number of households

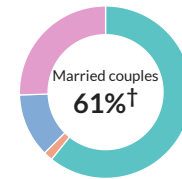
Mill Valley: 5,622
Marin County: 103,751

2.4

Persons per household

a little less than the figure in Mill Valley: 2.5
about the same as the figure in Marin County: 2.5

Population by household type

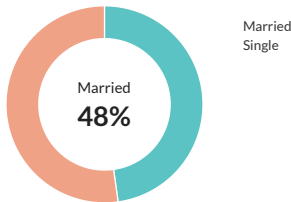


Married couples
Male householder
Female householder
Non-family

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† Margin of error is at least 10 percent of the total value. Take care with this statistic.

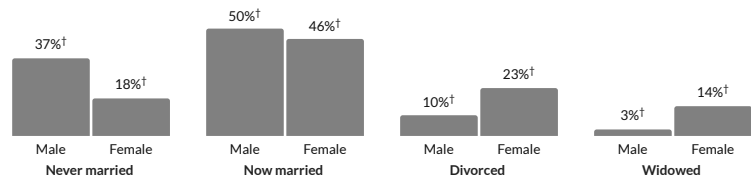
Marital status



* Universe: Population 15 years and over

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Marital status, by sex



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† Margin of error is at least 10 percent of the total value. Take care with this statistic.

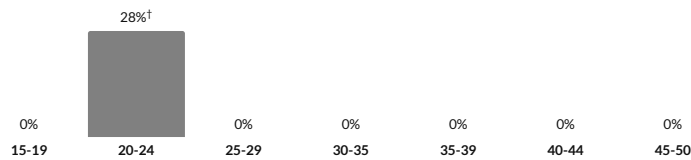
Fertility

1.3%

Women 15-50 who gave birth during past year

about half the rate in Mill Valley: 2.5% †
about one-quarter of the rate in Marin County: 5.1% †

Women who gave birth during past year, by age group



* Universe: Women 15 to 50 years

Show data / Embed

Housing

† Margin of error is at least 10 percent of the total value. Take care with this statistic.

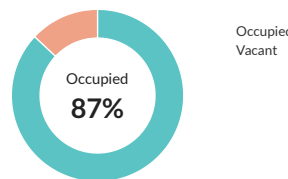
Units & Occupancy

2,026

Number of housing units

Mill Valley: 6,375
Marin County: 111,570

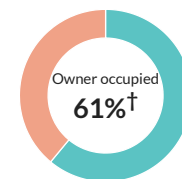
Occupied vs. Vacant



Occupied
Vacant

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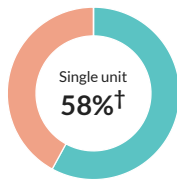
Ownership of occupied units



Owner occupied
Renter occupied

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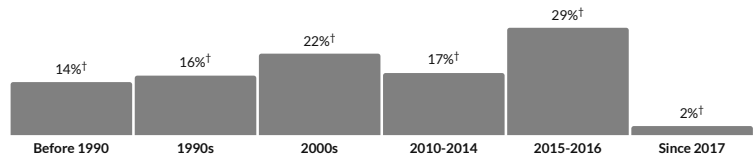
Types of structure



Single unit
Multi-unit
Mobile home
Boat, RV, van, etc.

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Year moved in, by percentage of population



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Value

† Margin of error is at least 10 percent of the total value. Take care with this statistic.

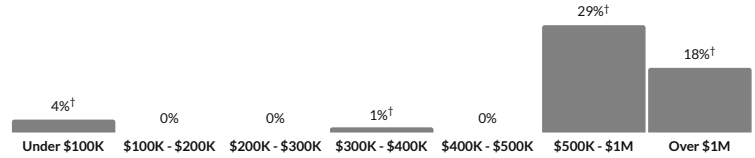
\$1,441,100

Median value of owner-occupied housing units

about 80 percent of the amount in Mill Valley:
\$1,724,900

about 1.3 times the amount in Marin County:
\$1,118,300

Value of owner-occupied housing units



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Geographical mobility

† Margin of error is at least 10 percent of the total value. Take care with this statistic.

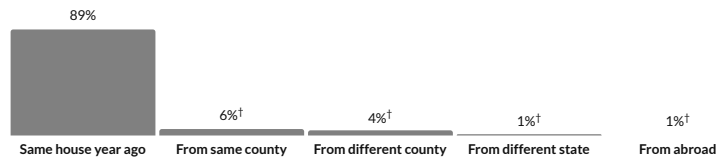
11.2%

Moved since previous year

about 90 percent of the rate in Mill Valley: 12.8% †

about 90 percent of the rate in Marin County: 13%

Population migration since previous year



Show data / Embed

Social

† Margin of error is at least 10 percent of the total value. Take care with this statistic.

Educational attainment

99%

High school grad or higher

about the same as the rate in Mill Valley:
98.8%

a little higher than the rate in Marin County: 93.4%

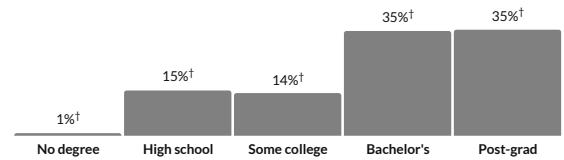
69.9%

Bachelor's degree or higher

about 90 percent of the rate in Mill Valley:
75.4%

about 20 percent higher than the rate in Marin County: 60.2%

Population by highest level of education



* Universe: Population 25 years and over

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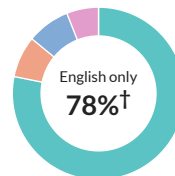
Language

† Margin of error is at least 10 percent of the total value. Take care with this statistic.

N/A

Persons with language other than English spoken at home

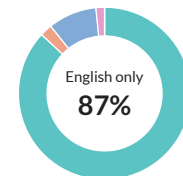
Language at home, children 5-17



English only
Spanish
Indo-European
Asian/Islander
Other

Show data / Embed

Language at home, adults 18+



English only
Spanish
Indo-European
Asian/Islander
Other

Show data / Embed

Place of birth

† Margin of error is at least 10 percent of the total value. Take care with this statistic.

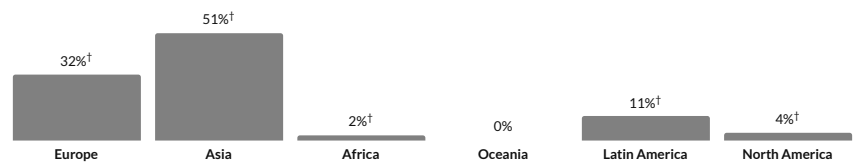
14.1%

Foreign-born population

a little higher than the rate in Mill Valley:
13.6% †

about three-quarters of the rate in Marin County: 18.5%

Place of birth for foreign-born population



Show data / Embed

Veteran status

† Margin of error is at least 10 percent of the total value. Take care with this statistic.

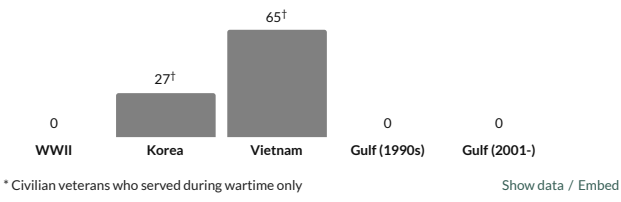
3%

Population with veteran status

about 80 percent of the rate in Mill Valley: 3.8% †

about two-thirds of the rate in Marin County: 4.2%

Veterans by wartime service



106 Total veterans
93 Male
13 Female

Hover for margins of error and contextual data.

Citation: U.S. Census Bureau (2021). *American Community Survey 5-year estimates*. Retrieved from *Census Reporter Profile page for Census Tract 1262, Marin, CA* <<http://censusreporter.org/profiles/14000US06041126200-census-tract-1262-marin-ca/>>

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EXHIBIT 4

Mill Valley, CA

Place in: [Marin County, CA](#), [San Francisco-Oakland-Berkeley, CA Metro Area](#), [California](#), [United States](#)

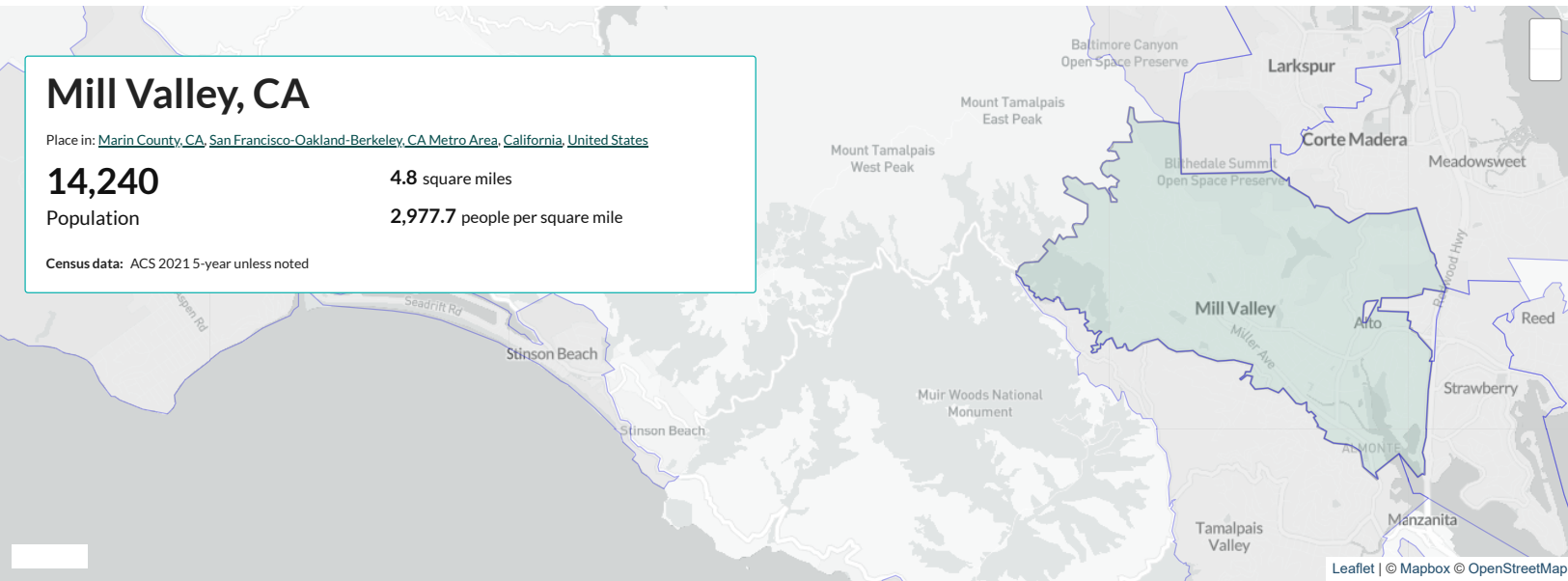
14,240

Population

4.8 square miles

2,977.7 people per square mile

Census data: ACS 2021 5-year unless noted



Find data for this place

Hover for margins of error and contextual data.

Demographics

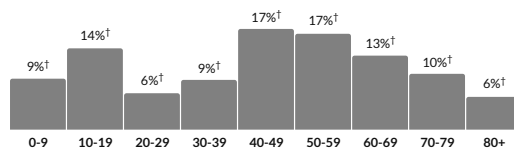
Age

47.9

Median age

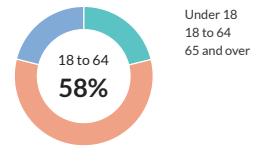
about 25 percent higher than the figure in the San Francisco-Oakland-Berkeley, CA Metro Area: 39.3
about 1.3 times the figure in California: 37

Population by age range



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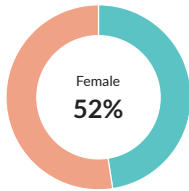
Population by age category



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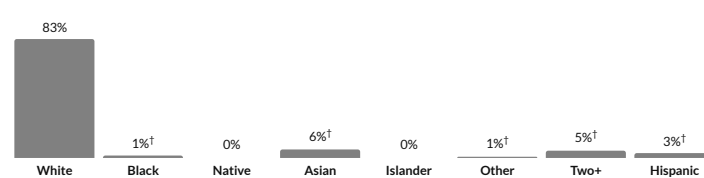
† Margin of error is at least 10 percent of the total value. Take care with this statistic.

Sex



Male
Female

Race & Ethnicity



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* Hispanic includes respondents of any race. Other categories are non-Hispanic.

Show data / Embed

Economics

Income

\$110,356

Per capita income

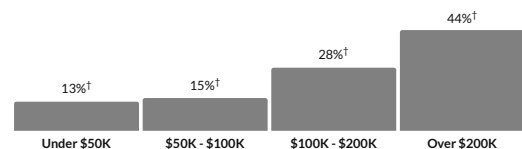
more than 1.5 times the amount in the San Francisco-Oakland-Berkeley, CA Metro Area: \$62,070
more than double the amount in California: \$41,276

\$179,529

Median household income

about 1.5 times the amount in the San Francisco-Oakland-Berkeley, CA Metro Area: \$118,547
more than double the amount in California: \$84,097

Household income



Show data / Embed

† Margin of error is at least 10 percent of the total value. Take care with this statistic.

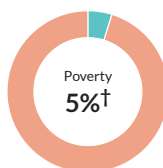
Poverty

5.5%

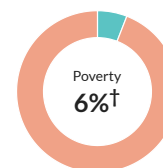
Persons below poverty line

about two-thirds of the rate in the San Francisco-Oakland-Berkeley, CA Metro Area: 8.4%
about half the rate in California: 12.3%

Children (Under 18)



Seniors (65 and over)



Poverty
Non-poverty

Poverty
Non-poverty

Show data / Embed

Show data / Embed

† Margin of error is at least 10 percent of the total value. Take care with this statistic.

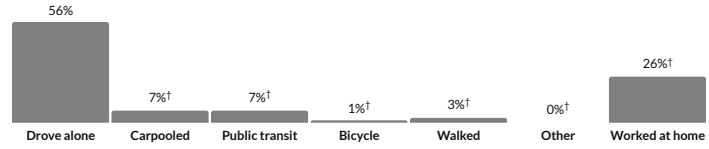
Transportation to work

33.2 minutes

Mean travel time to work

about the same as the figure in the San Francisco-Oakland-Berkeley, CA Metro Area: 33.4
about 10 percent higher than the figure in California: 29.6

Means of transportation to work



* Universe: Workers 16 years and over

Show data / Embed

Families

Households

5,622

Number of households

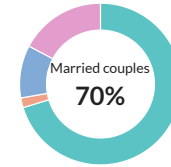
the San Francisco-Oakland-Berkeley, CA Metro Area: 1,716,654
California: 13,217,586

2.5

Persons per household

about 90 percent of the figure in the San Francisco-Oakland-Berkeley, CA Metro Area: 2.7
about 90 percent of the figure in California: 2.9

Population by household type

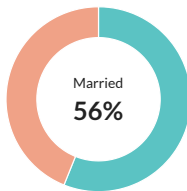


Married couples
Male householder
Female householder
Non-family

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† Margin of error is at least 10 percent of the total value. Take care with this statistic.

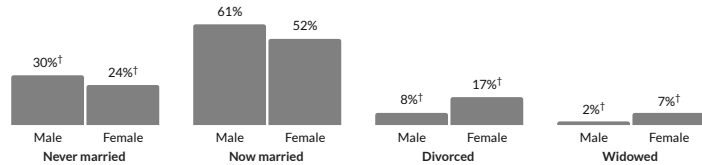
Marital status



* Universe: Population 15 years and over

Show data / Embed

Marital status, by sex



Show data / Embed

† Margin of error is at least 10 percent of the total value. Take care with this statistic.

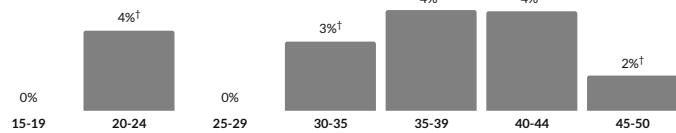
Fertility

2.5%

Women 15-50 who gave birth during past year

about half the rate in the San Francisco-Oakland-Berkeley, CA Metro Area: 4.6%
about half the rate in California: 4.8%

Women who gave birth during past year, by age group



* Universe: Women 15 to 50 years

Show data / Embed

Housing

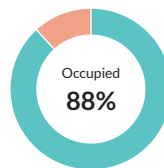
Units & Occupancy

6,375

Number of housing units

the San Francisco-Oakland-Berkeley, CA Metro Area: 1,837,144
California: 14,328,539

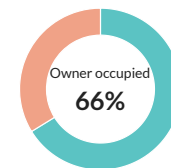
Occupied vs. Vacant



Occupied
Vacant

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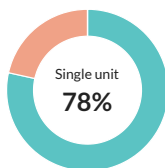
Ownership of occupied units



Owner occupied
Renter occupied

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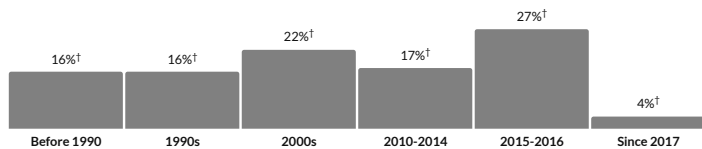
Types of structure



Single unit
Multi-unit
Mobile home
Boat, RV, van, etc.

Show data / Embed

Year moved in, by percentage of population



Show data / Embed

Value

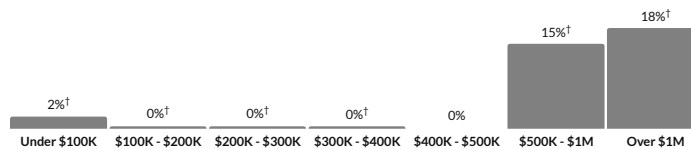
† Margin of error is at least 10 percent of the total value. Take care with this statistic.

\$1,724,900

Median value of owner-occupied housing units

nearly double the amount in the San Francisco-Oakland-Berkeley, CA Metro Area: \$933,300
 more than double the amount in California: \$573,200

Value of owner-occupied housing units



Show data / Embed

Geographical mobility

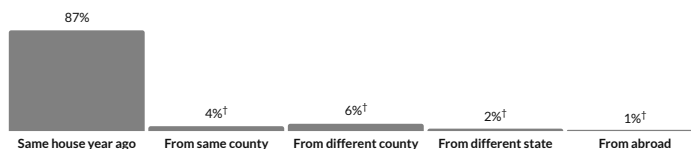
† Margin of error is at least 10 percent of the total value. Take care with this statistic.

12.8%

Moved since previous year

about the same as the rate in the San Francisco-Oakland-Berkeley, CA Metro Area: 12.7%
 about 10 percent higher than the rate in California: 12%

Population migration since previous year



Show data / Embed

Social

† Margin of error is at least 10 percent of the total value. Take care with this statistic.

Educational attainment

98.8%

High school grad or higher

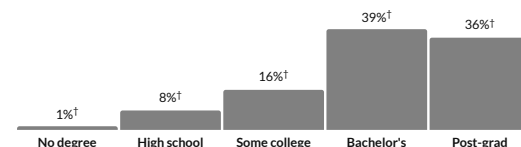
about 10 percent higher than the rate in the San Francisco-Oakland-Berkeley, CA Metro Area: 89.7%
 about 20 percent higher than the rate in California: 84.2%

75.4%

Bachelor's degree or higher

about 1.5 times the rate in the San Francisco-Oakland-Berkeley, CA Metro Area: 51.4%
 more than double the rate in California: 35.3%

Population by highest level of education



* Universe: Population 25 years and over

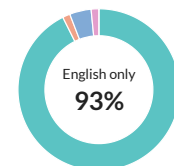
Show data / Embed

Language

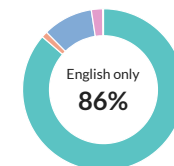
N/A

Persons with language other than English spoken at home

Language at home, children 5-17



Language at home, adults 18+



Show data / Embed

Show data / Embed

Place of birth

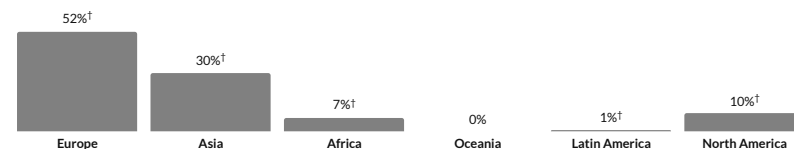
† Margin of error is at least 10 percent of the total value. Take care with this statistic.

13.6%

Foreign-born population

about two-fifths of the rate in the San Francisco-Oakland-Berkeley, CA Metro Area: 30.7%
 about half the rate in California: 26.5%

Place of birth for foreign-born population



Show data / Embed

Veteran status

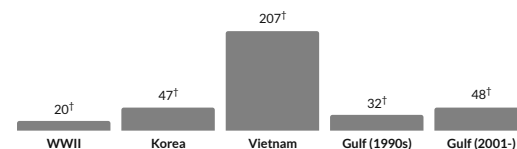
† Margin of error is at least 10 percent of the total value. Take care with this statistic.

3.8%

Population with veteran status

about the same as the rate in the San Francisco-Oakland-Berkeley, CA Metro Area: 3.7%
 about 80 percent of the rate in California: 4.8%

Veterans by wartime service



* Civilian veterans who served during wartime only

Show data / Embed


425 Total veterans
399 Male
26 Female

Hover for margins of error and contextual data.

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EXHIBIT 5

LOCAL NEWS

Mill Valley Golf Course to get new operator



Golfers head up the fairway to the first green at the Mill Valley Golf Course in Mill Valley, Calif. on Thursday, June 7, 2018. (Alan Dep/Marin Independent Journal)

By **GIUSEPPE RICAPITO** | gricapito@marinij.com |

PUBLISHED: February 23, 2022 at 6:07 p.m. | UPDATED: February 23, 2022 at 6:13 p.m.

Mill Valley will contract with a Bay Area golf course management firm to operate its struggling city-owned golf course.



The City Council voted unanimously on Tuesday to approve a management agreement with Touchstone Golf. They additionally approved a schedule of capital investment that will see \$1.7 million invested into the golf course over the next five years.

Known historically as a local “piece of paradise,” the Mill Valley Golf Course was profitable and popular between 1960 and 1980, a staff report said. The course has since fallen on harder times, facing falling revenues and fewer users. The course is nine holes and is on 42 acres. The land includes hills, creeks, mature redwoods and a view of Mount Tamalpais. It is open from dawn to dusk.

Mark Luthman, president of Touchstone Golf, said the company’s operational philosophy was to elevate the course’s role as a “community asset.”

“We look forward to be stewards of that piece of paradise,” he said.

Touchstone’s management of the site includes food and beverage service, landscape maintenance and course operations. The group also is responsible for personnel, marketing, accounting, payroll and tournaments, a staff report said. The agreement does not include the management or maintenance of the Mill Valley Golf Clubhouse, which will continue to be managed by the city’s recreation department.

Touchstone Golf maintains corporate offices in Oakland and Austin, Texas. It manages 40 courses across the country, including the Presidio Golf Course in San Francisco, Tilden Park Golf Course in Berkeley, Lake Chabot in Oakland, and Blue Rock Springs Golf Course in Vallejo.

City Manager Alan Piombo said Touchstone would not be leasing the course, but operating it under direction from the city. The city agreed to pay Touchstone a monthly fee of \$4,000 and reserve 2.5% of all course revenues to a fund dedicated to capital improvements. If the course turns a profit, the city will take 75% and Touchstone 25%.

Piombo said the capital improvement plan would be a “public-private partnership” resulting in a \$1.7 million investment. Touchstone will contribute \$50,000 and the city has already received \$125,000 in donations. Piombo said an additional \$700,000 in contributions were anticipated.

The city plans to provide an initial contribution of \$325,000 followed by an additional \$500,000 over five years. The city believes Touchstone can bring the course into profitability by the 2024-25 fiscal year.



Councilmember Urban Carmel said the project embodied the “essence of a strategy for a city” to highlight its most unique assets.

“I think it’s going to be yet another one of the things that makes Mill Valley a special place to visit and live in,” he said.

Members of the public were largely receptive to the plan. Many described themselves as longtime players who expressed optimism with a planned revitalization of the course.

We’re excited the city wants to invest,” said Gavin Fisco. “I’m looking forward to playing in Mill Valley for the 150th anniversary.”

Michael Lavezzo, an English teacher at Tamalpais High School and a former high school golf coach, said he often runs into former students on the course.

“There’s a real through-line that’s centered at the golf course through those generations,” he said. “The golf course is just a perfect meeting destination for them.”

The course was developed 102 years ago by private citizens on leased land in Warner Canyon, said Sean McGrew, arts and recreation director.

“The Mill Valley Golf Course is truly one of the hidden jewels of Marin County,” McGrew said. “It’s an essential part of the fabric of Mill Valley.”

McGrew said over the last 10 years, the course saw a decline in revenue, averaging a \$375,000 budget deficit every year before the pandemic. The reduction corresponded with a reduction in investment and drought, he said. It was only in the 2021 fiscal year, during the pandemic, that the course posted an unexpected surge in use and a resultant profit.

Touchstone plans to invest in the pro shop and concessions area in order to drive more customer traffic into the course.

“There are avid golfers throughout the North Bay and Bay Area that just don’t know that the Mill Valley Golf course exists,” Luthman said. “A big part of our program is the marketing and awareness activities that we are going to be undertaking to bring golfers to the MVGC.”

Mayor John McCauley lauded the effort to balance the interests of the entire community — not just golfers — into the planned revitalization.

“I’m actually very much supportive — relieved. I think this is a very good program,” he said.



Piombo noted that 2.5 maintenance employees were currently assigned to the course. He said the employees would be offered the option of vacant positions in the public works department or to continue site maintenance as a Touchstone employee.

Tags: [Alan Piombo](#), [Finance and investing](#), [Golf](#), [mill valley](#), [Mill Valley Golf Course](#), [Mount Tamalpais](#), [newsletter](#), [Urban Carmel](#)



Giuseppe Ricapito



EXHIBIT I



tel: 916.455.7300 · fax: 916.244.7300
510 8th Street · Sacramento, CA 95814

October 16, 2023

SENT VIA EMAIL

Mayor Urban Carmel and Councilmembers
Mill Valley City Council
26 Corte Madera Avenue
Mill Valley, CA 94941

**RE: Additional Comments on Agenda Item 3 of the October 16, 2023,
City Council Meeting**

Dear Mayor Carmel and Councilmembers:

On behalf of Friends of Hauke Park (“FOHP”), this letter transmits comments regarding Agenda Item 3 of the October 16, 2023, City Council meeting.

Our letter dated October 13, 2023 explained that the City is violating the Housing Element Law and thwarting public participation by forcing the public to review and provide comments on its revised Housing Element Update (“HEU”) over a weekend. We have reviewed the HEU and offer the following comments.

- Page III-12: The new text confirms that the 15 percent “buffer” for the RHNA allocation is only “recommended.” This means that the 44 residential units that would be provided by One Hamilton are not required to satisfy the City’s RHNA allocation. (Revised HEU, p. C-19 [27-unit RHNA “surplus” for very low income housing and 34-unit RHNA “surplus” for low income housing].) This also means, in turn, that project alternatives omitting residential development at One Hamilton are not infeasible for failing to satisfy the City’s RHNA allocation as the Final Environmental Impact Report (“EIR”) falsely claimed.
- Page IV-65: The HEU states that “contributing factors . . . that limit or deny fair housing choice or negative[ly] impact fair housing” include “Community opposition to affordable housing due, in part, to contributing factors such as the availability of affordable housing in all areas of the City.” The City’s action with respect to the revised HEU, namely to arbitrarily and capriciously exclude City-owned sites located in west Mill Valley, is a significant contributing

factor limiting “the availability of affordable housing in all areas of the City.” Although having been advised many times to stop this redlining, the City’s practice inexcusably persists with this revised HEU. The revised HEU ensures that all public affordable housing — the only affordable housing that the City can control — is located in east Mill Valley.

- Page C-13: The City has not taken the opportunity to revisit the inadequate and incomplete analysis of suitable City-owned sites previously prepared by The Housing Workshop. We have repeatedly identified numerous defects in that prior analysis, which are not corrected in the revised HEU. A few representative examples of that flawed analysis include:
 - The Housing Workshop Inventory claims to have evaluated “approximately 75 City-owned parcels,” yet it only identifies four parcels that it considered potentially feasible for development and seven additional parcels that were identified as infeasible for development. Thus, only 11 of the claimed 75 parcels were analyzed for development. This has not been corrected.
 - The Housing Workshop Inventory analyzed approximately 37 sites “for potential sale” and not development, but without any explanation as to why these parcels were not analyzed for potential development. This disparate treatment is significant because many parcels were dismissed for “sale” due to their open area (“O-A”) zoning designation, while other parcels with the same O-A zoning designation were deemed feasible for development. This has not been corrected.
 - Adding the 11 parcels analyzed for potential development to the 37 parcels analyzed for potential sale results in a total of 48 parcels, not the 75 parcels that The Housing Workshop Inventory claims to have analyzed. Approximately 27 parcels were not even identified, much less analyzed for their suitability for development. This has not been corrected.
 - The Housing Workshop Inventory relied on arbitrary site criteria such as minimum parcel size of 0.75 acres, maximum of ten percent average slope, and other criteria based on “Council direction” that is non-specific, subjective, and unsupported by City planning policies and guidelines such as “vital downtown space” or “alley-style parking abutting other building” in order to create a pre-text for excluding sites in west Mill Valley.

- The new discussion set forth on page C-8 of the revised HEU confirms the arbitrary nature of The Housing Workshop's site-suitability criteria. The new discussion states, "Table C.3 summarizes the 13 sites assigned to the low-income RHNA, including the existing use and anticipated number of housing units expected as part of the redevelopment of the sites. All sites are over ½ acre in size and conservatively yield 16 or more units." The revised HEU fails to explain why minimum of ½ acre yielding a minimum of 16 units is an adequate criterion for low income housing on private property, and the City's minimum criteria is 0.75 acres yielding many more units.

As a result of the above deficiencies, many more potentially suitable City-owned properties remain unanalyzed for affordable housing, and even unidentified, in the Housing Workshop Inventory. This fundamental defect has not been corrected in the revised HEU.

- The City's staff report asserts that the existing EIR remains adequate to provide CEQA review for the project. This is contradicted by page C-13 of the HEU, which states, "A proposed project of approximately 45 units (44 rental units for lower income households and one manager's unit) was submitted for development review in April 2023. Planning Commission hosted a study session on July 11, 2023." This confirms that new information regarding the proposed development of One Hamilton, its impacts and mitigation measures, have been identified by the City but is being withheld from public disclosure in order to promote the City's unlawful piecemealed CEQA review of One Hamilton. Indeed, the City previously claimed that the EIR would have been released by now. It is clear that the City is delaying release of the One Hamilton EIR to advance its unlawful piecemealing strategy.

The nature and scope of our comments are significantly prejudiced by the City's unlawfully truncated public review period. Yet even an abbreviated and therefore incomplete review reveals that the City has not taken seriously its legal duty to identify all suitable properties throughout the community. Rather than learn the lessons from two HCD disapprovals, City officials remain adamant about excluding any public affordable housing in their leafy neighborhoods of west Mill Valley.

Mayor Carmel and Councilmembers
City of Mill Valley
October 16, 2023
Page 4 of 4

Very truly yours,

SOLURI MESERVE
A Law Corporation

By: 
Patrick M. Soluri

Sent via email:

Urban Carmel, Mayor (ucarmel@cityofmillvalley.org)
Stephen Burke, Vice Mayor (sburke@cityofmillvalley.org)
Max Perrey, Councilmember (mperrey@cityofmillvalley.org)
Caroline Joachim, Councilmember (cjoachim@cityofmillvalley.org)
Jim Wickham, Councilmember (jwickham@cityofmillvalley.org)

cc: Hannah Politzer, City Clerk (cityclerk@cityofmillvalley.org,
hpolitzer@cityofmillvalley.org)
G. Inder Khalsa, City Attorney (gkhalsa@rwglaw.com)
David Pai, Supervising Deputy Attorney General, Office of the Attorney General
(David.Pai@doj.ca.gov)
Reid Miller, California Department of Housing & Community Development
(reid.miller@hcd.ca.gov)

EXHIBIT J



tel: 916.455.7300 • fax: 916.244.7300
510 8th Street • Sacramento, CA 95814

February 2, 2022

SENT VIA EMAIL (cityclerk@cityofmillvalley.org)

Kelsey Rogers, City Clerk
City of Mill Valley
Mill Valley City Hall
26 Corte Madera Avenue
Mill Valley, CA 94941

**RE: Public Comments to February 7, 2022 City Council Meeting,
Agenda Item 6 re: 1 Hamilton Drive**

Dear Ms. Rogers:

On behalf of Friends of Hauke Park (“FOHP”), this letter provides comments regarding Agenda Item 6, a proposed Exclusive Negotiating Agreement (“ENA”) with a developer for residential development at 1 Hamilton Drive (“Project”).

The City’s approval of the ENA, viewed in light of all the surrounding circumstances, commits the City as a practical matter to the Project without first conducting CEQA review. (*Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116, 132 (*Save Tara*)). This violates CEQA.

In September 2021, we previously raised a concern about the City’s commitment to the Project in the context of its action to declare 1 Hamilton Drive “surplus.” Rather than take these concerns seriously, the City instead doubles down on its commitment to the Project through approval of the ENA that now creates significant financial incentives to approving the Project at the 1 Hamilton Drive location.

Specifically, City “agrees to loan the Housing Team up to \$150,000, to be used towards certain predevelopment costs.” (Staff report, p. 4.) This “loan” would not need to be repaid by the developer if the City ultimately declines to approve the Project. (Draft ENA, p. 4 [“the City’s sole recourse shall be limited to the Work Product”].)¹ Further, the ENA also provides that the City would assume financial responsibility for performing CEQA review for the Project. (Draft ENA, p. 5 [“City shall, at the City’s

¹ It is unclear why this “loan” provision is set forth in section 5.1.5 of the draft ENA as a “possible DDA provision” since it is clearly a provision of the ENA itself.

cost and expense, undertake an Initial Study of the proposed Project pursuant to Section 15063 of CEQA or other appropriate documentation in order to determine the appropriate environmental documents and procedures that may be necessary to comply with CEQA”].)

In *Save Tara*, the California Supreme Court provided important guidance on this issue in the context of another affordable housing project including similar facts:

City agreed to initially lend the developer nearly half a million dollars, a promise not conditioned on CEQA compliance. This predevelopment portion was to be advanced in the first phase of the agreement’s performance, before EIR approval and issuance of other final approvals, and was to be repaid from project receipts over a period of up to 55 years. If City did not give final approval to the project, therefore, it would not be repaid. For a relatively small government like City’s, this was not a trivial outlay, and it would be wasted unless City gave final approval to the project in some form.

(*Id.* at 140.)

The relevant facts in *Save Tara* are strikingly similar to those presented here, and the superficial differences are simply window dressing. In *Save Tara*, the agreement with the developer plainly stated that the loan did not need to be repaid. Here, the ENA provides that the loan must somehow be “repaid,” but the City’s “sole recourse shall be limited to the Work Product.” Thus, as a practical matter, the loan does not need to be repaid as in *Save Tara*.² Further, while a \$150,000 loan appears far less than *Save Tara*’s loan of “nearly half a million dollars,” this loan amount does not include the unspecified additional amount that the City is assuming for CEQA analysis of the Project. This additional cost must be added to the \$150,000 for purposes of comparing the City’s financial commitment to that in *Save Tara*.

Further, surrounding circumstances reinforce the City’s practical commitment. As *Save Tara* explains:

² A later court found *Save Tara* distinguishable because “in contrast to *Save Tara*, the Center must repay the loan whether or not the project is approved.” (*Neighbors for Fair Planning v. City and County of San Francisco* (2013) 217 Cal.App.4th 540, 553.) The ENA’s failure to require repayment is therefore a critical factor in determining that an agency has committed to a project even if the loan is otherwise limited to otherwise appropriate predevelopment purposes.

[C]ourts should look not only to the terms of the agreement but to the surrounding circumstances to determine whether, as a practical matter, the agency has committed itself to the project as a whole or to any particular features, so as to effectively preclude any alternatives or mitigation measures that CEQA would otherwise require to be considered, including the alternative of not going forward with the project. (See Cal.Code Regs., tit. 14, § 15126.6, subd. (e).) In this analysis, the contract’s conditioning of final approval on CEQA compliance is relevant but not determinative.

(*Id.* at 139.)

Here, the surrounding circumstances further support that the City is committing as a practical matter to the Project at 1 Hamilton Drive “so as to effectively preclude any alternatives,” such as off-site alternatives.³ We previously raised a concern that the City’s action to designate the 1 Hamilton Drive site ‘exempt surplus’ land could be used as the basis to improperly exclude otherwise feasible project alternatives. (See letter dated September 17, 2021 from Soluri Meserve on behalf of FOHP.) We explained:

We note that only one site – 1 Hamilton Drive – is being proposed for this “exempt surplus” designation despite the existence of other possible sites. FOHP is reasonably concerned that the City is excluding from consideration other feasible sites based on political and other concerns that are unrelated to site suitability as articulated in the City’s staff report dated October 5, 2020. Limiting the City’s “exempt surplus” designation to only 1 Hamilton Drive reinforces this concern, as the City could attempt to rely on that designation as substantial evidence supporting the decision to exclude consideration of off-site project alternatives. (CEQA Guidelines, § 15126.6.) This is untenable.

(*Ibid.*)

³ Confirming the legitimacy of our concern that the City intends to impermissibly rely on its “surplus land” designation to avoid the required consideration of feasible alternative locations, the staff report asserts, “the City is not committing itself to any final project now and may still decide not to move forward with a project *on the site*.” (Staff report, p. 6, emphasis added.) This tellingly omits any mention of approving an affordable housing project on an alternative site. Similar circumscribed CEQA review over the proposed project was another factor leading the court in *Save Tara* to conclude that the agency had committed to the project. (*Save Tara, supra*, 45 Cal.4th at 141.)

Kelsey Rogers, City Clerk
City of Mill Valley
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The City's prior commitment to the 1 Hamilton Drive site, coupled with the now-proposed significant financial commitment⁴ to the Project in the draft ENA, creates precisely the "bureaucratic and financial momentum . . . providing a strong incentive to ignore environmental concerns." (*Save Tara, supra*, 45 Cal.4th at 135.) This is both unlawful and unacceptable.

Very truly yours,

SOLURI MESERVE
A Law Corporation

By:



Patrick M. Soluri

PMS/mre

cc: John McCauley, Mayor (jmccauley@cityofmillvalley.org)
Jim Wickham, Vice Mayor (jwickham@cityofmillvalley.org)
Urban Carmel, Councilmember (ucarmel@cityofmillvalley.org)
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G. Inder Khalsa, City Attorney (gkhalsa@rwglaw.com)

⁴ It is unclear why the City is providing this financial subsidy since the staff report asserts, "The EAH Team is . . . well-capitalized not-for-profit corporation." (Staff report, p. 3.) The staff report fails to explain why a "well capitalized" developer requires a subsidy of several hundred thousand dollars.

EXHIBIT K



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510 8th Street • Sacramento, CA 95814

February 4, 2022

SENT VIA EMAIL (cityclerk@cityofmillvalley.org)

Kelsey Rogers, City Clerk
City of Mill Valley
Mill Valley City Hall
26 Corte Madera Avenue
Mill Valley, CA 94941

**RE: Public Comments to February 7, 2022 City Council Meeting,
Agenda Item 6 re: 1 Hamilton Drive**

Dear Ms. Rogers:

This letter transmits additional comments regarding Agenda Item 6, a proposed Exclusive Negotiating Agreement (“ENA”) with a developer for residential development at 1 Hamilton Drive (“Project”). Our prior letter, dated February 2, 2022, raised concerns that the City’s approval of the ENA commits the City as a practical matter to the Project without first conducting CEQA review in violation of CEQA. (*Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116, 132 (*Save Tara*)). Our further review of surrounding circumstances reinforces this concern.

We reviewed the City’s staff report for Item 6, Housing Element Update, which revealed additional troubling information about the City’s commitment to the Project. Specifically, a comment letter by the Mill Valley Affordable Housing Committee (“MVAHC”) states, “1 Hamilton shows up on the counts but not on the map. However, we are very encouraged that it ***clearly shows up as a cast-in-stone commitment*** in this chart.” (Item 5 staff report, Attachment 3, p. 2, emphasis added.) While it is unclear what chart is described, MVAHC’s understanding that the City’s commitment is “cast-in-stone” cannot be ignored. These facts bring the present situation even closer to that addressed in *Save Tara*:

Circumstances surrounding City’s approval of the agreements confirm City’s commitment to the 1343 Laurel project. In aid of Laurel Place’s HUD grant application, the city manager told the federal agency City “has approved the sale of the property” and “will commit” up to \$1 million in financial aid. Once the grant was awarded, City’s mayor announced it “will

be used” for Laurel Place’s project, and the City newsletter stated that, using the grant, City and Laurel Place “will redevelop the property.” City officials told residents who opposed the project that while “variations” on the proposal would be entertained, City “must continue on a path that fulfills this obligation” to redevelop the property for senior housing. Similarly, at the May 3, 2004, city council meeting, City’s housing manager stated that while there were “options to consider” regarding project design, options for other uses of the property (as a park, library, or cultural center) had already been ruled out.

(*Id.* at 141–142.)

MVAHC’s understanding of the City’s “cast-in-iron” commitment to the Project is unfortunately reinforced by our ongoing inquiry into the City’s claimed analysis of alternative project sites. The City has repeatedly asserted that it analyzed 75 different City-owned parcels. FOHP members were skeptical because they received information suggesting that the City was trying to limit new affordable housing to the less affluent side of town, east of Camino Alto, where all of the existing affordable housing is located. This prompted us to submit a Public Records Act (“PRA”) request to the City, explaining, “FOHP is concerned about the process and criteria utilized by the City of Mill Valley (‘City’) to seemingly decide upon the 1 Hamilton Drive site, adjacent to Hauke Park, as the City’s preferred location for the Project.”

We have now reviewed 2,068 pages produced by the City in response to our PRA request. Far from dispelling our concerns about an improper analysis for selecting viable sites, the documents produced to date support our concerns. While the City claims that it analyzed in detail 71 different City-owned sites, the City’s records only identify 11 such sites. (See Exhibit 1, memo from Danielle Straude from Janet “Re: Analysis of Tax-Exempt Sites for Affordable Housing Development” dated February 10, 2021 (“Site Analysis Memo”), pp. 7, 18.) The City’s document production does not even identify the remaining 64 sites, much provide detailed analysis of their suitability.

We note the Site Analysis Memo identifies an additional 37 sites “for potential sale.” (Exhibit 1, Site Analysis Memo, p. 19.) The City has never clarified, however, whether these additional 37 sites “for sale” are included in the 75 sites purported analyzed for development. Even if they are included, the total of 48 sites (11 sites for development and 37 sites for sale) falls well short of the claimed 75 sites that were analyzed. In this scenario, 27 sites remain completely undisclosed.

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The City's failure to document its analysis of 64 (or 27) of the 75 claimed potential housing sites is consistent with FOHP's concern that 1 Hamilton Drive has been selected for impermissible reasons.

In light of these troublesome developments, the City needs to stop the "bureaucratic and financial momentum" inexorably leading to an unlawful commitment to 1 Hamilton Drive in violation of CEQA. (*Id.* at 130.) Nothing requires the City to rush ahead with the Project at this time in this manner. Indeed, the City is now performing a comprehensive site analysis as part of the Housing Element update as described in the Item 5 staff report. The only legitimate path forward, which would comply with applicable law and restore public confidence in the City's decision-making process, is for the City to follow the process identified for its Housing Element Update.

Very truly yours,

SOLURI MESERVE
A Law Corporation

By:



Patrick M. Soluri

PMS/mre

Attachment: Exhibit 1, February 10, 2021 Site Analysis Memo

cc: John McCauley, Mayor (jmccauley@cityofmillvalley.org)
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Stephen Burke, Councilmember (c/o cityclerk@cityofmillvalley.org)
G. Inder Khalsa, City Attorney (gkhalsa@rwglaw.com)

EXHIBIT 1

To: Danielle Straude, Senior Planner, City of Mill Valley
From: Janet Smith-Heimer, The Housing Workshop
Re: Analysis of Tax-Exempt Sites for Affordable Housing Development
Date: 2-10-21

Introduction and Summary of Findings

This memo summarizes an initial analysis of a list of approximately 75 parcels of land owned by the City of Mill Valley, for the purposes of identifying a short list of parcels suitable for potential affordable housing development. In addition, the analysis for this memo included a review of all other identifiable property tax-exempt parcels located within City limits (e.g., owned by Marin Open Space, Marin Municipal Water District, several religious organizations, etc.). The source for identifying tax-exempt parcels, the County Assessor's database, lists all land parcels in Mill Valley by identifying number, size, owner, and tax-exempt or taxable status.

The analysis of publicly-owned/tax-exempt land parcels was commissioned by the City of Mill Valley, and prepared under the guidance of City staff and the Housing Advisory Committee. Following discussion of this initial analysis, The Housing Workshop will conduct an in-depth financial analysis of potential housing projects on two of the best-suited sites to demonstrate feasibility and facilitate potential next steps by the City.

Purpose of the Analysis

This initial study phase was conducted with two objectives: to identify City-owned or other tax-exempt parcels that could be developed into affordable housing, and to identify any parcels that could potentially be monetized (e.g., sold or leased) by the City to private parties to raise local funds that could help subsidize affordable housing projects. The review of City-owned properties aligns well with policy initiatives promoted by housing policy experts as well as the State of California, to leverage publicly-owned land assets to address the current housing crisis. This memorandum does not outline or analyze housing affordability issues in Mill Valley; several key resources to further explore those issues are referenced in Appendix A of this memorandum.

Leveraging publicly-owned land assets by making them available, typically at reduced or no cost to a non-profit affordable housing developer, is a direct method of subsidizing and creating this type of development, which otherwise faces major challenges in acquiring developable land and

raising sufficient funding to build new units. In other words, eliminating the time and cost of acquiring land (because it is contributed by a city or public agency to a project), immediately reduces the need for funding by 20 to 40% of total project cost, depending on the cost of that land. This concept, sometimes called “land write-down,” was used very successfully throughout California for decades through local redevelopment agencies tasked with funding new affordable housing projects. Nearby examples of this concept can be found in San Rafael and other Marin locations.

Summary of Findings

As detailed in the following memorandum, the initial analysis concluded the following:

- Among the numerous City-owned parcels, just 4 sites were identified for further analysis, including:
 1. Public Safety Building/Hauke Field Parking Lot
 2. Boyle Park Tennis Courts
 3. Portion of Edgewood (aka Mill Valley Reservoir)
 4. Portion of Mill Valley Golf Course along Linda Vista Drive
- The factors affecting this conclusion – parcel size, degree of slope, recreation/open space designations, and environmental constraints – render many of the subject parcels infeasible for multifamily affordable housing development.
- A review of other non-City owned, tax-exempt parcels indicates that there are likely no short-term opportunities to partner with property owners.
- There are limited opportunities to monetize City-owned parcels, due to likely infeasibility of creating retail single family lots matching zoning requirements for parcel size. Three parcels that may yield up to 10 lots in total were identified as potentially saleable, but require further analysis to determine their marketability and value. It should also be noted that raising funds for potential use as subsidy in future projects does not directly resolve the lack of available project development sites.

Next steps in the study process will include preparing a financial analysis for 2 of the 4 sites identified as having near-term development potential for affordable housing. If these sites “pencil,” The Housing Workshop will recommend a series of future actions to undertake City-sponsored affordable housing development on those sites.

Affordable Housing Development Challenges in Mill Valley

There are several key development constraints facing Mill Valley's publicly-owned parcels, all of which were converted into criteria to apply to the list of parcels for the analysis. These are summarized below.

Current Zoning Designations

Mill Valley owns numerous tracts of land used for active recreation (e.g., ballfields, tennis courts) along with extensive networks of trails, gardens, public parks, and designated open space areas with heritage trees. These recreation/open space lands are treasured by residents, and are considered important parts of Mill Valley's quality of life.

The community valuing of recreation/open space, and the balancing of potential development versus conservation for recreation/open space, have long been codified in the City's General Plan land use and zoning designations. The balancing of competing goals, such as development versus recreation/open space, is a tension that occurs in every city in the Bay Area. This current analysis does not seek to alter these land use designations; the work conducted every 8 years to prepare the City's Housing Element Update is meant to address those larger policy questions.

Criteria Used in Analysis. With a few exceptions as described later in this memorandum, the City-owned sites analysis considered a current zoning designation of Open Space as a given, thereby not permitting any new multifamily housing development. The few exceptions described later in this memorandum represent potential building sites located within larger open space areas, sited to be on frontage roads so as to not disturb recreation/open space enjoyment.

Parcel Size and Development Density

In Mill Valley, even though the City owns parcels of various sizes throughout the city, these assets are not easily identifiable on the ground. Mill Valley, with its desirable location, climate, and lifestyle, has long been “built-out,” meaning no obvious tracts of undeveloped land await development. The downtown layout, primarily in a historic village pattern, further limits development opportunities on publicly-owned parcels.¹

A review of Mill Valley’s zoning designations indicates that the City’s most dense category of residential development caps out at 29 dwelling units per acre, with these opportunities generally located in the downtown center. This density typically translates into a 3-story multifamily building with surface parking.

For 100% affordable housing projects (including housing for very low, low, and moderate income households), the California Density Bonus Law (found in California Government Code Sections 65915 – 65918) provides developers with a substantial “density bonus” of an 80% increase in density. For Mill Valley’s current most dense residential zone category, this would yield projects with a density of 52 units per acre (1.8 X 29).

Almost all affordable rental housing developers seek yield and scale in their projects (in terms of number of units), due to the complexities and cost involved in creating these projects. In Mill Valley, this combination of relatively low maximum allowable density and typical parcel size mean that even with a density bonus, almost all professional organizations will not be able to expend the time and resources necessary to develop on very small parcels.² In addition, even post-development, most affordable housing projects require an on-site property manager living in one of the units, which is generally not sustainable in terms of operating costs in projects with less than 40 units, although exceptions to this rule of thumb can be found for slightly smaller projects if management is shared by the same owner with another small project nearby. The result of these scale and yield considerations means that parcels likely to attract a qualified affordable rental housing developer would need to be at least 0.75 acres (which would yield 39

¹ It should be noted that downtown Mill Valley has numerous examples of privately-owned parcels that are currently underutilized (e.g., aging one-story commercial structures and/or underutilized parking lots). While these parcels were not analyzed directly in this memorandum, they should be reconsidered as potential housing or mixed-use sites during the City’s upcoming Housing Element update process, because downtown infill locations typically create very desirable locations with services for multifamily projects. These kinds of projects also serve to activate streets, bring new shoppers, and contribute to a vibrant village center.

² Some for-profit developers of market-rate housing are able to develop on small parcels, due to the typical high profit margins available in a higher-value area such as Mill Valley. Yield and scale affect these two housing segments differently.

units per acre if zoned for 29 units and the maximum density bonus were applied).

Criteria Used in Analysis: Due to the resulting infeasibility of affordable housing development on small parcels, City-owned parcels less than 0.75 acres are considered not developable for this purpose. However, separately, some of these smaller sites may have monetary value to raise funds for a project located elsewhere, and are assessed in this memorandum for that purpose.

Degree of Slope

Due to topography, location near sensitive wetlands, areas which experience flooding, and other environmental factors, Mill Valley sites require a fine-grained assessment to determine physical development feasibility. This analysis focuses on two key physical factors: slope and floodplain/floodway status.

Steep slopes adversely affect affordable multifamily development in several ways, all of which combine to increase project costs without an ability to obtain compensation through commonly-used funding sources. Costs rise in steep slope situations because of extra site grading, design challenges, accessibility challenges for people with disabilities, and seismic safety structural mitigations. In addition, often steep slopes face erosion and other constraining soil conditions, all of which also add to project costs. Most affordable housing developers will seek other opportunities elsewhere that do not pose these increased cost risks.³

Criteria Used in Analysis: Sites with an average slope greater than 10% were considered infeasible for affordable housing project development. However, there are a few exceptions noted later in this memorandum, where site visits indicated that flatter building pads may exist among large parcels with otherwise average steeper slopes.

³ It should be noted that these slope-related factors do not necessarily constrain high value new construction townhouse or single-family homes in the same way; these types of buildings can often maximize views and/or incorporate other creative design features on steeply-sloped lots, adding value to offset increased costs.

Floodplain/Floodway Status

Some portions of Mill Valley’s flatter, more developed sections are affected by several waterways which can reach impactful flood stages currently defined by the Federal Emergency Management Agency (FEMA) as having a 1% chance of flooding each year (formerly called “100 year floodplain”). In simple terms, these areas require annual flood insurance premiums, which add to the operating costs in affordable projects. In some subzones of these areas, FEMA recommends architectural and engineering methods to reduce flood damage; while these may add to construction costs, they can sometimes be incorporated without creating project infeasibility (such as raising the dwelling areas above flood levels with parking on the ground floor).

In other floodplain areas, based on waterway hydrology and topography analyses, FEMA designates certain portions as Floodways, which means any building placed on the site needs to be designed so that its structure does not demonstrably impede receding water flow in the event of a flood. In simple terms, this requirement is in place to ensure that floodwaters can flow, unimpeded by structure, causing more damage elsewhere. Building housing structures in floodways is therefore quite difficult to infeasible, and sites in FEMA-designated floodways are not recommended for further consideration by the City of Mill Valley.

Criteria Used in Analysis: Parcels with a FEMA floodplain designation of “AE” or “AO” are considered as possible for development (albeit not ideal), while parcels designated as Floodway are considered not feasible for affordable housing development.

The results of applying the above criteria to the City-owned and other tax-exempt parcels are described in the following section with supporting tables included as Appendices B through D.

Potential City-Owned Affordable Housing Development Sites

The approximately 75 City-owned parcels were evaluated based on criteria outlined above, including a minimum size of at least 0.75 acres and an average slope of 10% or less.

A summary of the resulting “short list” of potentially developable affordable housing sites is shown below. Each of these sites was also visited in-person by The Housing Workshop and evaluated further per other potential site or regulatory constraints, as described below.

Table 1: City-Owned Sites with Potential Feasibility for Multifamily Affordable Rental Housing

Site #	Site Location	APN	Acres	Avg Slope (%)	Zoning	Flood-plain (a)	Flood-way	# of Units (b)	Notes
1	1 Hamilton Public Safety Building parking lot serving Hauke Field	030-250-01	0.75	10.0%	Open Area (O-A)	No	No	22-39 units	Site size estimated (part of larger parcel). Needs design study to confirm suitable building pad with sufficient distance from Bayland Corridor boundary. Parcel would require subdivision and rezoning.
2	Portion of Boyle Park Tennis courts and part of field behind it	029-212-24, possibly part of another parcel	0.80	< 10%	Open Area (O-A)	No	No	23-41 units	Site size estimated (portion of Boyle park inc. 5 tennis courts and field/parking lot at end of East Drive)
3	Edgewood (MV Reservoir)	046-070-02, 046-061-52	4.37	24.6%	Open Area (O-A)/Single Family (RS)	No	No	29-52 units	Site size and location estimated (part of larger parcel). Review of 1967 grant deed shows covenant to keep as a park. This parcel is relatively large and has some slope areas, so a portion could be removed from covenant w MMWD agreement. Yield estimate assumes 1 buildable acre within larger sloped site.
4	Portion of Mill Valley Golf Course along Vista Linda Drive	029-131-07	45.68	16.5%	Open Area (O-A)	AO	No	22-39 units	Site would be portion along Vista Linda Drive/ edge of golf course. Yield assumes a .75 acre parcel could be identified. May require relocation/redesign of nearby golf hole. Yield may be reduced depending on parcel shape and golf course safety requirements.

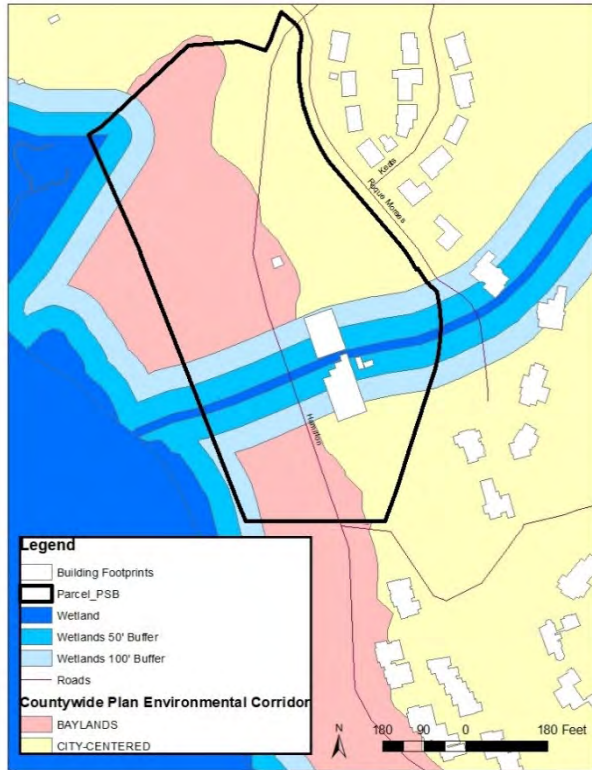
Notes:

a) AE and AO indicate location in FEMA floodplain. AE indicates FEMA has established baseline flood elevation, but project could be designed to accommodate.

AO indicates shallow sheet flooding without known baseline, but could be established and designed for. Both types would also require flood insurance.

b) Low end of range assumes zoning for 29 units/acre. High end assumes application of state density bonus law (80% bonus for 100% affordable projects), which would yield 52 units/ ac

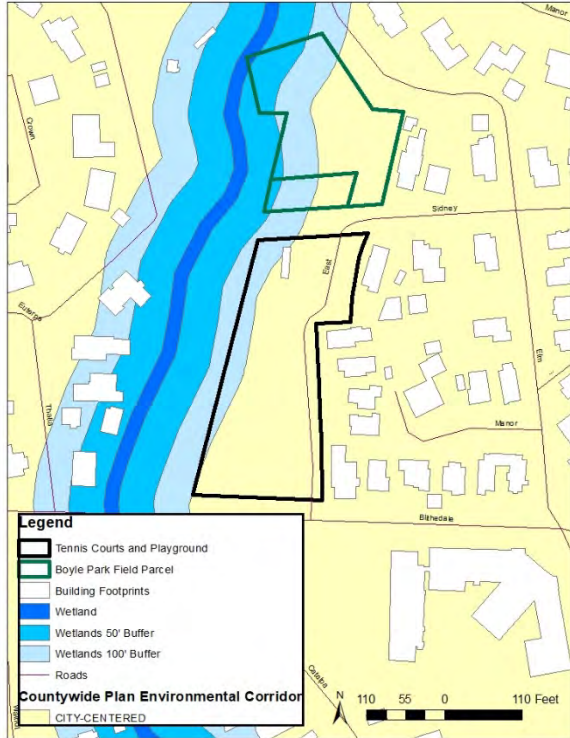
Site 1: Public Safety Building/Hauke Field Parking Lot



Potential 0.75 acre Housing Site

This potential housing site lies adjacent to the City’s Public Safety Building complex, on its northern side. This area currently provides parking and restrooms for recreation fields located nearby. The potential housing site is impacted by its location near the boundaries of the Marin County Baylands Corridor, as described in the County General Plan. This designation identifies uplands adjacent to sensitive wetlands, and requires special biological assessment studies to protect habitat for plants and animals. According to the Marin County General Plan, development sites of between 0.5 and 1 acre require a 30-foot setback from the Baylands boundary. Until further biological and survey studies can be conducted, it is assumed the identified housing site could provide 0.75 acres for development, creating sufficient scale to develop a physically feasible project. Current restrooms and parking area for Hauke Field may need to be relocated elsewhere on the PSB site.

Site 2: Portion of Boyle Park

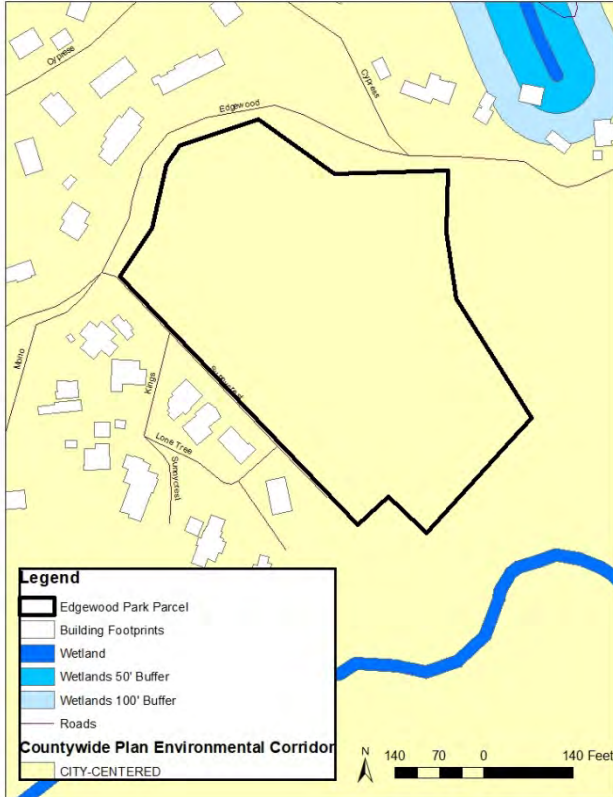


Potential 0.75 acre Housing Site

This site would be subdivided and developed in the portion of Boyle Park containing 5 tennis courts, along E. Blithedale Avenue. While reducing recreational facilities for Mill Valley’s residents is less than ideal, this site is included in this memorandum because it would create a sufficiently-sized and shaped parcel in a pleasant residential neighborhood without prohibitive environmental constraints (e.g., floodplain, sensitive habitat, etc.). From an objective affordable housing development point of view, this is the best of the 4 identified sites. As described in this memorandum, identifying sites with sufficient size and yield, that also do not create extraordinary cost challenges, means that other tradeoffs would need to be made to leverage public lands.

As shown in the map on the left, although not in a floodplain or floodway, the tennis courts are located near sensitive wetlands, and would need to be designed carefully to allow for the medium blue 50 foot buffer. The lost tennis courts could potentially be relocated elsewhere in this part of Mill Valley or designed to be placed on the roof of the new housing project with separate public access provided.

Site 3: Edgewood (aka Mill Valley Reservoir)

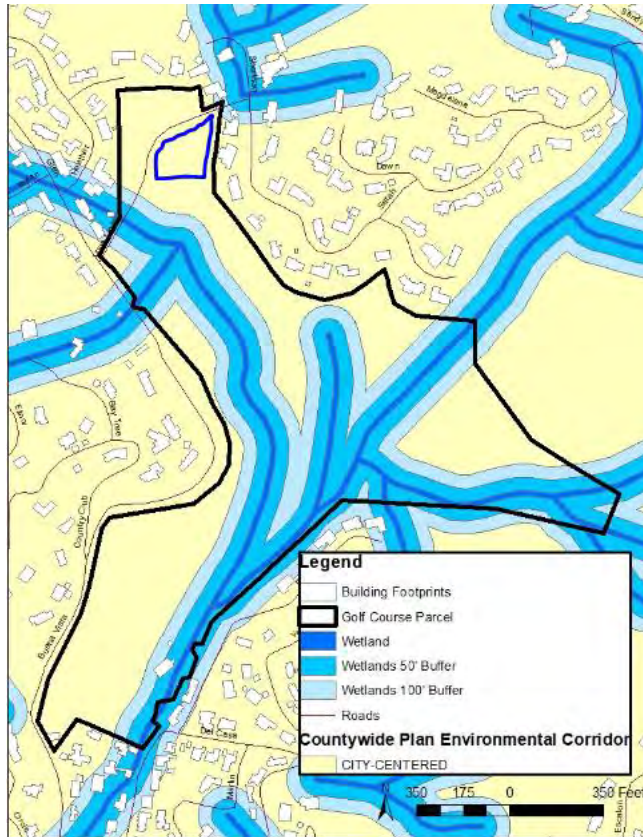


Potential 1 acre Housing Site

The Edgewood parcel contains over 4 acres, with portions containing steep slopes. The site is used as an informal open space area but has not been improved as a public park. Based on topographic map review, it is estimated that a 1-acre or more buildable portion with a feasible slope could be identified. Another development constraint is that this site was deeded by the Marin Municipal Water District to the City in 1967, with a covenant in the recorded deed that the site be maintained by the City and used as a park. However, since this site has not been improved as a park and given the age (50+ years) and nature of the grand deed, it may be possible to amend the deed to remove this covenant for a portion of the site through agreement with the MMWD.

The strategy outlined above has the additional benefit of creating a buildable parcel of 1 acre or more, allowing for a higher unit yield than the other tightly-fitted 0.75 acre sites which limit unit yield with no room to spare. In addition, it may be possible to improve other portions of this site as a park, providing new benefits to the surrounding community in exchange for supporting the 1 acre portion for use as affordable housing.

Site 4: Portion of Mill Valley Municipal Golf Course



Potential 0.75 acre Housing Site

The Mill Valley Municipal Golf Course was purchased by the City from a private owner in the 1930s and has been operated by the City since that time. It has reportedly suffered operating losses in recent years. However, any change in use status of the golf course as a whole will require a more lengthy discussion than the scope of this memorandum, and cannot be addressed here. Thus, as the City considers the future of the 45 acre, 9-hole course, for this memorandum a portion of its greenway buffering along Linda Vista was identified that may be suitable for multifamily affordable housing development in the near term.

It should be noted that the potential housing development site shown above, is across the street along Linda Vista Drive from a recently-proposed public parcel currently used as a playing field, which engendered substantial community resistance to any development. In addition, further design of a potential building site as shown above may impact the adjacent golf hole; research indicated that 9-hole courses typically require 20 to 48 acres of land, so at 45 acres, the Mill Valley course may well be reconfigurable in this section to accommodate the housing site.

City-Owned Sites Considered as Infeasible For Development

Appendix B provides a summary of six additional City-owned sites which were of sufficient size to consider, but have other constraints making them infeasible for near-term multifamily rental housing at affordable levels. These constraints are outlined below.

City Hall/Fire House Parking Lots. The first set of 3 lots are the parking lots and open space surrounding City Hall, including the entry parking area between City Hall and the Mill Valley Market, the back parking lot behind City Hall, and the open space on the far side of the historic fire house adjacent to City Hall. As noted in Appendix B, these parcels are either too small and/or in the case of the back parking lot, designated a Floodway. The table notes that either of the “side” parcels could be developed as a small number (2 to 3) moderate income ownership townhouses, with the most practical site on the open space adjacent to the fire house. This product type does not require an on-site property manager and thus can be developed at a smaller unit yield. These are often more challenging to finance, since many of the commonly-used funding sources such as Low Income Housing Tax Credits do not apply; however, with City-contributed land, there are ways to arrange for this type of housing. In the even the fire house itself were no longer needed, that historic structure could also likely be rehabilitated and converted to possibly 2 more townhouses.

Historic Depot Plaza. This 0.77 acre site is the paved, improved Plaza along with a long, linear parking lot bordering the Plaza area adjacent to and behind the historic Depot in downtown Mill Valley. Although the site is large enough to yield a feasible affordable housing project, it functions as a vital public gathering place, along with much-needed parking for downtown merchants. As such, it would require extensive further study such as a downtown parking study, and likely an urban redesign plan, to replace any public gathering plaza lost to development.

Public Parking Lot Behind D’Angelos. The parking lot behind D’Angelos, accessed from Throckmorton in downtown Mill Valley, has an infeasible configuration due to its linear alley-style parking abutting other buildings. This shape renders the site infeasible for housing of any type.

Community Center Parking Lot. The parking lot adjacent to the Mill Valley Community Center, a portion of which currently contains solar panels, is located partially within or near the Baylands Corridor boundary, meaning that only approximately a 0.5 acre potential development site could be identified. This site size is infeasible for affordable rental housing, as described previously. In addition, the soils on this property are reportedly experiencing substantial subsidence; thus, further soil and biological assessments would need to be conducted to determine if any portion

could be suitable for development. It is likely that a best-case scenario would yield a small developable parcel, which could be used to construct moderate income ownership townhouses.

Public Parking Lot at 411 Miller Avenue. The City-owned parking lot at 411 Miller Avenue offers a good rectangular set of parcels, albeit at an insufficient size for affordable multifamily residential development (smaller than the 0.75 acre threshold). In addition, a substantial portion of the site is located in a FEMA-designated Floodway, rendering new development infeasible. However, due to recent flood improvements in the area, there may be the possibility of requesting a change to the FEMA designation (which may also benefit other parcels that are privately-owned along Miller and adjacent locations such as Sloat Nursery). This would require relatively expensive hydrology studies to demonstrate to FEMA that the current situation has been improved and the Floodway finding in the area no longer applies. This process, including the necessary studies, may be fundable by state or local grants. The City should consult with the Flood Control District to ascertain next steps. If the Floodway designation could be removed, the City-owned portion, with approximately 0.54 acres, would become suitable for moderate income ownership townhouses, which do not require an on-site property manager.

Other City-Owned Parcels

Appendix C shows a summary of dozens of other city-owned parcels deemed infeasible for near-term affordable housing development for one or more of the following reasons:

- Average slopes greater than 10%, with site visits confirming steep slopes throughout parcel
- Small site size below 0.75 acres, limiting yield
- Other prohibitive environmental conditions (see Appendix C)

Potential to Monetize City-Owned Parcels

Among these infeasible-for-development parcels, there were several that may have potential value if offered for sale as a single family lot, as noted in Appendix C. The criteria used to identify salable lots were size and zoning; the parcel must be at least 6,000 square feet (the minimum single family lot size for new construction in Mill Valley) and zoned as some form of residential use. The zoning factor was applied because it is unlikely for retail lot purchasers to undertake a zoning change, especially when most of these parcels are zoned as highly-treasured Open Space.

The value of parcels potentially marketable for single family use involved analyzing sales of single family retail lots in Mill Valley that have occurred over the past 3 years (see Appendix D). As shown, the sales ranged widely, depending on slope (and cost of grading), location, size, and marketing assertions about “approved plans.”⁴ Because the 3 City-owned parcels identified as sufficient in size and zoning to create marketable lots shown in Appendix C are all zoned to require a minimum lot size of 1.5 acres per unit, a total of 10 potential retail lots could be identified on these 3 parcels, with a maximum retail lot value after broker commission and other selling costs was conservatively estimated at up to \$1,000,000 per lot.

This analysis yields a potential total value of up to \$10,000,000, but will very likely decline when more detailed site assessments are conducted to ascertain availability of utilities, identification of building sites amongst the very steep slopes, and other factors impacting marketability and value.

⁴ “Approved plans” described in listing descriptions were not confirmed with the City, and are assumed to contribute only minor additions to value.

Other Tax-Exempt Parcels with Affordable Housing Development Potential

In addition to the direct potential to develop affordable housing on City-Owned parcels, Mill Valley contains numerous parcels owned by other tax-exempt agencies, non-profits, and religious organizations. These parcels were reviewed for size and slope, along with known likelihood of interest in providing land for development.

The following criteria were used to exclude tax-exempt parcels from further consideration:

- Parcels owned by Marin Open Space
- Parcels owned by Marin Municipal Water District
- Parcels owned by public school districts (which may have potential development sites, but should be considered first by the school district)

Remaining non-City owned tax-exempt parcels, described below, are owned by utilities (AT&T) and religious organizations. These parcels may have some longer-term potential for collaboration with the City of Mill Valley for affordable housing development.

Mt. Tamalpais United Methodist Church (410 Sycamore Avenue)



The church provides worship services along with childcare and other community services in a complex of buildings on a relatively large site. While the complex could possibly be envisioned in a reconfigured layout that could incorporate an affordable housing project (a possible 0.75 acre site is outlined in yellow), it is a challenging process, particularly given several environmental constraints including location near the sewage treatment plant making the site potentially unsuitable for

new housing development. In addition, other buildings currently on the site would likely need to be demolished but the functions in them could be incorporated into a housing project (e.g.,

ground floor childcare facility and/or meeting rooms). The leadership of this church may be interested in partnering with the City for housing but does not have near-term plans to undertake such an initiative.

First Church of Christ, Scientist, Mill Valley (279 Camino Alto)

This church sits atop a knoll with substantial land devoted to parking, open space, and



circulation. The building itself, pictured here, is relatively small but with sweeping vistas in keeping with a spiritual center. The site could be potentially reconfigured to place a 0.75 acre housing site on it that would be located beyond the requisite wetland buffer, as shown in yellow outline here. However, this would require new access driveways and reconfigured parking lots. It is not known if the leadership of this institution would be interested in collaborating with the City of Mill Valley.

AT&T Building (300 E. Blithedale)

This site contains an historic Tudor-style 3-story commercial building on a 0.48 acre parcel, which in the past has housed both telephone operations and small commercial tenants. Its current occupancy and use are not known, although it is still owned by AT&T. The building size and condition for potential rehabilitation into affordable housing are not known. Adjacent to the building is another parcel owned by AT&T configured as a parking lot to serve the building; however most of the parking lot lies in a floodway, constraining future development. If the City wished to collaborate on the building site, it or a development partner would need to most likely purchase the site from AT&T at market rates, thereby losing the benefit of leveraging publicly-owned property as a direct subsidy to a project.

Appendix A: List of Plans and Other Resources

Marin Countywide Plan 2007 (County General Plan)

<https://www.marincounty.org/depts/cd/divisions/planning/2007-marin-countywide-plan>

Marin County Housing Element Information (for unincorporated areas of Marin County only)

<https://www.marincounty.org/depts/cd/divisions/housing/housing-element>

Mill Valley 2040 (City of Mill Valley General Plan)

<https://www.cityofmillvalley.org/gov/departments/building/planning/longrangeplannig/default.htm>

City of Mill Valley Housing Element Update 2013-2023 (note: the City will soon be updating the Housing Element for the next 8-year cycle)

<https://www.cityofmillvalley.org/civicax/filebank/blobdload.aspx?BlobID=24590>

About FEMA Flood Zones (portal to many web pages)

<https://www.fema.gov/glossary/flood-zones>

FEMA Information on Changing Flood Zone Maps (relevant for 411 Miller Ave Floodway)

<https://www.fema.gov/flood-maps/change-your-flood-zone>

Additional Explanation of FEMA Flood Zones AE AO, and Floodways Related to Insurance

<https://www.amica.com/en/products/flood-insurance/what-is-an-ae-flood-zone.html>

Appendix B: Infeasible City-Owned Lots Due to Size, Environmental, or Configuration Factors

Site Location	APN	Acres	Avg Slope (%)	Zoning	Flood-plain (a)	Flood-way	# of Units (b)	Notes
30 Corte Madera City Hall Portion of Parking Lot (by Fire Dept)	028-014-06	0.14	5.3%	O-A	AE	No	2-3 townhouses	Small site but could potentially be a few aff townhouse units
26 Corte Madera City Hall Portion of Parking Lot (by MMarket)	028-014-21	0.19	6.4%	C-D	AE	No	2-3 townhouses	Small site but could potentially be a few aff townhouse units
26 Corte Madera City Hall and Back Portion of Parking Lot	028-014-16	0.49	6.5%	O-A	AE	Yes	N/A	Floodway makes infeasible
Plaza & Parking Lot	028-013-15	0.77	1.3%	Downtown Commercial (C-D)	AE	No	N/A	Site is public plaza plus has long, narrow parking lot, which makes it challenging to design a housing project without eliminating vital downtown space. Reconfiguring developable area by adding portion of private parking lot next door on sunnyside was considered, but that parcel is in Floodway.
Parking Lot behind D'Angelos	028-061-35	0.71	8.1%	Downtown Commercial (C-D)	AE	Yes	N/A	Small street frontage, narrow lot, units would abut other buildings. Very hard to design as infill.
Portion of Com Center parking lot	030-111-09	0.50	2.0%	Community Facilities (C-F)	mixed No/AE	No	7-10 moderate income townhouses	Buildable site is smaller than parking lot due to location of Bayland Corridor boundary and required 50' setback. Site also likely has soil subsidence issues. Replacement parking may also need to be arranged. Needs further analysis.
411 Miller Miller Parking Lot	030-271-70, 030-071-28	0.54	<2.5%	Open Area (O-A) & Commercial (C-N)	AE	Yes	7-10 moderate income townhouses	Site is impacted by existing Floodway designation, but recent improvements have enable a change by FEMA. Would require hydrology studies to demonstrate and obtain change.
Notes:								
a) AE and AO indicate location in FEMA floodplain. AE indicates FEMA has established baseline flood elevation, but project could be designed to accommodate. AO indicates shallow sheet flooding without known baseline, but could be established and designed for. Both types would also require flood insurance.								
b) Assumes townhouse development at approximately 15-18 units per acre..								

Appendix D: Other City-Owned Parcels for Potential Sale

(Includes all City-Owned Parcels > minimum single family lot size of 6,000 square feet)

Location	APN	Acres	Gross Square Feet	Avg Slope (%)	Zoning	Flood-plain (a)	Flood-way	Allowed # of Units	Notes	# of Lots	Per Lot	Total
Camino Alto and Stanton Way . Not maintained by DPW	033-102-18	5.25	228,690	42.0	RSP-5A	No		1 DU/1.5 acres	steep slope	3	\$1,000,000	\$3,000,000
Vasco Court / Corner of Edna Maguire	033-240-15	0.86	37,462	16.3	RSP-2A	No		1 DU/1.5 acres	Does not meet zoning			
Vasco Court / Corner across from Edna Maguire / Creek runs through property/ Bike Path	033-240-01	0.49	21,344	20.0	RSP-2A			1 DU/1.5 acres	Does not meet zoning			
Tenderfoot Trail/Zig Zag Trail. Not maintained by DPW	046-010-25	18.59	809,780	46.2	RSP-10A	No		1 DU/1.5 acres	Trail site			
Corner of Tenderfoot trail. Land Locked/ No Access. Not maintained DPW	046-010-34	0.41	17,644	40.2	RSP-10A			1 DU/1.5 acres	Does not meet zoning			
Marsh/Margarite ROW Creek runs through site two ways.	027-272-01	0.23	9,924	19.4	RS-43	AO		7 DU/acre	Difficult to develop			
Tenderfoot trail. Not maintained by DPW	046-030-29	9.70	422,532	42.2	RS-10A	No		1 DU/1.5 acres	Nested in trails	6	\$1,000,000	\$6,000,000
Fern Canyon. Not maintained by DPW	027-066-40	2.07	90,155	61.1	RS-10A			1 DU/1.5 acres	May be 1 lot. Steep slope.	1	\$1,000,000	\$1,000,000
Next to 226 Rose. Not maintained by DPW	027-252-43	0.49	21,300	72.8	RS-10			7 DU/acre	very steep slope; likely not marketable			
Miller Grove/AE Floodway	029-101-01	11.70	509,865	20.0	O-A	AE	Yes	N/A	Floodway. Not marketable.			
Fern canyon (near old railroad grade). Not maintained by DPW	027-066-50	7.89	343,688	63.9	O-A			N/A	Not marketable due to zoning.			
cascade park (lovell and cascade)	027-106-09	7.40	322,344	24.2	O-A	AE		N/A	Not marketable due to zoning.			
Marsh/Ralston Drive/Blithedale Canyon. Not maintained by DPW	027-033-29	6.80	296,208	36.6	O-A	No		N/A	Not marketable due to zoning.			
Edgewood/Cypress/Rose. Not maintained by DPW	046-320-01	5.47	238,273	62.4	O-A			N/A	Not marketable due to zoning.			
Park/Warner Canyon (Buena Vista/Camelita)	029-192-16	4.99	217,165	11.0	O-A	AE		N/A	Not marketable due to zoning.			
Fern canyon (near old railroad grade). Not maintained by DPW	027-280-03	4.01	174,676	53.7	O-A			N/A	Not marketable due to zoning.			
MonteVista / Tenderfoot trail. Not maintained by DPW	027-162-01	3.84	167,160	49.1	O-A	No		N/A	Not marketable due to zoning.			
tenderfoot trail. Not maintained by DPW	046-030-20	3.22	140,263	39.9	O-A	No		N/A	Not marketable due to zoning.			
Evelyn/Cascade Dam. Not maintained by DPW	046-010-14	3.02	131,551	49.2	O-A	No		N/A	Not marketable due to zoning.			
Golf Club House	029-084-01	2.26	98,446	33.1	O-A	No		N/A	Not marketable due to zoning.			
Old Mill Park (lower)	028-102-12	2.08	90,605	16.4	O-A	AE	Yes	N/A	Not marketable due to zoning.			
MonteVista / Tenderfoot trail. Not maintained by DPW	027-161-26	2.00	87,120	57.5	O-A			N/A	Not marketable due to zoning.			
Old Mill Park (upper near structure/bathrooms)	028-091-09	1.73	75,359	13.6	O-A	AE		N/A	Not marketable due to zoning.			
Cascade/Throckmorton. Not maintained by DPW	027-161-15	1.39	60,600	48.7	O-A	AE		N/A	Not marketable due to zoning.			
Sycamore/Corner of MVMS/MMWD Easement	030-161-12	1.33	58,000	14.8	O-A	No		N/A	Not marketable due to zoning.			
Molino /Cascade (Other side of Old Mill Park). Not maintained by DPW	028-132-09	1.04	45,344	59.4	O-A			N/A	Not marketable due to zoning.			
Cascade/Throckmorton. Not maintained by DPW	027-161-05	1.00	43,512	47.0	O-A	AE		N/A	Not marketable due to zoning.			
MonteVista/Earnscliff Park	027-235-28	0.90	39,282	30.9	O-A	No		N/A	Not marketable due to zoning.			
Norris Memorial Park (Molino/Helens). Not Maintained by DPW	028-161-02	0.65	28,509	30.9	O-A	No		N/A	Not marketable due to zoning.			
Fairway Drive (near Golf Course). Not maintained by DPW. Between RS-10 SFR. Could be split into two lots and sold?	029-161-47	0.59	25,760	34.5	O-A	No		N/A	Not marketable due to zoning.			
Narrow ROW near Azalea/Camino Alto and Pathway. Not maintained by DPW	033-112-01	0.53	23,000	29.4	O-A	No		N/A	Not marketable due to zoning.			
Library and back of/AE Floodplain. Maintained by DPW	028-091-11	0.48	20,757	23.8	O-A			N/A	Not marketable due to zoning.			
Norris Memorial Park (Molino/Helens). Not Maintained by DPW	028-161-01	0.41	17,650	34.2	O-A			N/A	Not marketable due to zoning.			
MonteVista / Tenderfoot trail. Not maintained by DPW	046-030-23	0.39	16,944	46.5	O-A	No		N/A	Not marketable due to zoning.			
Sycamore/ROW/AE Floodplain. 18' wide.	030-101-22	0.27	11,765	10.2	O-A	AE		N/A	Not marketable due to zoning.			
Norris Memorial Park (Molino/Helens). Not Maintained by DPW	028-161-03	0.16	6,825	46.1	O-A			N/A	Not marketable due to zoning.			
Behind 700 East Blithedale/ Roque Mar /AE Floodplain. 47' wide	030-124-11	0.16	7,171	34.9	C-G	AE		29 DU/acre	Too small for cost of building in flood plain unless combined with 700 Blithedale			

Appendix D: Recent Single Family Lot Sales






	Address	Acreage	square Feet	Sale Date	Sale Price	Price/Sq. Ft. of Land	Notes
	50 Sandy Lane	1.154	50,268	10/20/2020	\$ 1,250,000	\$ 24.87	1.15 acre parcel above the Mill Valley golf course. Lot features views of the San Francisco Bay and the ridges to the West. Located at the end of a quiet cul de sac with utilities to the lot line. Near trails.
	201 Marion	0.240	10,454	3/24/2019	\$ 450,000	\$ 43.05	Appears to have slope. Site formerly had 1962 house on it (now demolished, foundation visible). Sold previously in 2016 for \$300,000.
	390 N. Ferndale	0.130	5,662	2/24/2019	\$ 559,000	\$ 98.73	Description says site has "approved plans" for 1,800 sf new home. Had former (demolished) 1918 home on it. Note: site size below min lot of 6,000 sf.
	316 W. Blithedale	0.200	8,712	7/25/2018	\$ 1,050,000	\$ 120.52	Sold 4 months earlier for \$800,000 (\$91.83 per sq. ft.). Also sold for 1.05M in 2004.
	321 Loring Avenue	0.132	5,760	6/25/2018	\$ 450,000	\$ 78.13	Description says "approved plans, shovel ready." Note: below min lot size.

EXHIBIT L



tel: 916.455.7300 · fax: 916.244.7300
510 8th Street · Sacramento, CA 95814

November 18, 2022

SENT VIA EMAIL (Reid.Miller@hcd.ca.gov)

Reid Miller
California Department of Housing and Community Development
c/o Land Use and Planning Unit
2020 W. El Camino Avenue, Suite 500
Sacramento, California 95833

RE: Additional Comments to City of Mill Valley's Draft Housing Element

Dear Mr. Miller:

On behalf of Friends of Hauke Park ("FOHP"), this letter provides additional comments regarding the City of Mill Valley's ("City") draft Housing Element that are prompted by statements made by a City official on November 16, 2022.

During a Zoom conference entitled, *Understanding the State's Housing Element Requirement and its Impacts on Marin Cities and Towns*¹, the City's Planning Director presented the City's housing inventory map and relied heavily on fire danger as reasoning for the locations, stating that "65% of Mill Valley is with a high fire danger zone." This asserted basis for excluding 65 percent of the City's land area from its site inventory is inconsistent with the City's General Plan.

Following last night's presentation, we reviewed the City's General Plan and zoning ordinance to determine if residential development is prohibited in the very high fire hazard severity zone ("Fire Zone").² It is not. To wit:

- The Land Use Element does not mention fire hazard at all. The only policy in the Land Use Element that could arguably include consideration of fire hazard provides, "LU.1-3 The residential density (dwelling units per acre) of a new or redeveloped residential development project or residential development as part of a mixed-use project may be reduced to below the minimum density established by this General Plan where there is adequate evidence in the record that the physical

¹ <https://marinpost.org/notices/2022/10/19/understanding-the-states-housing-element-requirement-and-its-impacts-on-marin-cities-and-towns>

² Figure I-2 of the City's draft Housing Element identifies the scope of the Fire Zone.

characteristics of the site (including but not limited to lot size, slope, habitat value, soil conditions, flood hazard, etc.) or other conditions identified through the environmental review process clearly indicate that the minimum density cannot be met without appropriate mitigation or is determined to be detrimental to the health, safety, or welfare of the community.” However, this language only limits density.

- **Hazard and Public Safety Element.** The Hazard and Public Safety Element discusses fire hazard areas (p. 184), but it does not provide any potential prohibitions. Additionally, Policy HZ.6-1 states, “Maintain an ongoing fire inspection program to reduce fire hazards associated with commercial and multi-family residential buildings, older buildings, critical facilities, public assembly facilities, and residential parcels in high-risk areas.” This language suggests that there are no prohibitions to building in high fire risk areas.
- **Zoning Ordinance.** We also reviewed the City’s zoning ordinances. A few ordinances mention prohibitions for residential properties in high fire areas, but they all have exceptions. Thus, there are no prohibitions.

Since the City’s General Plan does not prohibit residential development in the Fire Zone, excluding otherwise-suitable properties on this basis creates inconsistency with the General Plan. Further, the City has now made it clear that it intends to amend the Land Use Element for “consistency” with the Housing Element. If the City were legitimately concerned about residential development in the Fire Zone, then the City could concurrently amend its General Plan to prohibit residential development in the Fire Zone. Its failure to do this is telling.

This is another example of how the City’s site inventory is arbitrary and capricious, and further supports our concern that the City is intentionally constricting the scope of its housing inventory in order to justify its reliance on 1 Hamilton.

Very truly yours,

SOLURI MESERVE
A Law Corporation

By: 

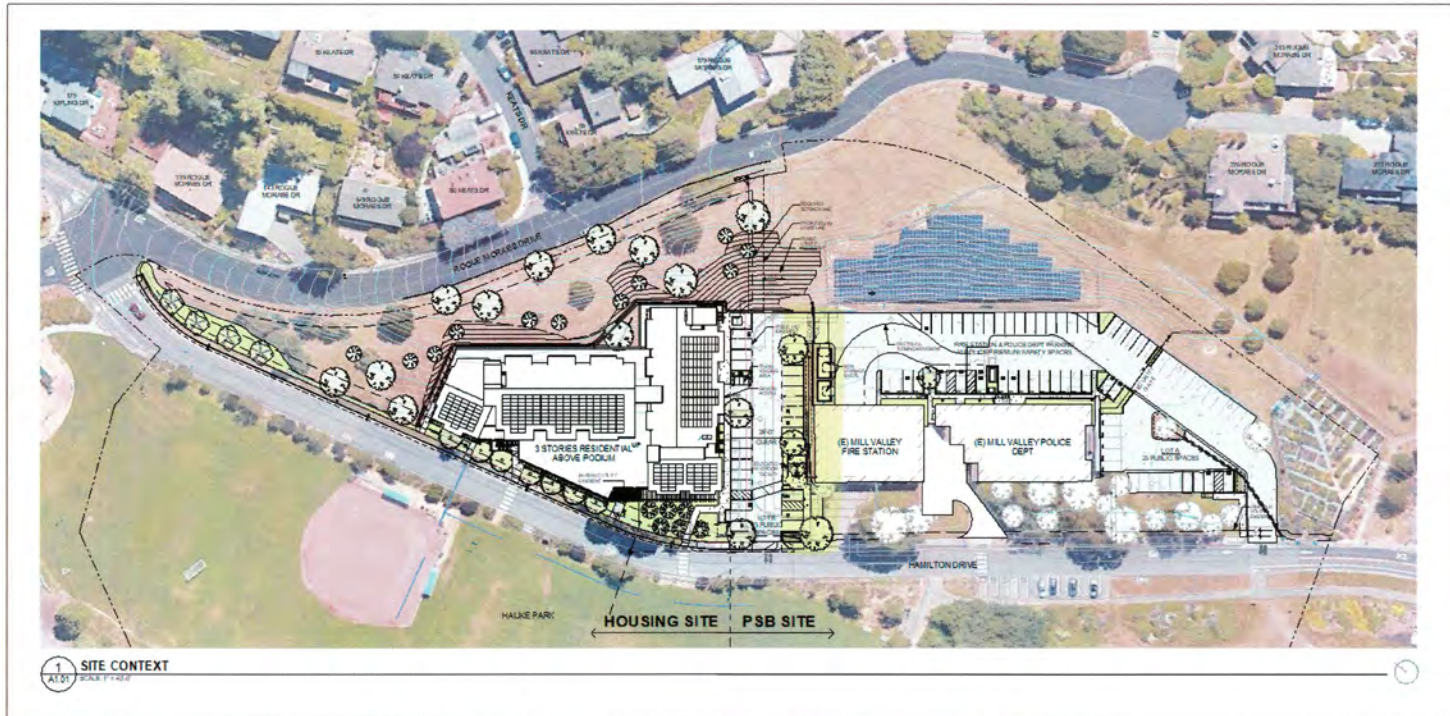
Patrick M. Soluri

cc: City of Mill Valley:
Jim Wickham, Mayor
(jwickham@cityofmillvalley.org)

Reid Miller
California Department of Housing and Community Development
November 18, 2022
Page 3 of 3

Urban Carmel, Vice Mayor
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EXHIBIT M



Source: Design Review Plans dated August 2023, Sheet A1.01.

Perimeter Surrounded by Urban Uses: 21.58%

Perimeter Not Surrounded by Urban Uses: 78.42%

***Highlighted Portion are Urban Uses**

Figure 4-1. Project Site Plan

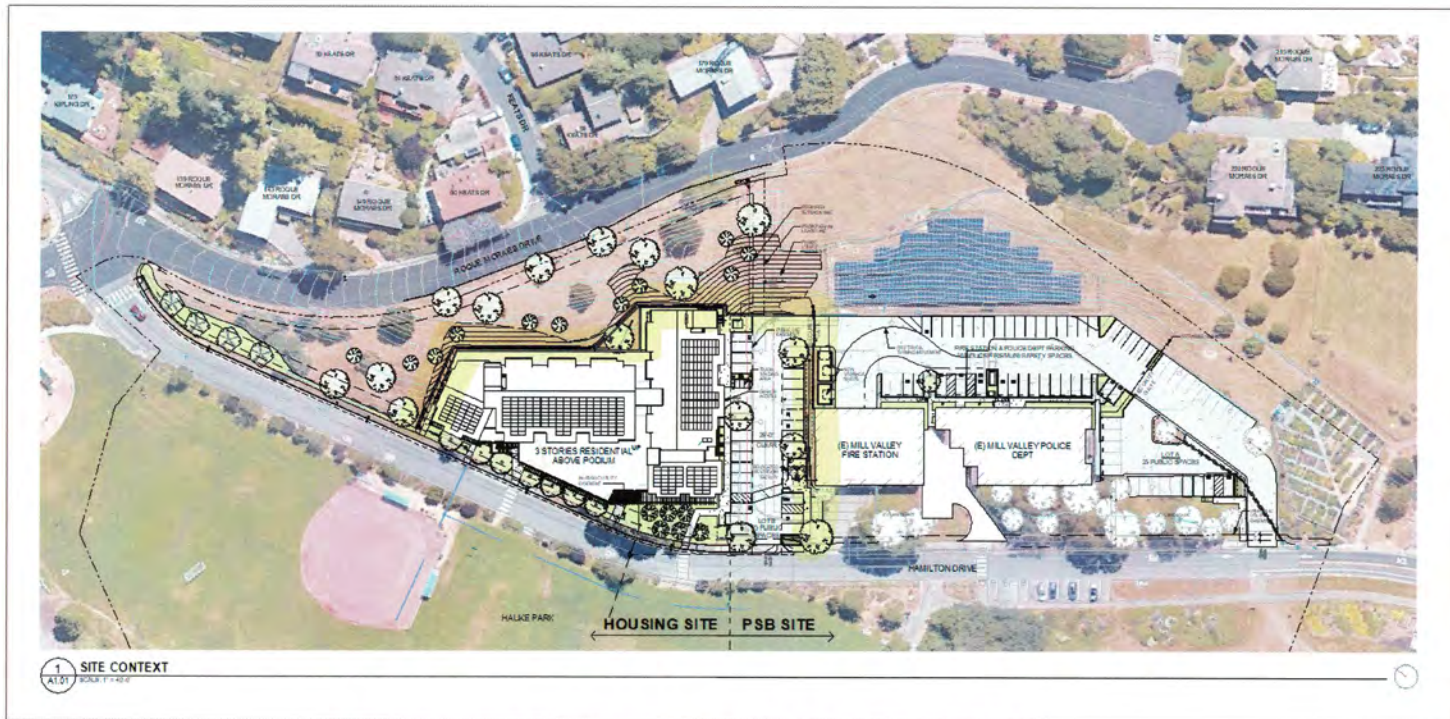
1 Hamilton Drive Affordable Housing Development
Mill Valley, California



Figure 4-1. Project Site Plan



EXHIBIT N



Source: Design Review Plans dated August 2023, Sheet A1.01

Perimeter Surrounded by Urban Uses: 63.92%

Perimeter Not Surrounded by Urban Uses: 36.08%

***Highlighted Portion are Urban Uses**

Figure 4-1. Project Site Plan

1 Hamilton Drive Affordable Housing Development
Mill Valley, California



Figure 4-1. Project Site Plan



EXHIBIT O



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January 20, 2023

SENT VIA EMAIL

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Office of the Attorney General
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Sacramento, California 95814-2919

**RE: Mill Valley Housing Element and Land Use Element Update EIR
State Clearinghouse Number 2013052005**

Dear Messrs. Morgan, Miller, and Bonta:

This letter is submitted on behalf of our client, Friends of Hauke Park ("FOHP"). FOHP opposes the City of Mill Valley's ("City") unlawful campaign of steering affordable housing projects away from the City's most wealthy neighborhoods to its least affluent — neighborhoods that already contain 100 percent of the City's public housing. FOHP also opposes the City's effort to use its Housing Element Update as the legal imprimatur for flagrantly violating its duty of affirmatively further fair housing ("AFFH").

On November 17, 2022, we wrote to the State Clearinghouse and the California Department of Housing and Community Development ("HCD") opposing the City of Mill Valley's ("City") effort to seek a shortened public review period on its Draft EIR for the City's General Plan Housing and Land Use Element Updates. (See Exhibit 1.)

Following submission of that letter, HCD submitted extensive comments to the City regarding its Draft Housing Element Update, including in relevant part:

HCD received a number of comments related to zoning and AFFH, particularly in relation to *the City's apparent lack of units affordable to lower income West of Camino Alto*. Many commentors also voiced concerns that, of the over seventy City-Owned sites in the City, only one was chosen to accommodate housing lower-income. *HCD encourages the City to consider these comments.*

(See Exhibit 2, p. 13, italic added.)

Undeterred by HCD's comments, and in an apparently misguided effort to dodge meaningful public review for its Housing and Land Use Element Updates, the City has now released a Draft EIR for the 45-day public comment period even though the City's final Housing Element Update has not been prepared or submitted to HCD for its approval. (See Exhibit 3.)¹

We are aware of the legal authority providing that projects may change over time for practical reasons. (See, e.g., *East Sacramento Partnership for a Livable City v. City of Sacramento* (2016) 5 Cal.App.5th 281, 292.) Here, however, the underlying project has not even been formulated by the City. HCD submitted extensive comments identifying deficiencies in a number of areas, explaining "revisions will be necessary to comply with State Housing Element Law." (Exhibit 2, p. 1.) The City confirmed that it has not yet completed a final Housing Element Update in response to those comments.² The City's release of a Draft EIR without first defining the underlying project results in a fatally defective public comment period.

The City's action results in significant prejudice to public review. As we wrote to the City, "The public cannot possibly review and comment on the adequacy of the DEIR's analysis of the Housing Element Update without having access to the Housing Element Update." (Exhibit 4.) The public cannot determine whether the Draft EIR is

¹ The City has not released even a preliminary draft of the Land Use Updates that are purportedly analyzed in the Draft EIR released for public review.

² The City has confirmed that it is presently "working on" the revised draft Housing Element Update, which the City refused to provide, and would consist of revised plans and policies requiring new analysis for the first time "in the FEIR." (Exhibit 4.)

accurately representing, much less analyzing, the City's underlying planning action without the ability to review the text of the underlying planning documents.

This concern is based on the City's prior misrepresentations regarding the nature of this underlying planning effort. On July 20, 2022, the City released a Notice of Preparation ("NOP") for the project. We submitted extensive comments explaining how the City was not accurately explaining the nature of existing conditions and the proposed project's impact on development at the One Hamilton site, which the City now proposes for affordable housing. (Exhibit 5.) In response to these comments, the City prepared an "errata" to its NOP. (Exhibit 6.)

Prior to the release of the City's "errata" to the NOP, the City misrepresented the nature of the underlying housing site inventory work that is now incorporated into the City Housing Element Update. Public commenters questioned why the City utilized a separate process to identify publicly-owned residential sites in light of the City's Housing Element Update that was being drafted at the same time. Purporting to respond directly to these concerns, Mayor McCauley asserted at the February 7, 2022, Council meeting that the City's Housing Element Update process was "completely" separate from The Housing Workshop process identifying suitable City-owned sites:

Another thing, there is a confusion here about the idea of doing an analysis of regional housing needs authority or RHNA sites and the city site analysis that was done as a part of the HAC housing advisory committee, we went down two paths. One path was can we find surplus land we can sell to raise money to provide the ability to develop land with another party maybe a church or whatever. The second process we had was can the city on its own find a site that we can offer to a developer, a low-income mission driven developer to create a site. ***That is completely different than the analysis which is going on to find out where we are going to come up with these 865 units for RHNA which is all generally private property. They are completely different things,*** so I just want to make sure that people understand that difference.

(Mill Valley City Council Meeting, February 7, 2022, at 3:03:00³ [emphasis added].) The subsequently-released draft Housing Element revealed the Mayor's characterization to be false. The Housing Element's analysis of suitable City-owned sites expressly relies on

³ The meeting can be accessed at https://cityofmillvalley.granicus.com/MediaPlayer.php?view_id=2&clip_id=1694.

The Housing Workshop's analysis for its inventory of City-owned suitable sites. (Draft Housing Element, pp. III-11; see also p. C-2.)

The old proverb "trust but verify" applies here. Without being able to review the City's Housing Element Update and Land Use Element Update,⁴ the public will not be able to determine whether additional such misrepresentations are contained in the Draft EIR. The Draft EIR's unsubstantiated representations that non-final, non-public planning documents constitute the project under review is inadequate.

These issues have heightened significance because the City contends that it will "tier" from this EIR for purposes of its CEQA review of the One Hamilton Project, which is an affordable housing project. (See Exhibit 7.) Continuing its practice of misrepresenting the nature of its actions, the NOP conspicuously fails to disclose that a General Plan Amendment altering the property's General Plan land use designation is a necessary project approval for the proposed affordable housing project at One Hamilton. (See Exhibit 7, p. 6 ["Project Approvals"].) Engaging in deliberate piecemealing by entitlement, the City claims that all project entitlements for One Hamilton will be analyzed in the One Hamilton EIR save one: the change to the site's General Plan land use designation will be "analyzed" on a "programmatic basis" in the Housing Element Update EIR as the City begrudgingly acknowledged in its "errata" to the NOP. (Exhibit 6, p. 6 ["In order to build affordable housing on the site, a separate parcel will be created with rezoning and land use amendments required"].)

We have included the Attorney General's Office as a recipient of this letter because of heightened public scrutiny for those "opposing" an affordable housing project. We are aware of the Attorney General's amicus brief and press release in the *Save Livermore Downtown v. City of Livermore* case. To the extent the Attorney General's Office is now inclined to take a more active role regarding individual affordable housing projects, we urge the Attorney General's Office to review this matter in detail with the goal of learning whether City officials have intentionally run interference for Mill Valley's most wealthy and influential residents in order to steer affordable housing projects to Mill Valley's least affluent areas, which already contain 100 percent of Mill Valley's existing public housing.

We have submitted numerous letters to the City documenting these concerns in detail, which have all fallen on deaf ears.⁵ HCD, for its part, "encourages the City to

⁴ The City has never circulated any draft of its proposed Land Use Element Update.

⁵ We stand ready to share this documentation with the Attorney General's Office.

consider these comments.” As explained above, the City's recent release of its Draft EIR means that HCD's suggestion has also been ignored. Any meaningful investigation into the One Hamilton project would need to directly address the following:

- The City inexplicably contracted with The Housing Workshop to identify suitable publicly-owned sites pursuant to a process that was purportedly separate from its Housing Element Update that is intended to identify all suitable housing, but which was ultimately relied upon in the Housing Element.
- The Housing Workshop's analysis of suitable publicly-owned sites relied on criteria that deviated sharply from HCD criteria for identifying suitable sites (e.g., 10 percent slope versus 50 percent slope, 0.75 acre minimum versus 0.5 acre minimum). It also arbitrarily dismissed many properties based on claims of fire hazard that are unsupported by the City's own planning documents.
- The Housing Workshop report excluded dozens of properties without analysis because they were not zoned for residential development, but ultimately selected One Hamilton – a site that is also not zoned for residential development in addition to the General Plan prohibition on residential development.
- The City is insisting on including the One Hamilton site in its Housing Element Update even though the City claims that development on that site is not necessary for the City to meet in RHNA obligations and the site's General Plan land use designation prohibits all residential uses.
- The City is piecemealing its CEQA review for the One Hamilton project by purporting to rely on two separate EIRs for the same “whole of the action” — one EIR would analyze the change in One Hamilton's General Plan land use designation admittedly “for the sole purpose of building affordable housing” (Draft Housing Element Update, p. C-2), and a second, concurrent EIR would analyze all other project entitlements for that very same development. (Exhibit 7.) This is an obvious violation of CEQA Guidelines section 15378. Further, and more insidious, this piecemealing would set the stage for a false narrative that the proposed affordable housing project at One Hamilton is “consistent” with the City's General Plan for purposes of Government Code section 65589.5, even though the site's current General Plan land use designation prohibits any residential development.

Governor's Office of Planning and Research;
Housing and Community Development; and
Attorney General's Office
January 20, 2023
Page 6 of 7

We urge the State Clearinghouse to reject as incomplete the City's Notice of Availability of the Draft EIR. We recognize the unusual nature of this request, but respectfully submit it is appropriate in light of the City's continuing effort to thwart public review of its unscrupulous actions. We also urge HCD and Attorney General's Office to investigate the City's conduct with respect to the proposed affordable housing project at the One Hamilton site and its abuse of CEQA and the Housing Accountability Act to steer affordable housing away from Mill Valley's most affluent neighborhoods.

Very truly yours,

Soluri Meserve
A Law Corporation

By:



Patrick M. Soluri

PS/mre

Attachments:

- Exhibit 1 Soluri Meserve letter dated November 17, 2022
- Exhibit 2 Department of Housing and Community Development letter dated November 21, 2022
- Exhibit 3 Notice of Completion and Availability: Draft Subsequent Environmental Impact Report for the City of Mill Valley's 2023-2031 Housing Element Update
- Exhibit 4 Emails exchange between Soluri Meserve and the City on January 17 and 19, 2023
- Exhibit 5 Soluri Meserve letter dated July 29, 2022
- Exhibit 6 Errata to Notice of Preparation to the City of Mill Valley 2023-2031 Housing and Land Use Elements Updates and Zoning Amendments
- Exhibit 7 Notice of Preparation of Draft Environmental Impact Report, City of Mill Valley, 1 Hamilton Drive Affordable Housing Development

Governor's Office of Planning and Research;
Housing and Community Development; and
Attorney General's Office
January 20, 2023
Page 7 of 7

cc:

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EXHIBIT 1



tel: 916.455.7300 · fax: 916.244.7300
510 8th Street · Sacramento, CA 95814

November 17, 2022

SENT VIA EMAIL

(scott.morgan@opr.ca.gov; reid.miller@hcd.ca.gov)

Scott Morgan
Governor's Office
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State Clearinghouse Unit
1400 Tenth Street
Sacramento, California 95814

Reid Miller
California Department of Housing and
Community Development
c/o Land Use and Planning Unit
2020 W. El Camino Avenue, Suite 500
Sacramento, California 95833

**RE: Mill Valley Housing Element and Land Use Element Update EIR
State Clearinghouse Number 2013052005
Opposition to Shortened Public Review**

Dear Messrs. Morgan and Miller:

On November 7, 2022, the City of Mill Valley's ("City") city council ("Council") voted to authorize its city manager to request a shortened public comment period regarding an environmental impact report ("EIR") for updates to the City's Housing and Land Use Elements.¹ (See **Exhibit 1**.)

On behalf of Friends of Hauke Park ("FOHP"), this firm recently submitted comments to the Department of Housing and Community Development ("HCD") explaining that the City's draft Housing Element Update violates the City's duty to affirmatively further fair housing by proposing to build affordable housing (the "1 Hamilton project") in the one area of the City already containing 100 percent of the

¹ The City misleads the public by referring to the EIR as the "Housing Element SEIR." In fact, the underlying action to be analyzed at a "programmatic" level includes revisions to the City's Land Use Element. The original Notice of Preparation's ("NOP") failure to adequately disclose this aspect of the underlying project required the City to later prepare and circulate an "Errata" to its NOP. (See **Exhibit 2** (Soluri Meserve letter dated July 29, 2022) and **Exhibit 3** (September 15, 2022 Errata to NOP).)

City's existing public housing², and is further attempting to impermissibly bootstrap its land use approvals of the 1 Hamilton project to the EIR. Incredibly, following our submission of that letter to HCD, the City is now attempting to frustrate FOHP's future public involvement by requesting a reduced public comment period on the EIR.

This letter urges denial of the City's request for a shortened public comment period on the EIR for two reasons. First, the City's justification for shortened review fails to comply with CEQA Guidelines Appendix K. Second, the City's actual purpose for seeking public review is to frustrate efforts to demonstrate that the City's EIR abuses the tiering process.

1. The City's justification for shortened review fails to comply with CEQA Guidelines Appendix K.

CEQA Guidelines Appendix K sets forth five circumstances justifying a shortened CEQA public review period:

A shortened review period may be granted when any of the following circumstances exist:

- (1) The lead agency is operating under an extension of the one-year period for completion of an EIR and would not otherwise be able to complete the EIR within the extended period.
- (2) The public project applicant is under severe time constraints with regard to obtaining financing or exercising options which cannot be met without shortening the review period.
- (3) The document is a supplement to a draft EIR or proposed negative declaration or mitigated negative declaration previously submitted to the State Clearinghouse.
- (4) The health and safety of the community would be at risk unless the project is approved expeditiously.
- (5) The document is a revised draft EIR, or proposed negative declaration or mitigated negative declaration, where changes in

² A city's duty to affirmatively further fair housing requires it to "promote housing throughout the community." (Gov. Code, § 65583, subd. (c)(5).)

the document are primarily the result of comments from agencies and the public.

The Council's staff report approving the request for shortened review makes no reference to Guidelines Appendix K, much less analyzes, how the City's asserted justification falls under Appendix K's five permissible circumstances. Instead, the City's staff report provides in relevant part:

The City is more likely to meet this deadline if the Housing Element SEIR is subject to a reduced public review period of 30 days (instead of the typical 45-day period). Staff recommends that the City request that the State Clearinghouse approve this reduced 30-day public review period, with agreement from all responsible agencies, as required by state law, in an effort to meet its deadline and avoid associated penalties.

(Exhibit 1, p. 2.)

The City's justification does not fall within the five circumstances in Appendix K. The closest possible circumstance is subdivision (2), but the City provides no authority suggesting that "avoid[ing] associated penalties" is analogous to "severe time constraints with regard to obtaining financing or exercising options which cannot be met without shortening the review period." The two justifications are not similar at all.

In summary, the City offers no legally-cognizable justification for a shortened public review. We respectfully submit that the City's request must be rejected on that basis alone regardless of any concerns about improper motives set forth below.

2. The City's true reason for requesting shortened review is to thwart submission of evidence regarding the City's abuse of the tiering process.

The record suggests that the City's true motive for requesting shortened review is to thwart submission of anticipated public comments showing that the City is abusing CEQA's tiering process in the EIR. Specifically, and as highlighted in the errata to its NOP, the underlying project to be analyzed in the EIR includes changing the General Plan land use designation for the 1 Hamilton project site in order to eliminate the longstanding and current prohibition on all residential uses so as to justify identifying that property as "suitable" for residential dwelling in the Housing Element and, more importantly, pave the way for a specific housing project that has all but been designed. (See **Exhibit 4** [City website dated October 20, 2022, providing project update for 1 Hamilton and Housing Element EIR].)

Following the City's begrudging acknowledgement that the "Housing Element SEIR" would also include changes to 1 Hamilton's land use designation, FOHP explained that the EIR could not rely on "programmatic" review for 1 Hamilton because ample project detail was available to assess that specific development project on a project-level basis. (**Exhibit 5**, Soluri Meserve letters dated August 15 and 30, 2022.) Intent upon glossing over 1 Hamilton's impacts through inappropriate programmatic review, the City repeats the same false mantra that it has insufficient information about the proposed 1 Hamilton project. (**Exhibit 6**, City Attorney letter dated August 26, 2022.) FOHP has repeatedly demonstrated that this is false (See **Exhibit 7**, Soluri Meserve letter dated August 22, 2022; see also **Exhibit 5**), which is further reinforced by the City's own website post on October 20, 2022 (See **Exhibit 4**).

Put simply, the City anticipates that FOHP intends to submit evidence during the Draft EIR's public comment period regarding inadequate analysis of the 1 Hamilton project in part vis-à-vis false claims of inadequate project detail regarding 1 Hamilton. (See, e.g., *Laurel Heights Improvement Assn. v. Regents of the Univ. of Cal.* (1988) 47 Cal.3d 376, 396-397 ["there is telling evidence that the University, by the time it prepared the EIR, had either made decisions or formulated reasonably definite proposals as to future uses of the building"].) The City is now attempting to thwart that effort through a shortened public comment period. The City's strategy cannot be sanctioned.

* * *

For the reasons described herein, we urge the State Clearinghouse, along with the California Housing and Community Department and the project's other CEQA responsible and trustee agencies, to deny the City's request for shortened public review for the City's "Housing Element SEIR."

Very truly yours,

Soluri Meserve
A Law Corporation

By:



Patrick M. Soluri

Attachments:

- Exhibit 1 City Council Staff Report dated November 7, 2022
- Exhibit 2 Soluri Meserve letter dated July 29, 2022

- Exhibit 3 Errata to NOP dated September 15, 2022
- Exhibit 4 City's website dated October 20, 2022, providing project update for 1 Hamilton and Housing Element EIR
- Exhibit 5 Soluri Meserve letters dated August 15 and 30, 2022
- Exhibit 6 City Attorney letter dated August 26, 2022
- Exhibit 7 Soluri Meserve letter dated August 22, 2022

cc:

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EXHIBIT 1



STAFF REPORT

TO: Mayor and City Council

FROM: Danielle Staude, Senior Planner
Patrick Kelly, Director of Planning and Building

SUBJECT: Authorize City Manager to Request Reduced SEIR Public Review Period of 30 Days for Housing Element

DATE: November 7, 2022

Approved for Forwarding:

Todd A. Cusimano, City Manager

- 1 **Issue:** The deadline for adopting the City’s Housing Element is January 31, 2023. Pursuant to the
2 California Environmental Quality Act (CEQA), the City is preparing a subsequent EIR (SEIR) to
3 analyze the potential environmental impacts of the City’s Housing Element. An SEIR typically is
4 subject to a 45-day public review period, but the City may request that the State approve a shorter
5 review period of 30 days. To meet the January 31, 2023 deadline, staff would like to seek State
6 approval of the shorter public review period.
7
- 8 **Recommendation:** Approve Resolution ___, authorizing the City Manager to request a public
9 review period of 30 days for the Housing Element SEIR.
10
- 11 **Background:** The State of California requires every municipality to periodically update the
12 Housing Element of its General Plan to review the housing needs of the community and revise its
13 policies, programs and objectives to address those needs. Jurisdictions in the Bay Area, including
14 the City of Mill Valley, must update their Housing Element for the 2023-2031 planning period.
15 This is the 6th Housing Element Update cycle for the Bay Area region. The City is required to
16 adopt its Housing Element by January 31, 2023.¹

¹ The Bay Area deadline for housing element adoption is January 31, 2023, but there has been confusion about whether there is a 120-day extension or “grace period” after that deadline. The so-called “grace period” refers to a secondary deadline that affects the timeframe in which a local jurisdiction must complete any rezoning action required by housing element law. If a local jurisdiction in the Bay Area fails to adopt an HCD-approved housing element by May 31, 2023, the jurisdiction will be required to complete any

City Council

Request for Reduced Housing Element SEIR Public Review Period of 30 Days

November 7, 2022

17 Pursuant to CEQA, the City is preparing an SEIR for the Housing Element, which will be
18 submitted to the State Clearinghouse for public review by state agencies prior to the adoption of
19 the Housing Element. The public review period for an SEIR is 45 days, unless a shorter public
20 review period, not less than 30 days, is approved by the State Clearinghouse.²

21
22 **Discussion:** There are severe penalties for jurisdictions that do not comply with State Housing
23 Element law and the applicable deadlines.³ If the Housing Element SEIR is subject to the typical
24 45-day public review period, the City may not be able to meet the January 31, 2023 deadline to
25 adopt the Housing Element. In an effort to avoid penalties associated with missing the deadline,
26 the City should make every effort to adopt its Housing Element by January 31, 2023.

27
28 The City is more likely to meet this deadline if the Housing Element SEIR is subject to a reduced
29 public review period of 30 days (instead of the typical 45-day period). Staff recommends that the
30 City request that the State Clearinghouse approve this reduced 30-day public review period, with
31 agreement from all responsible agencies, as required by state law, in an effort to meet its deadline
32 and avoid associated penalties.

33
34 **Fiscal Impact:**
35 The City will incur minimal costs associated with staff and attorney submission of a request to
36 shorten the timeframe for review of the SEIR.

37
38 **Attachments:**
39 1. Resolution No. 22-___, A Resolution Delegating Authority to the City Manager to Request
40 a Reduced Public Review Period for the Housing Element Subsequent Environmental
41 Impact Report Pursuant to CEQA Guidelines Section 15105.

necessary rezoning by January 31, 2024 to avoid an HCD enforcement action and potential revocation of HCD approval of the housing element.

² CEQA Guidelines section 15105(a).

³ <https://www.cityofmillvalley.org/DocumentCenter/View/2473/Consequences-of-Non-Compliance-with-Housing-Laws?bidId>

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RESOLUTION NO. 22-___

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF MILL VALLEY DELEGATING AUTHORITY TO THE
CITY MANAGER TO REQUEST A REDUCED PUBLIC
REVIEW PERIOD FOR THE HOUSING ELEMENT
SUBSEQUENT ENVIRONMENTAL IMPACT REPORT
PURSUANT TO CEQA GUIDELINES SECTION 15105**

**THE CITY COUNCIL OF THE CITY OF MILL VALLEY HEREBY FINDS AND
RESOLVES AS FOLLOWS:**

SECTION 1. The State of California requires every municipality to periodically update the Housing Element of its General Plan to review the housing needs of the community and revise its policies, programs and objectives to address those needs. Jurisdictions in the Bay Area such as the City of Mill Valley (“City”) must update their Housing Element for the 2023-2031 planning period. This is the 6th Housing Element Update cycle for the Bay Area region.

SECTION 2. The City is required to adopt its Housing Element by January 31, 2023, or face severe penalties.

SECTION 3. Pursuant to the California Environmental Quality Act (CEQA), a subsequent Environmental Impact Report (SEIR) must be prepared for the Housing Element and submitted to the State Clearinghouse for public review by state agencies prior to the adoption of the Housing Element.

SECTION 4. Pursuant to CEQA Guidelines 15105, the SEIR public review period is 45 days unless a reduced public review period, not less than 30 days, is approved by the State Clearinghouse.

SECTION 5. In an effort to meet the January 31st, 2023 deadline to adopt the Housing Element, the City seeks to request an SEIR public review period of 30 days pursuant to CEQA Guidelines section 15105.

SECTION 6. The City Council finds that all of the above recitals are true and correct.

SECTION 7. The City Council hereby authorizes the City Manager to request from the State Clearinghouse a reduced public review period of 30 days for its Housing Element SEIR pursuant to CEQA Guidelines section 15105.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Mill Valley on the 7th day of **November, 2022**, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Jim Wickham, Mayor

ATTEST:

Hannah Politzer, City Clerk/Management Analyst III

ATTACHMENT 1

EXHIBIT 2



tel: 916.455.7300 · fax: 916.244.7300
510 8th Street · Sacramento, CA 95814

July 29, 2022

SENT VIA EMAIL (dstaude@cityofmillvalley.org)

Danielle Staude, Project Planner
City of Mill Valley
Mill Valley City Hall
26 Corte Madera Avenue
Mill Valley, CA 94941

RE: Public Comments to Mill Valley's Draft Housing Element

Dear Ms. Staude:

On behalf of Friends of Hauke Park ("FOHP"), this letter provides comments regarding Mill Valley's Draft Housing Element. As set forth more fully below, the City's reliance on 1 Hamilton to meet its Regional Housing Needs Assessment ("RHNA") is arbitrary and lacks evidentiary support. The Draft Housing Element's discussion of 1 Hamilton is also misleading and at times demonstrably erroneous. The City must provide a credible explanation for excluding dozens of City-owned sites that contain similar characteristics as 1 Hamilton.

Government Code section 65583.2 requires a city to inventory land that is suitable for residential development and must further identify sites that can be developed for housing within the planning period. The purpose of this inventory is to show that the City has sufficient housing to meet its RHNA requirements. (Gov. Code, § 65583.2, subd. (a).) Land that is suitable for residential development includes, "Sites zoned for nonresidential use that can be redeveloped for residential use, and for which the housing element includes a program to rezone the site, as necessary, to permit residential use, including sites owned or leased by a city, county, or city and county." (*Id.* subd. (a)(4).)

"If a housing element contains the elements mandated by the statute, it will be found to conform with state law unless it is 'arbitrary, capricious, or entirely lacking in evidentiary support.'" (The California Municipal Law Handbook, § 10.27, quoting *Fonseca v. City of Gilroy* (2007) 148 Cal.App.4th 1174, 1191.) The City's Draft Housing Element has arbitrarily excluded nearly all City-owned sites from the Sites Inventory. Further, the Sites Inventory includes 40 low-income units from a property zoned Open Area, which prohibits residential development. The City's conclusions lack evidentiary support and are the result of an insidious scheme to keep affordable housing out of downtown and select wealthy neighborhoods in Mill Valley.

I. THE 1 HAMILTON SITE REQUIRES A GENERAL PLAN AMENDMENT AND REZONING

A. Neither General Plan Designation “Community Facilities” nor Zoning Designation “O-A” Permit Residential Development

The Draft Housing Element asserts that 1 Hamilton’s zoning allows for residential development. This is inexcusably false and misleading. 1 Hamilton’s General Plan designation is Community Facilities (Land Use Element, p. 25), and its zoning designation is Open Area (“O-A”) (Current Housing Element, p. C-19). Both designations prohibit residential development. The Land Use Element’s Community Facilities description includes, “All City facilities including City golf course, parks, City Hall, Community Center, Public Safety Building, etc.; public schools and private schools.” (Land Use Element, p. 24.) It also states that the residential density range is not applicable. (*Ibid.*) Further, the Draft Housing Element states, “The OA and CF Zoning Districts do not permit residential use on the property.” (Draft Housing Element, p. C-2.) Thus, there is no question that residential uses are prohibited on parcels designated as Community Facilities or zoned as O-A. 1 Hamilton is both.

The City has been consistent in its prohibition of residential development on parcels zoned as O-A. The language in the Current Housing Element shows that the City never intended to include O-A zoned parcels in its publicly-owned inventory. Program Objective 12 states, “By 2018, prepare an inventory of publicly-owned land **that is not already zoned for open space**, including parking lots, and examine the feasibility of their use of housing. Consider modifying the City’s zoning regulations to allow residential uses in the C-F zone subject to the approval of a conditional use permit.” (Current Housing Element, p. II-12 [bold added].)

As a result of these prohibitions, any development proposed on land that is zoned O-A would require a General Plan amendment and rezoning. The Draft Housing Element fails to discuss this requirement for 1 Hamilton and so falsely claims that residential development is allowed on this site. It is not. This misrepresentation is so blatant that one can only surmise that it is intentional by City officials, which is inexcusable.

B. The Draft Housing Element Fails to Describe the Process Required to Develop 1 Hamilton

The City has previously represented the need to amend 1 Hamilton’s land use designation and zoning in order to allow residential development. A staff report from the February 7, 2022, City Council meeting plainly states that both a General Plan

Amendment and Rezoning of the parcel would occur between February through June 2023. (Exhibit A, February 7, 2022, City Council Staff Report re: 1 Hamilton Drive, p. 25, Exhibit B.) However, the Draft Housing Element fails to mention that 1 Hamilton requires both legislative actions in order to be developed. Ignoring this reality, the Draft Housing Element includes 1 Hamilton as part of the Site Inventory that calculates potential units from “existing zoning.” (Draft Housing Element, p. III-4; see also p. III-10 [Table 3.7 indicates 1 Hamilton could accommodate 40 units as currently zoned].)

The City’s Draft Housing Element has inexplicably chosen to whitewash the inescapable fact that 1 Hamilton allows no residential units whatsoever under “existing zoning.” As part of its arbitrary and capricious scheme to manufacture rationale for limiting affordable housing to 1 Hamilton, the City has failed to comply with its duty under state law to identify all suitable properties for housing.

To the extent the Draft Housing Element’s mischaracterization of 1 Hamilton’s “current” zoning is premised on the City’s intention to revise 1 Hamilton’s General Plan land use designation and zoning designation as part of the proposed Land Use Element update, the EIR will need to fully analyze on a project level the proposed housing project. (See CEQA Guidelines, §§ 15378, subd. (a) [a project is the “whole of an action” which may result in direct or indirect physical changes to the environment]; 15126 [EIR’s impact analysis must consider all phases of a project]; *Laurel Heights Improvement Assn. v. Regents of the Univ. of Cal.* (1988) 47 Cal.3d 376 [EIR must analyze “reasonably foreseeable consequence” of a project].) The Draft Housing Element does not indicate that the City intends to comply with this duty, and the City’s past conduct suggests that it may attempt to misuse the concept of “tiering” to evade full public disclosure.

II. THE CITY ARBITRARILY RELIES ON THE HOUSING WORKSHOP AND OTHER CRITERIA TO UNLAWFULLY EXCLUDE NUMEROUS CITY-OWNED PARCELS

As explained above, the City has a duty to prepare an inventory of land that is suitable for residential development in order to show that the City has sufficient housing to meet its RHNA requirements. (Gov. Code, § 65583.2, subd. (a).) The shifting and inconsistent explanation for its planning process in this regard reveals that it is failing to comply with that duty.

Although the City previously stated that the Housing Workshop is a completely separate process from its RHNA analysis, the Draft Housing Element now reveals that the City is relying on that process to identify — or, more accurately, exclude — suitable land for its RHNA requirements. By doing so, the Draft Housing Element arbitrarily narrows

the potential sites where residential housing could be located in violation of its duties under state law.

A. The City Previously Claimed That the Housing Workshop Findings are a Separate and Distinct Analysis

The City hired a consultant to prepare an analysis of City-owned parcels that could be developed for affordable housing. After excluding more than 100 sites for various reasons, the analysis concluded that the City should conduct additional analysis on only four different sites. (The Housing Workshop, p. 2.) The Housing Workshop's analysis was patently perfunctory, and public commenters questioned why this separate process was occurring at all in light of the City's Housing Element Update that was being drafted at the same time. (Exhibit B, February 4, 2022, Letter re: Public Comments to February 7, 2022, City Council Meeting, Agenda Item 6 re: 1 Hamilton Drive, pp. 1-3.) Purporting to respond directly to these concerns, Mayor McCauley asserted at the February 7, 2022, Council meeting that the RHNA process is completely separate from the Housing Workshop process. He stated in relevant part:

Another thing, there is a confusion here about the idea of doing an analysis of regional housing needs authority or RHNA sites and the city site analysis that was done so as a part of the HCC hazard advisory committee we went down two paths. One path was can we find surplus land we can sell to raise money to provide the ability to develop land with another party maybe a church or whatever. The second process we had was can the city on its own find a site that we can offer to a developer, a low-income mission driven developer to create a site. **That is completely different than the analysis which is going on to find out where we are going to come up with these 865 units for RHNA which is all generally private property.** They are completely different things, so I just want to make sure that people understand that difference.

(Mill Valley City Council Meeting, February 7, 2022, at 3:03:00¹ [bold added].)

The Draft Housing Element now reveals the Mayor's statements to be false. Public comments were not confused. Rather, it was the Mayor who was either confused or intentionally misrepresented the relationship between the Housing Workshop's analysis and the Housing Element Update. There is no question that the Draft Housing

¹ The meeting can be accessed at https://cityofmillvalley.granicus.com/MediaPlayer.php?view_id=2&clip_id=1694.

Element expressly relies on the Housing Workshop’s analysis to exclude suitable properties. (Draft Housing Element, pp. III-11, C-2.) As explained more fully below, the Draft Housing Element’s reliance on the Housing Workshop’s analysis means that the City has not complied with its duties under state law.

B. The Draft Housing Element Excludes Numerous City-Owned Parcels Without Adequate Explanation or Factual Support

Although the City claimed that the RHNA process is completely separate from the Housing Workshop process, the City nevertheless based the Draft Housing Element’s entire discussion of City-owned properties on the Housing Workshop’s analysis. For example, the Housing Workshop analysis determined that 27 of 38 City-owned sites were “not marketable due to zoning,” all of which are zoned O-A. (The Housing Workshop, p. 19.) The Draft Housing Element uncritically adopted these parameters, which resulted in the improper exclusion of properties from the Draft Housing Element. (Compare The Housing Workshop, p. 19 with the Draft Housing Element, Sites Inventory List.)

A housing element is required to include land suitable for residential development, including “Sites zoned for nonresidential use that can be redeveloped for residential use, and for which the housing element includes a program to rezone the site, as necessary, to permit residential use, including sites owned or leased by a city, county, or city and county.” (Gov. Code, § 65583.2, subd. (a)(4).) Thus, the statute requires the City to include City-owned sites that are currently zoned nonresidential, but could be redeveloped for residential use. The Draft Housing Element follows a similar procedure for Program 21, which rezones 300 East Blithedale from RM3.5 to Downtown Residential, which allows multi-family residential. (Draft Housing Element, p. IV-22.) The parcel is then included under the Sites Inventory for above-moderate housing. (Draft Housing Element, Appendix C [APN 028-233-36].) Thus, the City has included similar programs for some properties, but is completely silent on the omission of others.

Put simply, that properties are “not marketable due to zoning” is both logically and legally irrelevant to whether they are “suitable for residential development” for purposes of the City’s RHNA obligations since the definition of “land suitable for residential development” specifically includes properties “[s]ites zoned for nonresidential use that can be . . .rezone[d] . . . to permit residential use.” (Gov. Code, § 65583.2, subd. (a)(4).) The Draft Housing Element fails to provide any explanation for omitting scores of City-owned parcels that could be rezoned for residential use.

This excludes the majority of City-owned sites based on similar arbitrary criteria. First, there are sites already zoned for residential and commercial. The Draft Housing Element states that those City-owned properties zoned residential or commercial, “that are not on the Sites Inventory are due to the parcels being in the right of way or on a highly sloped and forested piece of property in the high fire severity zones.” (Draft Housing Element, p. C-2.) The City fails to provide an explanation of what “being in the right of way” entails and how parcels could physically be in the right of way. Second, the City disregards all religious and public education institutions because “The OA and CF Zoning Districts do not permit residential use on the property.” (Draft Housing Element, p. C-2.) Omitting parcels based on these unsupported criteria results in an overly constricted Site Inventory and artificially limits the City-owned properties that could be developed.

Additionally, the City fails to discuss the other potential development sites identified in the Housing Workshop such as the Boyle Park tennis facilities and a portion of the Mill Valley Municipal Golf Course, which are both zoned O-A and were determined to be potential sites for affordable housing, similar to 1 Hamilton. In fact, the Housing Workshop analysis of Boyle Park states, “From an objective affordable housing development point of view, this is the best of the 4 identified sites.” (The Housing Workshop, p. 9.)

III. OTHER FACTORS SHOW THAT THE DRAFT HOUSING ELEMENT IS DEFECTIVE

The Draft Housing Element ignores several other factors impacting the ability to develop 1 Hamilton. As explained previously, the Draft Housing Element incorrectly assumes that 1 Hamilton could provide 40 units for very low- and low-income housing as zoned. This assumption disregards the obvious conflict with the General Plan and zoning designations, and further fails to consider environmental constraints at the property. The City’s disregard for other parcels, in order to push development at 1 Hamilton, appears to further Mill Valley’s discriminatory housing practices.

A. Baylands Corridor

Government Code section 65583.2, subdivision (b)(4) requires “[a] general description of any environmental constraints to the development of housing within the jurisdiction[.]” The Draft Housing Element provides, “Those city-owned sites that are zoned residential and commercial that are not on the Sites Inventory are due to the parcels being in the right of way or on a highly sloped and forested piece of property in the high fire severity zones.” (Draft Housing Element, p. C-2.) However, the Draft

Housing Element does not provide an explanation for how environmental constraints may interfere with development at a specific parcel. According to the California Department of Housing and Community Development's ("HCD") Guidance, a local entity must:

Provide in the analysis a general description of any known environmental or other features (e.g., presence of floodplains, protected wetlands, oak tree preserves, very high fire hazard severity zones) that have the potential to impact the development viability of the identified sites. The housing element need only describe those environmental constraints where documentation of such conditions is available to the local government. **This analysis must demonstrate that the existence of these features will not preclude development of the sites identified in the planning period at the projected residential densities/capacities.**

(HCD Housing Element Sites Inventory Guidebook, p. 10 [bold added].)

1 Hamilton is adjacent to the County's Baylands Corridor, but the Draft Housing Element completely ignores this fact. This omission is inexcusable given that the City was well aware of this circumstance, and the Housing Workshop determined:

The potential housing site is impacted by its location near the boundaries of the Marin County Baylands Corridor, as described in the County General Plan. This designation identifies uplands adjacent to sensitive wetlands, and requires special biological assessment studies to protect habitat for plants and animals. According to the Marin County General Plan, development sites of between 0.5 and 1 acre require a 30-foot setback from the Baylands boundary.

(The Housing Workshop, p. 8.) The Draft Housing Element fails to acknowledge this environmental constraint. Therefore, even if the City were to rezone the parcel, it may not be able to physically accommodate 40 units.

B. Omission of Parcels Located West of Camino Alto

There are nine affordable housing options in or near Mill Valley. All but one of those properties is located east of Camino Alto, and the ninth is located south of Miller Avenue. Thus, not one is located near downtown. The City now apparently intends to continue its historic segregation of affordable housing by arbitrarily constricting the City-owned properties in the Sites Inventory to 1 Hamilton. This decision excludes several

Danielle Staude, Project Planner
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potential parcels that could be developed west of Camino Alto such as Boyle Park and the Mill Valley Municipal Golf Course.

The City is well aware of this trend. Multiple public comments provided in the Draft Housing Element illustrate the City's determination to keep affordable housing out of the City center, and push it toward the highway. (Draft Housing Element, Survey 2, pp. 42, 60.) This is also shown in the attached PowerPoint slides previously submitted to the City. (Exhibit C.) All of the City's actions suggest an intent by City officials to keep affordable housing out of the City center and other select wealthy neighborhoods west of Camino Alto.

As previously discussed, the Housing Workshop identified four parcels that it recommended for additional analysis, three were discarded by the City. 1 Hamilton is the only parcel the City chose to include in its Site Inventory. The three parcels it chose to exclude are all located west of Camino Alto. The City has failed to provide any explanation for excluding two of the properties identified in the Housing Workshop.

* * *

The City has arbitrarily erected barrier after barrier in order to single out 1 Hamilton for affordable housing — a parcel with land use and zoning designations that prohibit any and all residential use. By doing so, the City has artificially constricted the potential locations that could be used to meet its RHNA requirements and thereby violates the City's duty to identify all land that is suitable for residential development. The result is an inaccurate, misleading and ultimately unlawful Housing Element that also continues the City's history of segregating affordable housing.

Very truly yours,

SOLURI MESERVE
A Law Corporation

By:



Patrick M. Soluri

cc: Kelsey Rogers, City Clerk (cityclerk@cityofmillvalley.org)
Jim Wickham, Mayor (jwickham@cityofmillvalley.org)
Urban Carmel, Vice Mayor (ucarmel@cityofmillvalley.org)
Stephen Burke, Councilmember (sburke@cityofmillvalley.org)

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Megan Kirkeby, Deputy Director, Housing Policy Development, HCD
(Megan.Kirkeby@hcd.ca.gov)

Attachments:

Exhibit A February 7, 2022, City Council Staff Report re: 1 Hamilton Drive
Exhibit B February 4, 2022, Letter re: Public Comments to February 7, 2022, City
Council Meeting, Agenda Item 6 re: 1 Hamilton Drive
Exhibit C PowerPoint Slides submitted to the City on July 10, 2022

EXHIBIT A



STAFF REPORT

TO: Mayor and City Council


FROM: Danielle Staude, Senior Planner

VIA: Patrick Kelly, Director of Planning and Building

SUBJECT 1 Hamilton Drive: Receive report from staff on recommended next steps to build affordable rental housing on the northern portion of 1 Hamilton Drive (Assessor's Parcel Number 030-250-01) ("the Property"), which includes: 1) the approval of an Exclusive Negotiating Agreement (ENA) between the City of Mill Valley and EAH Housing; 2) allocation of Affordable Housing Trust Funds in support of the ENA; and 3) approval of Community Outreach Plan.

DATE: February 7, 2022

Approved for Forwarding:


Alan E. Piombo, Jr., City Manager

1 **Issue:** Approval of next steps to partner with EAH Housing and conduct predevelopment
2 activities including but not limited to community outreach, site planning and design, and
3 environmental review to build affordable rental housing on the northern portion of 1 Hamilton
4 Drive.

5
6 **Recommendation:** Staff recommends that City Council receive a report from staff, consider
7 public comments, and adopt Resolution No. 22-__: A Resolution (ATTACHMENT 1)
8 authorizing the following:

- 9
10 1) Execution of an Exclusive Negotiating Agreement ("ENA"/ATTACHMENT 2)
11 between the City of Mill Valley and EAH Housing to allow the City and EAH to
12 negotiate with respect to the terms and conditions for the potential ground lease or
13 sale of property and development of affordable rental housing on the Northern portion
14 of the 1 Hamilton Property; and
15

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- 16 2) Release and allocate Affordable Housing Trust Funds to support predevelopment
17 activities, including but not limited to community outreach, site planning, design, and
18 environmental review; and
19
20 3) Approval of the Community Outreach Plan (ATTACHMENT 3).
21

22 **Background:** On September 20, 2021 City Council took action to: 1) declare a portion of the
23 property located at 1 Hamilton Drive as “exempt surplus land” as required under the California
24 Surplus Land Act (Government Code 54220 et seq.) pursuant to Government Code Section
25 54221(f)(1)(A)¹ and 2) authorize the City Manager to negotiate and draft an Exclusive
26 Negotiating Agreement (ENA) with EAH Housing for the purpose of negotiating the terms and
27 conditions for the potential ground lease or sale of property and development of affordable rental
28 housing on the Northern portion of 1 Hamilton Drive, as described herein.
29

30 The EAH Housing Team (“EAH Team”) was selected by City Council on September 20, 2021,
31 based on their qualifications and recommendations of the selection committee (City Manager,
32 Planning and Building Director, two members of the Housing Advisory Committee), which
33 interviewed the EAH Team on September 10, 2021. The EAH Team is comprised of the
34 following firms:

- 35 • EAH Housing: Development, property management, and resident services
 - 36 • Van Meter Williams Pollack LLP: Lead design and architect
 - 37 • Adobe Associates, Inc: Civil Engineer
- 38

39 As noted during the September 20, 2021, Council meeting, the EAH Team has direct experience
40 in guiding successful public/private partnerships to create affordable housing opportunities
41 within Marin County communities as well as the greater Bay Area and California.
42

43 **Discussion:** Staff is returning to City Council to report back on negotiations with the EAH Team
44 to build affordable rental housing on the Northern portion of 1 Hamilton Drive. For purposes of
45 this report, the proposed site for affordable housing will be referred to as the “Property,” whereas
46 the larger 1 Hamilton Drive parcel will be referred to as “1 Hamilton.”
47

48 Staff and City Council has acknowledged that a team of experts is required to further determine
49 the number of potential homes that can be placed on the Property, balancing the interests of the

¹ Because the City plans to ground lease (or sell) the Property for the development of a 100% affordable housing project to persons and families of low or moderate income, the proposed lease (or sale) meets the criteria for “exempt surplus land” under Government Code Section 54221(f)(1)(A), including the following provisions: (a) Not less than 80 percent of the area of the parcel will be used for the development of housing; and (b) Not less than 40 percent of the total number of those housing units developed on the parcel shall be affordable to households whose incomes are equal to, or less than, 75 percent of the maximum income of lower income households, and at least half of which shall be affordable to very low-income households; and (c) Dwelling units produced for persons and families of low or moderate income under Government Code Section 37364 shall be restricted by regulatory agreement to remain continually affordable to those persons and families for the longest feasible time, but not less than 30 years, with such regulatory agreement recorded in the office of the county recorder in which the housing development is located.

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50 community, construction feasibility, and financing opportunities. The ENA will allow City staff
51 to exclusively partner with EAH Housing to focus on site planning and preliminary design,
52 which includes the relocation of existing restrooms, electric charging station, and public parking
53 (with the goal of providing up to a total of 50 spaces).

54
55 The EAH Team is deeply experienced and well-capitalized not-for-profit corporation grounded
56 in the belief that attractive, permanently affordable rental housing is the cornerstone to
57 sustainable communities. Founded in Marin County based on the recognition that housing for all
58 is a cornerstone to a fair and just society, the Developer is one of the oldest and most
59 experienced nonprofit housing management and development organizations in the Country. The
60 architectural team also has a deeply established connection to Marin County and has successfully
61 designed multi-family projects in the area.

62
63 The ENA provides EAH Housing with a specific time during which the Property is not available
64 to other parties and sets forth a framework for the selected developer's performance during the
65 ENA period. The ENA also sets forth the City's terms to fund a portion of pre-development
66 studies, necessary because non-profit organizations do not have large amounts of funding for this
67 work. The ENA does not grant any rights related to land use entitlements, project approvals, or
68 any other future City action not specified in the ENA.

69
70 Staff recommends that Council adopt the attached Resolution (ATTACHMENT 1) authorizing
71 the City Manager to execute an ENA with EAH Housing in substantially the form attached
72 (ATTACHMENT 2). The resolution also allocates Affordable Housing Trust Funds as part of
73 cost sharing negotiations outlined in the ENA for predevelopment activities as well as approving
74 the Draft Community Outreach Plan to allow the City to kick off site planning and design work
75 with the community. Details about the ENA, proposed outreach and budget are discussed below.

76
77 **Exclusive Negotiating Agreement (ENA).** The ENA (ATTACHMENT 2) outlines the general
78 scope, cost sharing, and expectations with respect to predevelopment work and negotiations for a
79 final project and disposition of the site.

80
81 The ENA does not commit the City to ground lease or sell the Property nor grant the City's
82 approval of the development of the Property, but rather sets the terms under which the parties
83 will negotiate for a final project and disposition and the predevelopment activities that are
84 necessary to move the project forward towards design. The ENA includes performance
85 milestones and expected schedule for the period needed to design the project. The ENA also
86 outlines the City of Mill Valley's commitment to advance the project, including a loan for certain
87 pre-development expenses such as preliminary design, site planning including relocation of
88 public parking and restrooms.

89
90

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91 The following provides a summary of some key points contained in the ENA:

- 92 • Term: The ENA sets out a “Negotiation Period,” which shall extend until September 1,
93 2023. The City has the option to extend the Negotiation period.
- 94
- 95 • Milestones: The ENA includes a Schedule of Performance (Exhibit B) which establishes
96 milestones with respect to community outreach, design and entitlements, environmental
97 review, and a financing plan.
- 98
- 99 • City Responsibilities: City agrees to negotiate in good faith with EAH and not to
100 negotiate with respect to the site with any other parties during the term of the ENA. City
101 also agrees to loan the Housing Team up to \$150,000, to be used towards certain
102 predevelopment costs. Assuming the project is approved, the ENA lays out the terms for
103 repayment. The City also agrees take steps with respect to the zoning and entitlements on
104 the site, which will include hiring various consultants to conduct the environmental
105 review for the project.
- 106
- 107 • EAH Responsibilities: EAH agrees to negotiate in good faith with the City with respect to
108 the disposition of the site, to share any work product that arises from the predevelopment
109 work with the City, to work with the City on community outreach as described in the
110 Community Outreach Plan, and to meet other specified milestones with respect to due
111 diligence and predevelopment work on the site. If the project is approved, EAH agrees to
112 repay the predevelopment loan issued by the City through project financing.
- 113

114 If Council authorizes the City Manager to execute the ENA, staff and the EAH Housing Team
115 will begin negotiating an agreement for the final disposition of the site, as well as conducting due
116 diligence and predevelopment work. In addition, the City will kick off community outreach,
117 which is discussed below. Once CEQA review and approval of project entitlements occurs, it is
118 anticipated that the City would enter into a development agreement and formal ground lease (or
119 sale) with the EAH Housing Team.

120

121 **Community Outreach Plan.** City Council has continued to emphasize the importance of
122 outreach and community participation in the design of the project since its initial discussion on
123 June 21, 2021. The EAH Team is looking forward to kicking off the outreach program to gather
124 input from the community on interests and concerns that will help guide the site planning and
125 design process.

126

127 Community outreach is divided into three different phases: 1) information gathering, 2) focused
128 outreach on design concepts and 3) confirming design and assembling materials for the planning
129 and entitlement application. Outreach will begin upon adoption of the resolution. Staff and the
130 EAH Housing Team anticipate hosting the first community workshop in mid-March. This
131 workshop is part of the information gathering stage and will focus on gathering community input
132 on preliminary site planning work, such as the relocation of public parking and restrooms and the
133 overall massing for the site. The workshop will also provide an opportunity for the community
134 to ask questions and identify concerns

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1 Hamilton Drive: Consideration of ENA, Trust Funds and Outreach Plan

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135 The illustration on page 5 summarizes the overall outreach process and timing. See
136 ATTACHMENT 3 containing the Draft Community Outreach Plan for additional details.

137

138

Proposed Community Outreach Process and Timeline



139

140

141 **Affordable Housing Trust Fund.** At its June 21, 2021, City Council meeting, Council
142 authorized use of the Affordable Housing Trust Fund to assist in preliminary site investigations.
143 Staff is further recommending that City Council authorize use of the Affordable Housing Trust
144 Funds to assist in the cost sharing of predevelopment activities, as outlined in the ENA. The
145 ENA provides that the City will provide up to \$150,000 to EAH as a predevelopment loan to
146 assist with specified predevelopment costs including site analysis and design. Approval of the
147 resolution will also allow City staff to hire consultants to conduct the environmental review of
148 the proposed project.

149

150 Staff believes the \$150,000 loan to EAH for predevelopment activities is appropriate,
151 particularly since the EAH team will be providing design and consultant assistance to plan and
152 design off-street public parking in the surrounding area and the relocation of the public
153 restrooms. The EAH team is also contributing substantial staff time and organizational resources
154 to provide preliminary conceptual designs to support the planning application for Planning
155 Commission and City Council review and approval.

156

157 **Environmental Review:** Site planning and preliminary design will help inform the
158 environmental review required for the eventual housing development. The level of
159 environmental review will be determined once the scope of the project is determined.

160

161 The resolution before Council is not subject to the California Environmental Quality Act
162 (“CEQA”) because the approval of an ENA and the other activities authorized by the resolution
163 are excluded from the definition of a “project” by section 21065 of the Public Resources Code
164 and section 15378(b) of the State CEQA Guidelines. A “project” is an “activity which may cause
165 either a direct physical change in the environment, or a reasonably foreseeable indirect change in
166 the environment.” The proposed actions direct staff to execute an ENA that establishes the
167 contractual agreement to commence negotiations regarding disposition of a portion of 1
168 Hamilton Drive, as well as initiating preliminary site analysis and design work that will further
169 define an affordable housing development that would constitute a “project” under CEQA. The
170 proposed actions are therefore considered an administrative activity of government which does
171 not result in direct or indirect physical change to the environment. No commitment to any project
172 is being made at this time.

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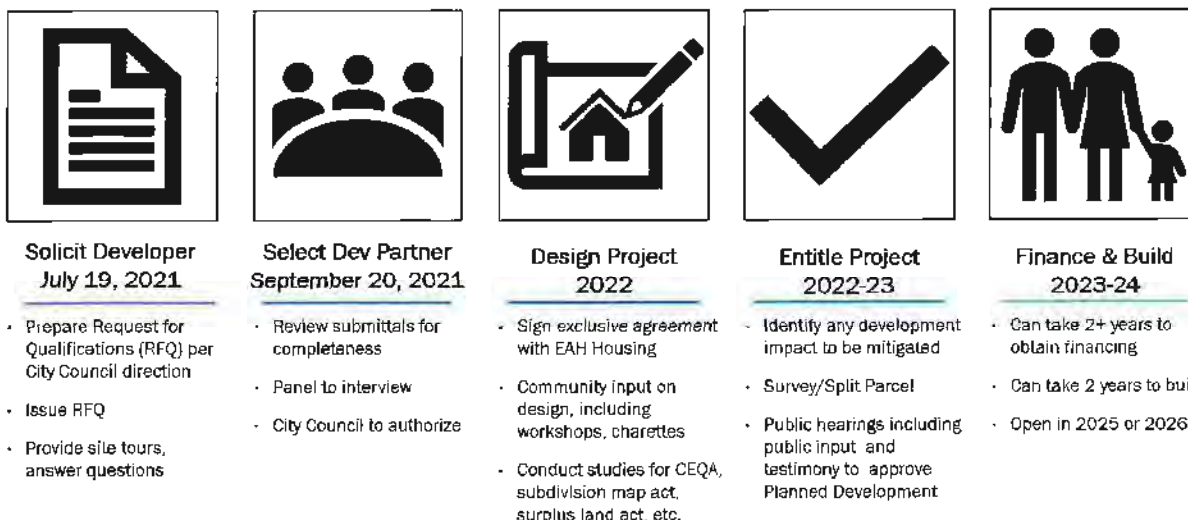
173
 174 Notwithstanding that there is no “project” for purposes of CEQA, as discussed above, the City’s
 175 actions are also covered by the general rule that CEQA applies only to projects which have the
 176 potential for causing a significant effect on the environment. CEQA Guidelines § 15061(b)(3).
 177 There is no evidence that the City’s agreement to negotiate with a potential affordable housing
 178 development partner or undertake predevelopment activities or community outreach will have
 179 any direct or indirect effect on the environment, since the City is not committing itself to any
 180 final project now and may still decide not to move forward with a project on the site.

181
 182 CEQA review requirements must and will be completed before any commitment to a housing
 183 development occurs and appropriate environmental review pursuant to CEQA will be completed
 184 and considered by the City Council at such time.

185
 186 **Fiscal Impact:** There is no impact to the City’s General Fund. The City intends to authorize
 187 Affordable Housing Trust Funds as part of executing the ENA and work on predevelopment
 188 activities.

189
 190 **Next Steps:** Should City Council adopt the proposed resolution; staff will work to execute the
 191 ENA. Once the ENA is signed by both parties, staff and the Housing Team will begin site
 192 planning and design and kick off the community engagement process. Assuming the project
 193 proceeds forward, CEQA review would occur, and Council would later consider project
 194 entitlements based on Planning Commission’s recommendations, along with separate agreements
 195 with EAH for development and disposition (ground lease or sale) to construct the housing.

Overview of Next Steps



199
 200
 201
 202

City Council Meeting
1 Hamilton Drive: Consideration of ENA, Trust Funds and Outreach Plan
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203 **Attachments:**

- 204 1. Resolution No. 22-___: Authorizing execution of an Exclusive Negotiating Agreement
205 with EHA Housing, authorizing the allocation of Affordable Housing Trust Funds and
206 approval of the Community Outreach Plan
207 2. Exclusive Negotiating Agreement
208 3. Community Outreach Plan
209

210 **Online Materials and Resources:**

- 211 • Project website: <https://ca-millvalley.civicplus.com/931/Hamilton-Drive>

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RESOLUTION NO. 22-____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILL VALLEY AUTHORIZING THE EXECUTION OF AN EXCLUSIVE NEGOTIATING AGREEMENT WITH EAH HOUSING, INC. TO NEGOTIATE THE TERMS UNDER WHICH THE CITY WOULD ALLOW THE DEVELOPMENT OF AFFORDABLE RENTAL HOUSING ON THE NORTHERN PORTION, AS DESCRIBED HEREIN, OF A CITY-OWNED PARCEL LOCATED AT I HAMILTON DRIVE [ASSESSOR'S PARCEL NO. 030-250-01], AUTHORIZING THE ALLOCATION OF AFFORDABLE HOUSING TRUST FUNDS FOR PREDEVELOPMENT ACTIVITIES ON THE SITE, AND APPROVING THE COMMUNITY OUTREACH PLAN

THE CITY COUNCIL OF THE CITY OF MILL VALLEY HEREBY FINDS AND RESOLVES AS FOLLOWS:

SECTION 1. The City of Mill Valley ("City") is the owner in fee simple of that certain real property located at 1 Hamilton Drive (Assessor's Parcel 030-250-01).

SECTION 2. The City desires to ground lease or sell a portion of the property located at 1 Hamilton Drive, such portion is generally the northern portion of the current parcel, incorporated herein by reference (the "1 Hamilton Property"), to be developed as a 100 percent affordable housing development that complies with Government Code Section 37364.

SECTION 3. At its June 21, 2021 meeting, City Council directed staff to issue a Request for Qualifications ("RFQ") to solicit interest from multifamily developers to partner with the City of Mill Valley to build and manage affordable housing on the Property.

SECTION 4. On July 19, 2021 the City of Mill Valley released the RFQ and notified all California Housing Finance Agency certified developers that have notified the California Department of Housing and Community Development of their interest in purchasing or leasing surplus local land for affordable housing development in Marin County or any county in California, and other public entities with possible jurisdiction over the Property.

SECTION 5. Because the proposed affordable housing development will meet the requirements of Government Code Section 37364, the City Council adopted Resolution (CC21-51) declaring the Property to be "exempt surplus land" at its regularly scheduled meeting of September 20, 2021.

SECTION 6. In response to the RFQ, EAH Housing submitted qualifications to the City in a timely manner and whereby EAH Housing proposes to ground lease or purchase the Property from the City and develop the Property with 100% affordable rental housing pursuant to Government Code Section 37364.

48 **SECTION 7.** EAH Housing was selected based on a City Council's review of the
49 selection committee's (City Manager, Planning and Building Director, and two members of the
50 Housing Advisory Committee, who are City Council and Planning Commission liaisons) review
51 of their qualifications and responses to interview questions held on September 10, 2021.
52

53 **SECTION 8.** The City is interested in entering into an Exclusive Negotiating Agreement
54 ("ENA", attached hereto as ATTACHMENT 2) to establish the mutually acceptable terms and
55 conditions to guide the process of negotiations for the potential ground lease or sale and
56 development of affordable housing on the Property consistent with Government Code Section
57 37364.
58

59 **SECTION 9.** The ENA does not commit the City to ground lease or sell the Property nor
60 grant approval of any project or development of the Property, but rather allows the City to
61 partner with a Housing Team to work with the community to plan and design for the above-
62 referenced housing.
63

64 **SECTION 10.** The Mill Valley Municipal Code Section 20.80.070(B) establishes the
65 Affordable Housing Trust Fund and on March 16, 2020, City Council approved the Affordable
66 Administrative Guidelines for Housing Trust Fund, whereby the City Council may authorize the
67 use of Trust Fund monies by way of resolution. The City Council desires to authorize the use of
68 Affordable Housing Trust Fund moneys for predevelopment costs for the Property including but
69 not limited to the provision of a predevelopment loan to EAH pursuant to the ENA, as well as
70 environmental review of the proposed project.
71

72 **SECTION 11.** The City Council desires to engage in a robust community outreach
73 process with respect to the potential development of the Property.
74

75 **SECTION 12.** City Council held a public hearing on February 7, 2022, and considered
76 the information presented by staff as well as public testimony.
77

78 **SECTION 13.** The City Council hereby takes the following actions:
79

- 80 A. Finds that the above recitals are true and correct and are incorporated into this
81 Resolution.
82
- 83 B. Authorizes the City Manager to execute an ENA between the City of Mill Valley
84 and EAH Housing in substantially the form attached, with any minor clerical or
85 clarifying changes requested by the City Manager and approved by the City
86 Attorney.
87
- 88 C. Approves the Community Outreach Plan (ATTACHMENT 3) and authorizes staff
89 to move forward with a robust program of community outreach to engage citizens
90 and interested stakeholders. Changes to the Community Outreach Plan schedule
91 that only impact dates and do not result in a less robust outreach and public
92 engagement may be approved by the City Manager.
93

94 D. Authorizes and approves the use of Affordable Housing Trust Fund monies for
95 the purposes of funding budgetary terms set forth in the ENA and other
96 predevelopment expenses related to the proposed housing development as
97 approved by the City Manager.
98

99 E. That the staff and officers of the City are hereby authorized, jointly and severally,
100 to take any other such actions as they deem necessary or proper to implement this
101 Resolution.
102

103 **SECTION I4.** The City Clerk shall certify as to the adoption of this resolution.
104

105 **PASSED AND ADOPTED** at a regular meeting of the City Council of the City of Mill
106 Valley on the 7th day of February 2022, by the following vote:
107

108 **AYES:**

109 **NOES:**

110 **ABSENT:**

111 **ABSTAIN:**
112

113
114

John McCauley, Mayor

115 ATTEST:

116
117
118

Kelsey Rogers, City Clerk / Management Analyst III

EXCLUSIVE NEGOTIATION AGREEMENT

THIS EXCLUSIVE NEGOTIATION AGREEMENT is dated as of _____, 2022 (“**Effective Date**”), and is entered into by and between the CITY OF MILL VALLEY, a municipal corporation (“**City**”), and EAH INC., a California nonprofit public benefit corporation (“**Developer**”)(collectively, the “**Parties**”).

RECITALS

- A. The City owns certain property located 1 Hamilton Drive (Assessor’s Parcel 030-250-01).
- B. The City desires that a portion of the parcel located at 1 Hamilton Drive---such portion is generally the northern portion of the current parcel more specifically depicted on Exhibit “A”, attached hereto (the “**Site**”)---be developed as a 100 percent affordable housing development.
- C. The City Council of the City of Mill Valley (“**City Council**”) authorized and directed staff to issue a request for qualifications (“**RFQ**”), for an affordable housing project on the Site consisting of 100 percent of the units restricted for rental to very low and low income households at affordable rent on June 21, 2021.
- D. On July 19, 2021 the City of Mill Valley released the RFQ and notified all California Housing Finance Agency certified developers that have notified the California Department of Housing and Community Development of their interest in purchasing or leasing surplus local land for affordable housing development in Marin County or any county in California, and other public entities with possible jurisdiction over the Property, in response to the RFQ EAH Housing submitted qualifications to the City in a timely manner and whereby EAH Housing proposes to ground lease or purchase the Property from the City and develop the Property with 100% affordable rental housing pursuant to Government Code Section 37364.
- E. As noted in the Developer’s statement of qualifications, the EAH Team is deeply experienced and well-capitalized not-for-profit corporation grounded in the belief that attractive, permanently affordable rental housing is the cornerstone to sustainable communities. Founded in Marin County based on the recognition that housing for all is a cornerstone to a fair and just society, the Developer is one of the oldest and most experienced nonprofit housing management and development organizations in the Country,
- F. A selection committee consisting of the City Manager, Planning and Building Director, two members of the Housing Advisory Committee (City Council and Planning Commission liaisons) reviewed statement of qualifications submitted in response to the RFQ and conducted interviews on September 10, 2021
- G. On September 20, 2021, the City Council declared the Site “exempt surplus property” pursuant to Government Code Sections 54221(b) and 54221(f)(1)(A) by way of Resolution CC21-51.
- H. On September 20, 2021, the City Council selected the Developer and directed staff to negotiate an Exclusive Negotiation Agreement (this “**Agreement**”) with Developer for the Site based on the Developers qualifications and the selection committee recommendations, as documented in the September 20, 2021 Staff Report, by way of Resolution CC21-52 .

ATTACHMENT #2

I. The Parties intend to cause the Site to be developed under California Government Code Section 37364, which requires that dwelling units be restricted by regulatory agreement to remain continually affordable to low and moderate income households for the longest feasible time, but not less than 30 years, and that such regulatory agreement shall be recorded in the office of the county recorder in which the housing development is located; such regulatory agreement shall not be subordinated to any deed of trust.

J. City desires to increase the availability of affordable housing within the City by causing the development of the Site with approximately 40 units of rental housing that is 100 hundred percent affordable (“Project”).

K. City and Developer desire to negotiate exclusively with each other regarding the potential terms and conditions of a disposition and development agreement (“DDA”) between City and Developer for Developer to acquire and develop the Project on the Site, in accordance with the terms and conditions of this Agreement..

1. Negotiation of DDA. During the Negotiation Period (defined in Section 3 herein) and subject to the terms and conditions of this Agreement, both City staff and Developer shall negotiate the potential terms, conditions, covenants, restrictions and agreements of a DDA for the Site and Project. City agrees not to solicit any other proposals from or negotiate with any other person regarding development of the Site during the Negotiation Period. During the Negotiation Period, Developer shall complete all of the actions described in the “**Schedule of Performance**” attached to this Agreement as Exhibit “B.” within the time period specified for each such action in the Schedule of Performance. Nothing in this Agreement shall be interpreted or construed to be a representation or agreement by either City or Developer that a mutually acceptable DDA will be produced from negotiations under this Agreement. Nothing in this Agreement shall impose any obligation on either Party to agree to or approve a definitive DDA in the future. Nothing in this Agreement shall be interpreted or construed to be a guaranty, warranty or representation that any proposed DDA that may be negotiated by City staff and Developer will be approved by the City Council of the City.

2. Developer Acknowledgments. Developer acknowledges and agrees that: (a) under this Agreement, City is not committing itself or agreeing to enter into a DDA or undertake any exchange, sale, lease or other transfer of real property, any disposition of any real property interests to Developer, approve the Project or any land use entitlements or undertake any other acts or activities; (b) no provision of this Agreement shall be deemed to be an offer by City, nor an acceptance by City of any offer or proposal from Developer, for City to convey any estate or interest in the Site to Developer or for City to provide any financial or other assistance to Developer for development of the Project or the Site; (c) Developer has not acquired, nor will acquire, by virtue of the terms of this Agreement, any legal or equitable interest in real or personal property from City; (d) further efforts by either Party to perform due diligence, arrange or obtain financing, or carry out other acts in contemplation of the possible acquisition, transfer or development of the Site or the Project shall not be deemed evidence of intent by either Party to be bound by any terms, conditions, covenants, restrictions or agreements relating to acquisition, transfer or development of the Site or the Project. Developer acknowledges and agrees that City’s consideration of the Project and DDA is subject to the sole and absolute discretion of the City Council after conducting environmental review and any and all legally required public hearings, public meetings, notices, factual findings and other determinations and procedures required by law.

3. Negotiation Period.

3.1 Duration. The “**Negotiation Period**” shall begin on the Effective Date and shall expire at 5:00 p.m. Pacific Time on September 1, 2023, unless extended pursuant to Section 4 or earlier terminated pursuant to Section 3.2.

3.2 Termination. This Agreement shall terminate upon the earliest to occur of the following events: (a) the expiration of the Negotiation Period; or (b) the occurrence of an Event of Default by Developer under Section 13.1 of this Agreement, unless such breach is expressly waived in writing by the City; or (c) entry into a DDA by both City and Developer.

4. Extension of Negotiation Period. The City Manager shall have the right to extend the Negotiation Period three times for a period of ninety (90) days each (for an for an aggregate total of two hundred and seventy (270) days) provided that each such extension is in writing, and provided, further, that Developer is not in default of its obligations under this Agreement and has completed all of the actions described in the “**Schedule of Performance**” which are required to have be performed by Developer as of such date.

5. Possible DDA Provisions.

5.1 DDA Essential Terms and Conditions. The DDA may include provisions addressing all of the following described subjects:

5.1.1 Site Control. The Site may be purchased or leased from City by Developer, or Developer’s permitted assignee.

5.1.2 DDA Schedule of Performance. A schedule of performance, attached to the DDA, may set forth deadlines for various actions of Developer.

5.1.3 Scope of Development. The Project is proposed by Developer to include approximately 40 affordable housing units serving households at or below 60% of Area Median Income (AMI) with a minimum parking ratio of 1:1, a plan for replacement and relocation of a minimum of 34 public parking stalls, and a plan for replacing the public restroom if the site area is needed for affordable housing development.

5.1.4 Financing Plan. In connection with the negotiations, the Developer shall submit a plan for financing the construction and operation of the Project to the City for review and approval. Such financing plan shall, at a minimum, include an obligation of Developer to apply for federal tax credits, and such other financing as is necessary in Developer’s reasonable discretion to finance the development and operation of the Project, and all such tax credits must be awarded, and tax credit equity committed and available, and all other financing committed, closed and available as conditions to the close of escrow for the sale or lease.

5.1.5 City Financial Assistance. City shall provide up to \$150,000 in the form of a predevelopment loan during the Negotiation Period (the “Predevelopment Loan”) to pay for reasonable documented costs incurred by Developer in completing the tasks required of Developer under this ENA provided the costs are reasonably described in advance in a written budget to be provided by the Developer and approved by the City Manager in writing (“Eligible Expenses”).

Such Predevelopment Loan will bear 0% interest, be evidenced by a promissory note acceptable to City (the “Note”) and will be secured by assignment by the Developer to the City of any work product relating to the Project that have been paid for in

whole or in part using the proceeds of the Predevelopment Loan (the "Work Product"), and the collateral assignment documents and written consents from contractors/architects/engineers and others necessary to effectuate such collateral assignment and assignment to City (upon failure to timely repay the loan) must be acceptable to the City Manager and City Attorney. The Predevelopment Loan shall become due upon the termination of this ENA, or the expiration of this ENA without a DDA being approved and signed; however, the City's sole recourse shall be limited to the Work Product. The City will disburse Predevelopment Loan proceeds to pay for Eligible Expenses on a reimbursement basis, quarterly, and as a condition to the County's disbursement obligation, Borrower will submit a disbursement request package ("Disbursement Request"). Each Disbursement Request shall include any applicable invoice or other documentation indicating the cost to be paid and showing the cost constitutes an Eligible Expense of the Project, dated less than thirty (30) days prior to the date of the Disbursement Request, unless submittal of an older invoice has been approved by the City. It is anticipated that the DDA will provide that the Predevelopment Loan will convert from a predevelopment loan to a below market, 55 year, residual receipts construction/permanent loan secured by the Site (but subordinate to deeds of trust securing any other secured financing necessary for the Project) upon the closing of the Developer's acquisition of the Site pursuant to the terms and conditions of the DDA.

5.1.6 Developer Compliance with Laws. Developer shall comply with the requirements of all applicable City ordinances, resolutions, regulations or other laws or approvals in all aspects (planning, design, construction, noise limits, management, and occupancy) of developing and operating the Project on the Site.

6. License to Enter Site. City authorizes Developer, its contractors, agents and employees to enter the Site during normal business hours for the purpose of performing tests, surveys and inspections, and obtaining data necessary or appropriate to negotiate the DDA or perform investigations related to the Project; provided, however, Developer shall deliver written notice (which may be delivered via electronic mail to _____) seventy-two (72) hours prior to City of any such entry and written evidence of Developer's satisfaction of all insurance requirements of this Agreement prior to entering the Site. Developer shall promptly deliver copies of all written inspection results, tests and reports to the City.

7. Costs and Expenses. Except as set forth in Section 5.1.5 and Section 9 hereof, all fees or expenses of engineers, architects, financial consultants, legal, planning or other consultants or contractors, retained by Developer for any study, analysis, evaluation, report, schedule, estimate, environmental review, planning or design activities, drawings, specifications or other activity or matter relating to the Site or the Project or negotiation or documentation of a future DDA that may be undertaken by Developer during the Negotiation Period, pursuant to or in reliance upon this Agreement or in Developer's discretion, regarding any matter relating to this Agreement, a future DDA, the Site or the Project, shall be the sole responsibility of and undertaken at the sole cost and expense of Developer and no such activity or matter shall be deemed to be undertaken for the benefit of, at the expense of or in reliance upon City. Developer shall also pay all fees, charges and costs, make all deposits and provide all bonds or other security associated with the submission to and processing by the City of any and all applications and other documents and information to be submitted to the City by Developer pursuant to this Agreement or otherwise associated with the Project or the Site.

8. No City Approval. Nothing in this Agreement, nor any comments provided by City staff, nor any failure of City staff to provide comments to any submittal under or pursuant to this Agreement shall: (1) modify or replace any land use entitlement process of either the City applicable to the Project, (2) limit the police power land use jurisdiction of either the City relative

to the Project, (3) constitute an approval of all or any portion of the Project by the City pursuant to the police power land use jurisdiction of either the City or (4) constitute any approval of all or any portion of a future DDA with Developer by the City.

9. CEQA Compliance. The Developer acknowledges that all applicable requirements of the California Environmental Quality Act ("CEQA") must be met in order to execute and deliver the DDA and approve project entitlements allowing development of the Site and that this may require reports or analyses for CEQA purposes. In this regard, the City shall, at the City's cost and expense, undertake an Initial Study of the proposed Project pursuant to Section 15063 of CEQA or other appropriate documentation in order to determine the appropriate environmental documents and procedures that may be necessary to comply with CEQA as to the consideration and potential approval of the DDA by the City Council. The Developer hereby agrees to provide all assistance to the City necessary for it to carry out its obligations under CEQA. The Developer will fully cooperate with the City in the preparation of such analyses and reports.

10. City Due Diligence. City reserves the right to reasonably obtain further information, data and commitments to ascertain the ability and capacity of Developer to purchase, lease, develop and operate the Site or the Project. Developer acknowledges that Developer may be requested to make certain financial disclosures to City, City staff, legal counsel or other consultants, as part of the financial due diligence investigations of City relating to the potential sale of the Site and development of the Project on the Site by Developer and that any such disclosures may become public records. City shall maintain the confidentiality of financial information of Developer to the extent allowed by law, as determined by the City Attorney for the City.

11. Developer Indemnity. Developer shall indemnify, defend and hold harmless City, and the elected and appointed officials, officers, agents and employees of City (individually or collectively, an "**Indemnified Party**") against any and all losses arising out of any claim, liability, loss, damage, demand or cause of action, or any action or other proceeding, whether meritorious or not, arising through Developer, Developer's contractors or employees that relates to or arises out of: (i) property damage or bodily injury or death of any person in connection with this Agreement; (ii) entry upon the Site by Developer, its contractors or employees; (iii) any inspection of the Site by Developer, its contractors or employees; or (iv) the preparation of any report or plans commissioned by Developer; provided, however, that no Indemnified Party shall be entitled to indemnification under this Section 10 for matter caused by such Indemnified Party's gross negligence or willful misconduct or for any matter arising solely from the discovery of any pre-existing condition upon the Site. In the event any action or proceeding is brought against an Indemnified Party by reason of a claim arising out of any loss for which Developer is obligated to indemnify, defend or hold harmless the Indemnified Party, and upon written notice from such Indemnified Party, Developer shall, at Developer's sole expense, answer and otherwise defend such action or proceeding. The provisions of this Section 11 shall survive the expiration or termination of this Agreement.

12. Developer Insurance.

12.1 Types of Insurance. Without in any way limiting Developer's indemnification obligations under this Agreement, subject to the other provisions of this Section 12 and subject to approval by City of the insurers and policy forms, Developer shall obtain and maintain, at Developer's expense, the following insurance throughout the Negotiation Period and shall cause City to be an additional insured thereunder:

12.1.1 Liability Insurance. “**Liability Insurance**” means and refers to commercial general liability insurance against claims for bodily injury, personal injury, death, or property damage occurring upon, in, or about the Site or adjoining streets or passageways, at least as broad as Insurance Services Office Occurrence Form CG0001, with a minimum liability limit of Two Million Dollars (\$2,000,000) for any one occurrence and which may be provided through a combination of primary and excess or umbrella insurance policies. If commercial general liability insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the Site or the general aggregate limit shall be twice the required minimum liability limit for any one occurrence.

12.2 Nature of Insurance. All Liability Insurance and Automobile Liability Insurance policies this Agreement requires shall be issued by carriers that: (a) are listed in the then current “Best’s Key Rating Guide—Property/Casualty—United States & Canada” publication (or its equivalent, if such publication ceases to be published) with a minimum financial strength rating of “A-” and a minimum financial size category of “VII”; and (b) are authorized to do business in the State of California by the State of California Department of Insurance. Developer may provide any insurance under a “blanket” or “umbrella” insurance policy, provided that: (i) such policy or a certificate of such policy shall specify the amount(s) of the total insurance allocated to the Site, which amount(s) shall equal or exceed the amount(s) required by this Agreement; and (ii) such policy otherwise complies with the insurance requirements in this Agreement.

13. Restrictions Against Change in Ownership, Management or Control of Developer; Assignment of Agreement.

13.1 Developer Assignment. City and Developer acknowledge and agree that City is entering into this Agreement with Developer on the basis of the particular experience, financial capacity, skills and capabilities of Developer. This Agreement is personal to Developer and is not assignable without the prior written consent of City, which may be given, withheld or conditioned in City’s sole and absolute discretion. Consent to assignment shall be in writing and may be executed by the City Manager.

13.2 Assignment to Project Partnership. Notwithstanding the foregoing, Developer may assign this Agreement, without City’s consent, to a limited partnership in which Developer or a limited liability in which Developer is the sole member acts as the sole and managing general partner of such limited partnership, subject to all of the following conditions: (i) Developer provides the City with at least ten (10) days prior written notice of such proposed assignment, (ii) such limited partnership’s sole purpose is development, ownership and operation of the Project on the Site; (iii) such limited partnership expressly assumes all of the obligations of Developer under this Agreement in a written assumption agreement delivered to and reasonably satisfactory to City; and (iv) Developer shall have delivered the LP-1 and partnership agreement to the City. Notwithstanding any assignment of this Agreement, Developer, shall, at all times, be responsible and obligated directly to City for performance of Developer’s obligations under this Agreement.

13.3 Definitions. For the purposes of this Agreement, the term “**Affiliate**” means any person, directly or indirectly, controlling or controlled by or under common control with Developer, whether by direct or indirect ownership of equity interests, by contract, or otherwise.

14. Developer Events of Default and City Remedies.

14.1 Developer Events of Default. The occurrence of any of the following shall constitute an "Event of Default" on the part of Developer under this Agreement:

14.1.1 Schedule of Performance. Failure of Developer to meet a performance milestone by the applicable date contained in the Schedule of Performance, if such failure is not cured within thirty (30) days after written notice of such failure.

14.1.2 Misrepresentation. Any material breach of any representation or warranty made by Developer in this Agreement that is not cured within thirty (30) days after written notice from City to Developer of such breach.

14.1.3 Unauthorized Assignment. Any assignment or attempted assignment by Developer in violation of Section 12.

14.1.4 Insurance. Failure of Developer to procure or maintain any of the insurance coverage required by this Agreement resulting in a lapse in required insurance coverage.

14.2 City Remedies. If there is an Event of a Default by Developer, City may, in City's sole and absolute discretion, terminate this Agreement by delivering written notice of termination to Developer. Upon any such termination, neither Party shall have any further rights or obligations to the other under this Agreement, except obligations that expressly survive termination of this Agreement.

15. Developer Representations and Warranties. Developer represents, warrants and covenants to and for the benefit of City, as of the Effective Date and at all times during the Negotiation Period, as follows:

15.1 Valid Existence; Good Standing; Joint Venture Relationships. Developer is a nonprofit public benefit corporation duly organized and validly existing under the laws of the State of California. Developer has all requisite power and authority to own its property and conduct its business as presently conducted. Developer has made all filings and is in good standing in the jurisdiction of the State of California.

15.2 Authority. Developer has all requisite power and authority to enter into and perform this Agreement.

15.3 No Limitation on Ability to Perform. Neither Developer's articles of incorporation nor any other organizational document regarding Developer in any way prohibits, limits or otherwise affects the right or power of Developer to enter into or perform this Agreement. Developer is not a party to or bound by any contract, agreement, indenture, trust agreement, note, obligation or other instrument that could prohibit, limit or otherwise affect Developer's entry into or performance of this Agreement. To the best of Developer's knowledge, no consent, authorization or approval of, or other action by, and no notice to or filing with, any governmental authority, regulatory body or any other person or entity is required for the due execution, delivery or performance by Developer of this Agreement or any of the terms or covenants contained in this Agreement. There is no pending or threatened suit or proceeding or undischarged judgment affecting Developer before any court, governmental agency, or arbitrator that might materially adversely affect the enforceability of this Agreement, the ability of Developer to perform the transactions contemplated by this Agreement or the business, operations, assets or condition of Developer.

15.4 Valid Execution. The execution and delivery of this Agreement by Developer have been duly and validly authorized by all necessary action of Developer and others. This Agreement will be a legal, valid and binding obligation of Developer, enforceable against Developer in accordance with its terms. Developer has provided to City a written resolution of Developer's Board of Directors authorizing Developer's entry into and performance of this Agreement.

16. Notices. A notice or communication under this Agreement by either Party to the other shall be sufficiently given or delivered, if in writing and delivered by messenger, overnight air courier or registered or certified first class mail with return receipt requested (for U.S. mailings) to the appropriate Party at its address as follows:

In the case of a notice or communication to City:

City Manager's Office
City of Mill Valley
26 Corte Madera Avenue
Mill Valley, CA 94941
Attn: Alan Piombo

With a copy to:

Richards, Watson & Gershon
One Sansome Street, Suite 2850
San Francisco, CA 94104
Attn: Inder Khalsa

And in the case of a notice or communication sent to Developer:

EAH, Inc.
22 Pelican Way
San Rafael, CA 94901
Attn: Bianca L. Neumann, Director Business Development

With a copy to:

Bocarsly Emden Cowan Esmail & Arndt LLP
633 West 5th Street, 64th Floor
Los Angeles, CA 90071
Attn: Nicole Deddens

Any mailing address may be changed at any time by giving written notice of such change in the manner provided above at least ten (10) days prior to the effective date of the change. All notices under this Agreement shall be deemed given, received, made or communicated on the date personal receipt actually occurs or, if mailed, on the delivery date or attempted delivery date shown on the return receipt.

17. General Provisions.

17.1 Amendments. This Agreement may be amended or modified only by a written instrument signed by both City and Developer.

17.2 Severability. If any provision of this Agreement, or its application to any person or circumstance, is held invalid by any court, the invalidity or inapplicability of such provision shall not affect any other provision of this Agreement or the application of such provision to any other person or circumstance, and the remaining portions of this Agreement shall continue in full force and effect, unless enforcement of this Agreement as so modified by and in response to such invalidation would be unreasonable or grossly inequitable under all of the circumstances or would frustrate the fundamental purposes of this Agreement. Without limiting the foregoing, in the event that any applicable federal or state law prevents or precludes compliance with any material term of this Agreement, the Parties shall promptly modify, amend or suspend this Agreement, or any portion of this Agreement, to the extent necessary to comply with such provisions in a manner which preserves to the greatest extent possible the benefits to each of the Parties to this Agreement. However, if such amendment, modification or suspension would deprive City or Developer of the substantial benefits derived from this Agreement or make performance unreasonably difficult or expensive, then the affected Party may terminate this Agreement upon thirty (30) days written notice to the other Party. In the event of such termination, neither Party shall have any further rights or obligations under this Agreement except as otherwise provided herein.

17.3 Non-Waiver. No waiver made by either Party with respect to the performance, or manner or time of performance, or any obligation of the other Party or any condition to its own obligation under this Agreement will be considered a waiver with respect to the particular obligation of the other Party or condition to its own obligation beyond those expressly waived, to the extent of such waiver, or a waiver in any respect in regard to any other rights of the Party making the waiver or any other obligations of the other Party.

17.4 Non-Liability. No member, official, agent or employee of City will be personally liable to Developer, or any successor in interest (if and to the extent permitted under this Agreement), in an event of default by City or for any amount that may become due to Developer or successor or on any obligations under the terms of this Agreement. No director, officer, agent or employee of Developer will be personally liable to City in an event of default by Developer or for any amount that may become due to City or on any obligations under the terms of this Agreement.

17.5 Successors and Assigns; Third Party Beneficiary. This Agreement shall inure to the benefit of and bind the respective successors and assigns of City and Developer, subject to the limitations on assignment by Developer set forth in Section 12. This Agreement is for the exclusive benefit of the Parties to this Agreement and not for the benefit of any other person and shall not be deemed to have conferred any rights, express or implied, upon any other person.

17.6 Governing Law. City and Developer acknowledge and agree that this Agreement was negotiated, entered into and is to be fully performed in the City. City and Developer agree that this Agreement shall be governed by, interpreted under, and construed and enforced in accordance with the substantive and procedural laws of the State of California, without application of conflicts or choice of laws principles.

17.7 Compliance with Law. Developer acknowledges that any future DDA, if approved by City governing body, will require Developer (among other things) to carry out the development of the Project on the Site in conformity with all applicable laws, including all applicable building, planning and zoning laws, environmental laws, safety laws and federal and state labor and wage laws.

18. Interpretation of Agreement. No inference in favor of or against any Party shall be drawn from the fact that such Party has drafted any part of this Agreement. The Parties have both participated substantially in the negotiation, drafting, and revision of this Agreement, with advice from legal and other counsel and advisers of their own selection. A word, term or phrase defined in the singular in this Agreement may be used in the plural, and vice versa, all in accordance with ordinary principles of English grammar, which shall govern all language in this Agreement. The words "include" and "including" in this Agreement shall be construed to be followed by the words: "without limitation." Each collective noun in this Agreement shall be interpreted as if followed by the words "(or any part of it)," except where the context clearly requires otherwise. Every reference to any document, including this Agreement, refers to such document, as modified from time to time (excepting any modification that violates this Agreement), and includes all exhibits, schedules, addenda and riders to such document. The word "or" in this Agreement includes the word "and." Every reference to a law, statute, regulation, order, form or similar governmental requirement refers to each such requirement as amended, modified, renumbered, superseded or succeeded, from time to time. Headings at the beginning of each section or sub-section of this Agreement are solely for the convenience of reference of City and Developer and are not a part of this Agreement. Whenever required by the context of this Agreement, the singular shall include the plural and the masculine shall include the feminine and vice versa. Unless otherwise indicated, all references to sections are to this Agreement. All exhibits referred to in this Agreement are attached to this Agreement, unless otherwise specified.

18.1 Entire Agreement. This Agreement (including the attachments and exhibits) contains all of the representations of and the entire agreement between the Parties with respect to the subject matter of this Agreement. Any prior correspondence, memoranda, agreements, warranties or representations relating to such subject matter are superseded in total by this Agreement. No prior drafts of this Agreement or changes from those drafts to the signed version of this Agreement shall be introduced as evidence in any litigation or other dispute resolution proceeding by either Party or any other person and no court or other body shall consider those drafts in interpreting this Agreement.

18.2 Time for Performance.

18.2.1 Expiration. All performance, expiration or termination dates (including cure dates) in this Agreement (including the attached Schedule of Performance) expire at 5:00 p.m., Pacific Time, on the specified date.

18.2.2 Weekends and Holidays. A date that falls on a Saturday, Sunday or City holiday is deemed extended to the next day on which the City is open for performance of general City functions with regular City personnel.

18.2.3 Days for Performance. All periods for performance specified in this Agreement in terms of days shall be calendar days, and not business days, unless otherwise expressly provided in this Agreement.

18.2.4 Time of the Essence. Time is of the essence with respect to each provision of this Agreement.

18.3 Counterparts. This Agreement may be signed in multiple counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

18.4 Survival. Notwithstanding anything to the contrary in this Agreement, each indemnity obligation under this Agreement shall survive expiration or termination of this Agreement. Further all other obligations under this Agreement that arise and were not satisfied before expiration or termination of this Agreement shall survive any expiration or termination of this Agreement.

18.5 Non-Discrimination. Developer covenants by and for itself and its successors or assigns, and all persons claiming under or through it, and this Agreement is made and accepted upon and subject to the following conditions:

18.5.1 Standards. That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (l) of subdivision (p) of Section 12955, and Section 12955.2 of the Government code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Site nor shall Developer, itself, himself or herself, or any person claiming under or through it, him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, subtenants, sublessees, or vendees in the Site.

18.6 Relationship of the Parties. The subject of this Agreement is a private development with neither Party acting as the agent of the other Party in any respect. None of the provisions in this Agreement shall be deemed to render City a partner in Developer's business, or joint venturer or member in any joint enterprise with Developer.

IN WITNESS WHEREOF, City and Developer have signed and entered into this Agreement as of the Effective Date by and through the signatures of their respective authorized representative(s), as follow:

CITY:

CITY OF MILL VALLEY,
a municipal corporation

By: _____

Print Name: _____

Title: _____

APPROVED AS TO FORM:

By: _____
Inder Khalsa, City Attorney

DEVELOPER:

EAH, INC.,
a California nonprofit public benefit corporation

By: _____
Print Name: _____
Title: _____

EXHIBIT "A"
TO
EXCLUSIVE NEGOTIATION AGREEMENT

Description of the Site

[Attached behind this cover page]

1 Hamilton Road, Mill Valley
Assessor's Parcel 030-250-01
Approximate Site Area of Affordable Housing Parcel

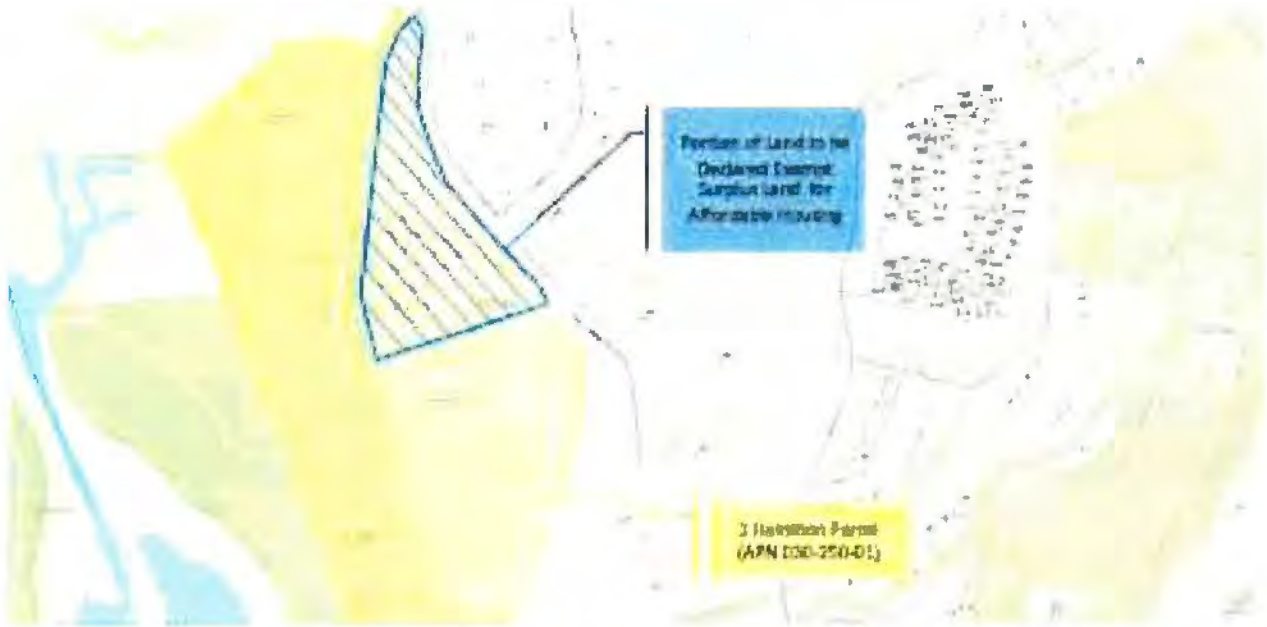


EXHIBIT "B"
TO
EXCLUSIVE NEGOTIATION AGREEMENT

Schedule of Performance

[Attached behind this cover page]

Schedule of Performance

Re: 1 Hamilton Road, Mill Valley

Scope: Exclusive Negotiation Agreement period (February 2022 to March 2023*)

Exclusive Negotiation Agreement

Executed Agreement Feb. 2022

Community Outreach

Community Outreach Plan Feb. 2022

Outreach to Community Groups: Small Targeted Discussions to Identify Community needs Feb. 2022 to Sept. 2022

Community Meeting 1: Introduction to team and project concept Feb. 2022

Community Meeting 2: Interactive Input April 2022

Community Meeting 3: Report out, project changes, and integrations of community input June 2022

Community Meeting 4: Pre-Submittal Design Sept. 2022

Design, Rezoning, and Entitlements

Initial Site Plan and Fit Studies Dec. 2021 to Feb. 2022

Schematic Design Feb. 2022 to July 2022

Pre-Entitlement Package Sept. 2022

Entitlement Submittal Feb. 2023

General Plan Amendment for Rezoning Feb –June 2023

***Environmental**

Environmental Phase 1 Feb. 2022

Geotechnical Reports March 2022

Environmental Phase 2 (if required) April 2022

CEQA and NEPA Approval Jan. 2023 to Aug. 2023

Finance

City Predevelopment Loan
(approved with ENA)

Feb. 2022

Financing Concept

March 2022

Financing Plan

June 2022

Land Disposition Agreement

March 2023

* Above assumes a mitigated negative declaration. Should a full EIR be required entitlement process could take up to 24 months. Schedule for Initial Study will be determined in coordination with the selected environmental consultant; overall project schedule will be determined upon completion of an initial study.

Community Outreach & Engagement Plan

Updated: January 14, 2022

Overview

EAH and Van Meters William Pollack (the development team) recognize that community participation is a critical component of the planning process. Providing the opportunity for public input encourages citizens to be invested in the future of their community. The public outreach and engagement plan describes how community members, project partners and stakeholders will be engaged throughout the planning and design process. The outreach and engagement plan serves as a guide for community involvement and is subject to change based on input received.

Approach

PHASE 1: Information Gathering

Identify key stakeholders and document neighborhood and community interests and concerns regarding the development of the 1 Hamilton site. This first phase usually consists of one community meeting to kick off the project, followed by small informal focus group meetings with community stakeholders.

The purpose of this phase is to assess the areas of community interest, and shape outreach materials accordingly.

PHASE 2: The Focused Community Outreach

Engage community residents and stakeholders to participate in design discussions, which include input and feedback on design concepts to refine the site plan and architectural details.

The goal of this phase is to obtain consensus on a preferred site plan and schematic design concept which will be submitted to the City for review and approval.

PHASE 3: Entitlement Package Submittal and Support

Provide on-going support to assist in the development review and approval process. Attend public hearings and document community support for the project.

PHASE 4: Ongoing Community Outreach

EAH Housing staff will continue to reach out to our neighbors long after project approval, from site development, construction, and through full occupancy. We pride ourselves on being an active and supportive partner in the communities where we develop and manage affordable housing. We consider our community outreach program as the first step in a long-term relationship between EAH and our neighbors.

ATTACHMENT #3

Communication Methods

Our methods for communication are adaptive and flexible to reach the broadest segment of the population. Utilizing both analog and digital platforms, the development team will find the means to inform and engage the community in the development process. Dependent on Covid guidelines and community preference, some or all these methods can be utilized.

Analog

Direct Mail: will be sent to residents within a defined catchment. Information will include upcoming community meetings and opportunities to provide input on the proposed development and information on general project updates.

Door to Door: information on the development and events can be delivered on doorsteps. Our development team can visit local businesses, community centers, and churches to provide information on the future development.

Local Newspapers: ads can be placed in local newspapers to inform the community about upcoming meetings and provide general information on the future project and general development updates.

Community Events: the development team can attend local community events, such as street fairs, to engage and inform the community about the future project.

Small Focus Groups: the development team will meet with small local targeted groups, such as the immediate neighbors Friends of Hauke Park, Sustainable Mill Valley, etc. to discuss specific concerns or questions regarding the future development.

In-Person Community Meetings: the development team will have community meetings to publicly discuss the development process and the specific elements of the future development project.

Digital

Direct Email: will be sent to those that sign up for our email list. Information shared will include upcoming community meetings, opportunities to provide input on the proposed development (examples: surveys or planning meetings), and general project updates.

Project Website: will provide general information on the proposed development, including a site map, affordability information, project team and contacts, upcoming events, general development timeline, frequently asked questions, and the ability to sign-up for project updates.

Online Community Groups: information can be shared via local online community forums such as Nextdoor and/or local Facebook groups.

Online Community Meetings: the development team can have community meetings using an online platform to publicly discuss the development process and the specific elements of the future development project.

Planned Community Meetings

The meetings below are the general guide to the types of community meetings we will have and the projected timeline. Additional meetings can be added. More specifically, community meetings 2 & 3 can be an iterative process with multiple rounds of community input and reporting.

At all community meetings, there will be assigned note-takers to capture community comments. Questions and answers will be shared via the development webpage.

Community Meeting 1: Project and Team Introduction

When: March 2022

Location: Mill Valley Community Center (or online*)

Goal: Lay out existing site conditions and opportunities, introduce the project and project team, and collect community questions and concerns.

Format: Formal presentation followed by an open house with stations addressing specific topics

Description:

The project team will give a short formal presentation introducing themselves, the project, and the format for the open house. At each topic station, there will be a subject matter expert and a note-taker. Individuals will be encouraged to visit stations, ask questions and give feedback on the various topics discussed below.

Information Stations. Break out rooms, or informational stations, will be used to collect input and answer questions on the following:

1. Affordable Housing Overview- What is affordable housing, rents, incomes, and how households qualify for affordable housing.
2. Development timeline and process.
3. Replacement of current uses- parking and bathroom relocations options.
4. Conceptual Design- views, massing, and site plan overview.
5. EAH property management and services.
6. Other topics areas, as needed.

*If online breakout rooms will be used in place of stations.

Focus Group Input: Small group meetings

When: Between kick off and Workshop 2

Location: Varies

Goal: Address specific concerns associated with site design and layout. Talk to direct neighbors and take suggestions for further view impact evaluations.

Format: Varies. May include online surveys or meetings on-site with the project team to discuss neighborhood concerns, led by the Architect, VMWP.

Description:

Information gathering to discuss the site layout, including affordable housing opportunities, concerns about view impacts, replacement parking, and circulation, and park restroom. The project team will document expressed concerns and take requests into design considerations.

Community Meeting 2: Initial Concepts

When: April 2022

Location: Mill Valley Community Center (or online*)

Goal: Present initial concept and collect community feedback

Format: A formal presentation followed by a design charrette.

Description:

The development team will present 2-3 concepts for site layout. For each of the concepts, the tradeoff will be presented regarding the number of homes created, parking, and massing. The team will also provide an initial overall replacement plan illustrating options for replacement parking and circulation and relocation of the park restroom. The community will then be asked to participate in a design charrette providing feedback on elements and suggestions for improvements.

The development team will collect all community comments and integrate, where feasible, into the next iteration of the design concept.

*If online breakout rooms will be used for virtual design charrette, with survey questions for design elements.

Community Meeting 3: Project Concept Update

When: June 2022

Location: Mill Valley Community Center (or online)

Goal: Layout the feedback received at the previous meeting and how those suggestions have been integrated into the updated project concepts to establish consensus for the project design concept.

Format: Formal presentation and question and answer session followed by an open house with stations addressing specific elements of the development.

Description:

The development team will present the consensus or preferred option with small sub-options for the development as well as for surrounding potential public improvements to parking and circulation and park restroom. Time will be taken to lay out how the design was arrived at based on the community input from the previous design charrette. Once the formal presentation is completed, community members will be given the opportunity to ask questions in an open forum.

After the open forum, community members will be invited to explore stations addressing specific elements of the project's development to ask questions, provide feedback, and provide solutions. Examples of stations that may be included are parking and traffic, site plan, and/or architectural design (style or optional styles) for the development.

*If online, breakout rooms will be used in place of stations.

Community Meeting 4: Pre-Submittal Design

When: September 2022

Location: Mill Valley Community Center (or online)

Goal: Provide a final opportunity for community comment and prior to preparing entitlement package

Format: Formal presentation and open form question and answer session.

Description:

The development team will present the refined design, which is intended for submittal for design review and the zoning and general plan amendment process. It provides the community an opportunity to see the submitted proposal before the design review and provide final comments to the development team.

Ongoing Small Group Meetings

When: February to September 2022

Location: Various

Goal: Address specific concerns in small group settings to build consensus and support.

Format: Small group meetings in person or via an online platform.

Description:

The development team will continue to work with local organizations to inform and engage them in the development process for the future development at 1 Hamilton Drive.

EXHIBIT B



tel: 916.455.7300 • fax: 916.244.7300
510 8th Street • Sacramento, CA 95814

February 4, 2022

SENT VIA EMAIL (cityclerk@cityofmillvalley.org)

Kelsey Rogers, City Clerk
City of Mill Valley
Mill Valley City Hall
26 Corte Madera Avenue
Mill Valley, CA 94941

**RE: Public Comments to February 7, 2022 City Council Meeting,
Agenda Item 6 re: 1 Hamilton Drive**

Dear Ms. Rogers:

This letter transmits additional comments regarding Agenda Item 6, a proposed Exclusive Negotiating Agreement (“ENA”) with a developer for residential development at 1 Hamilton Drive (“Project”). Our prior letter, dated February 2, 2022, raised concerns that the City’s approval of the ENA commits the City as a practical matter to the Project without first conducting CEQA review in violation of CEQA. (*Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116, 132 (*Save Tara*)). Our further review of surrounding circumstances reinforces this concern.

We reviewed the City’s staff report for Item 6, Housing Element Update, which revealed additional troubling information about the City’s commitment to the Project. Specifically, a comment letter by the Mill Valley Affordable Housing Committee (“MVAHC”) states, “1 Hamilton shows up on the counts but not on the map. However, we are very encouraged that it *clearly shows up as a cast-in-stone commitment* in this chart.” (Item 5 staff report, Attachment 3, p. 2, emphasis added.) While it is unclear what chart is described, MVAHC’s understanding that the City’s commitment is “cast-in-stone” cannot be ignored. These facts bring the present situation even closer to that addressed in *Save Tara*:

Circumstances surrounding City’s approval of the agreements confirm City’s commitment to the 1343 Laurel project. In aid of Laurel Place’s HUD grant application, the city manager told the federal agency City “has approved the sale of the property” and “will commit” up to \$1 million in financial aid. Once the grant was awarded, City’s mayor announced it “will

be used” for Laurel Place’s project, and the City newsletter stated that, using the grant, City and Laurel Place “will redevelop the property.” City officials told residents who opposed the project that while “variations” on the proposal would be entertained, City “must continue on a path that fulfills this obligation” to redevelop the property for senior housing. Similarly, at the May 3, 2004, city council meeting, City’s housing manager stated that while there were “options to consider” regarding project design, options for other uses of the property (as a park, library, or cultural center) had already been ruled out.

(*Id.* at 141–142.)

MVAHC’s understanding of the City’s “cast-in-iron” commitment to the Project is unfortunately reinforced by our ongoing inquiry into the City’s claimed analysis of alternative project sites. The City has repeatedly asserted that it analyzed 75 different City-owned parcels. FOHP members were skeptical because they received information suggesting that the City was trying to limit new affordable housing to the less affluent side of town, east of Camino Alto, where all of the existing affordable housing is located. This prompted us to submit a Public Records Act (“PRA”) request to the City, explaining, “FOHP is concerned about the process and criteria utilized by the City of Mill Valley (‘City’) to seemingly decide upon the 1 Hamilton Drive site, adjacent to Hauke Park, as the City’s preferred location for the Project.”

We have now reviewed 2,068 pages produced by the City in response to our PRA request. Far from dispelling our concerns about an improper analysis for selecting viable sites, the documents produced to date support our concerns. While the City claims that it analyzed in detail 71 different City-owned sites, the City’s records only identify 11 such sites. (See Exhibit 1, memo from Danielle Straude from Janet “Re: Analysis of Tax-Exempt Sites for Affordable Housing Development” dated February 10, 2021 (“Site Analysis Memo”), pp. 7, 18.) The City’s document production does not even identify the remaining 64 sites, much provide detailed analysis of their suitability.

We note the Site Analysis Memo identifies an additional 37 sites “for potential sale.” (Exhibit 1, Site Analysis Memo, p. 19.) The City has never clarified, however, whether these additional 37 sites “for sale” are included in the 75 sites purported analyzed for development. Even if they are included, the total of 48 sites (11 sites for development and 37 sites for sale) falls well short of the claimed 75 sites that were analyzed. In this scenario, 27 sites remain completely undisclosed.

Kelsey Rogers, City Clerk
City of Mill Valley
February 4, 2022
Page 3 of 3

The City's failure to document its analysis of 64 (or 27) of the 75 claimed potential housing sites is consistent with FOHP's concern that 1 Hamilton Drive has been selected for impermissible reasons.

In light of these troublesome developments, the City needs to stop the "bureaucratic and financial momentum" inexorably leading to an unlawful commitment to 1 Hamilton Drive in violation of CEQA. (*Id.* at 130.) Nothing requires the City to rush ahead with the Project at this time in this manner. Indeed, the City is now performing a comprehensive site analysis as part of the Housing Element update as described in the Item 5 staff report. The only legitimate path forward, which would comply with applicable law and restore public confidence in the City's decision-making process, is for the City to follow the process identified for its Housing Element Update.

Very truly yours,

SOLURI MESERVE
A Law Corporation

By:



Patrick M. Soluri

PMS/mre

Attachment: Exhibit 1, February 10, 2021 Site Analysis Memo

cc: John McCauley, Mayor (jmccauley@cityofmillvalley.org)
Jim Wickham, Vice Mayor (jwickham@cityofmillvalley.org)
Urban Carmel, Councilmember (ucarmel@cityofmillvalley.org)
Sashi McEntee, Councilmember (smcentee@cityofmillvalley.org)
Stephen Burke, Councilmember (c/o cityclerk@cityofmillvalley.org)
G. Inder Khalsa, City Attorney (gkhalsa@rwglaw.com)

EXHIBIT 1

To: Danielle Straude, Senior Planner, City of Mill Valley
From: Janet Smith-Heimer, The Housing Workshop
Re: Analysis of Tax-Exempt Sites for Affordable Housing Development
Date: 2-10-21

Introduction and Summary of Findings

This memo summarizes an initial analysis of a list of approximately 75 parcels of land owned by the City of Mill Valley, for the purposes of identifying a short list of parcels suitable for potential affordable housing development. In addition, the analysis for this memo included a review of all other identifiable property tax-exempt parcels located within City limits (e.g., owned by Marin Open Space, Marin Municipal Water District, several religious organizations, etc.). The source for identifying tax-exempt parcels, the County Assessor's database, lists all land parcels in Mill Valley by identifying number, size, owner, and tax-exempt or taxable status.

The analysis of publicly-owned/tax-exempt land parcels was commissioned by the City of Mill Valley, and prepared under the guidance of City staff and the Housing Advisory Committee. Following discussion of this initial analysis, The Housing Workshop will conduct an in-depth financial analysis of potential housing projects on two of the best-suited sites to demonstrate feasibility and facilitate potential next steps by the City.

Purpose of the Analysis

This initial study phase was conducted with two objectives: to identify City-owned or other tax-exempt parcels that could be developed into affordable housing, and to identify any parcels that could potentially be monetized (e.g., sold or leased) by the City to private parties to raise local funds that could help subsidize affordable housing projects. The review of City-owned properties aligns well with policy initiatives promoted by housing policy experts as well as the State of California, to leverage publicly-owned land assets to address the current housing crisis. This memorandum does not outline or analyze housing affordability issues in Mill Valley; several key resources to further explore those issues are referenced in Appendix A of this memorandum.

Leveraging publicly-owned land assets by making them available, typically at reduced or no cost to a non-profit affordable housing developer, is a direct method of subsidizing and creating this type of development, which otherwise faces major challenges in acquiring developable land and

raising sufficient funding to build new units. In other words, eliminating the time and cost of acquiring land (because it is contributed by a city or public agency to a project), immediately reduces the need for funding by 20 to 40% of total project cost, depending on the cost of that land. This concept, sometimes called “land write-down,” was used very successfully throughout California for decades through local redevelopment agencies tasked with funding new affordable housing projects. Nearby examples of this concept can be found in San Rafael and other Marin locations.

Summary of Findings

As detailed in the following memorandum, the initial analysis concluded the following:

- Among the numerous City-owned parcels, just 4 sites were identified for further analysis, including:
 1. Public Safety Building/Hauke Field Parking Lot
 2. Boyle Park Tennis Courts
 3. Portion of Edgewood (aka Mill Valley Reservoir)
 4. Portion of Mill Valley Golf Course along Linda Vista Drive
- The factors affecting this conclusion – parcel size, degree of slope, recreation/open space designations, and environmental constraints – render many of the subject parcels infeasible for multifamily affordable housing development.
- A review of other non-City owned, tax-exempt parcels indicates that there are likely no short-term opportunities to partner with property owners.
- There are limited opportunities to monetize City-owned parcels, due to likely infeasibility of creating retail single family lots matching zoning requirements for parcel size. Three parcels that may yield up to 10 lots in total were identified as potentially saleable, but require further analysis to determine their marketability and value. It should also be noted that raising funds for potential use as subsidy in future projects does not directly resolve the lack of available project development sites.

Next steps in the study process will include preparing a financial analysis for 2 of the 4 sites identified as having near-term development potential for affordable housing. If these sites “pencil,” The Housing Workshop will recommend a series of future actions to undertake City-sponsored affordable housing development on those sites.

Affordable Housing Development Challenges in Mill Valley

There are several key development constraints facing Mill Valley's publicly-owned parcels, all of which were converted into criteria to apply to the list of parcels for the analysis. These are summarized below.

Current Zoning Designations

Mill Valley owns numerous tracts of land used for active recreation (e.g., ballfields, tennis courts) along with extensive networks of trails, gardens, public parks, and designated open space areas with heritage trees. These recreation/open space lands are treasured by residents, and are considered important parts of Mill Valley's quality of life.

The community valuing of recreation/open space, and the balancing of potential development versus conservation for recreation/open space, have long been codified in the City's General Plan land use and zoning designations. The balancing of competing goals, such as development versus recreation/open space, is a tension that occurs in every city in the Bay Area. This current analysis does not seek to alter these land use designations; the work conducted every 8 years to prepare the City's Housing Element Update is meant to address those larger policy questions.

Criteria Used in Analysis. With a few exceptions as described later in this memorandum, the City-owned sites analysis considered a current zoning designation of Open Space as a given, thereby not permitting any new multifamily housing development. The few exceptions described later in this memorandum represent potential building sites located within larger open space areas, sited to be on frontage roads so as to not disturb recreation/open space enjoyment.

Parcel Size and Development Density

In Mill Valley, even though the City owns parcels of various sizes throughout the city, these assets are not easily identifiable on the ground. Mill Valley, with its desirable location, climate, and lifestyle, has long been “built-out,” meaning no obvious tracts of undeveloped land await development. The downtown layout, primarily in a historic village pattern, further limits development opportunities on publicly-owned parcels.¹

A review of Mill Valley’s zoning designations indicates that the City’s most dense category of residential development caps out at 29 dwelling units per acre, with these opportunities generally located in the downtown center. This density typically translates into a 3-story multifamily building with surface parking.

For 100% affordable housing projects (including housing for very low, low, and moderate income households), the California Density Bonus Law (found in California Government Code Sections 65915 – 65918) provides developers with a substantial “density bonus” of an 80% increase in density. For Mill Valley’s current most dense residential zone category, this would yield projects with a density of 52 units per acre (1.8 X 29).

Almost all affordable rental housing developers seek yield and scale in their projects (in terms of number of units), due to the complexities and cost involved in creating these projects. In Mill Valley, this combination of relatively low maximum allowable density and typical parcel size mean that even with a density bonus, almost all professional organizations will not be able to expend the time and resources necessary to develop on very small parcels.² In addition, even post-development, most affordable housing projects require an on-site property manager living in one of the units, which is generally not sustainable in terms of operating costs in projects with less than 40 units, although exceptions to this rule of thumb can be found for slightly smaller projects if management is shared by the same owner with another small project nearby. The result of these scale and yield considerations means that parcels likely to attract a qualified affordable rental housing developer would need to be at least 0.75 acres (which would yield 39

¹ It should be noted that downtown Mill Valley has numerous examples of privately-owned parcels that are currently underutilized (e.g., aging one-story commercial structures and/or underutilized parking lots). While these parcels were not analyzed directly in this memorandum, they should be reconsidered as potential housing or mixed-use sites during the City’s upcoming Housing Element update process, because downtown infill locations typically create very desirable locations with services for multifamily projects. These kinds of projects also serve to activate streets, bring new shoppers, and contribute to a vibrant village center.

² Some for-profit developers of market-rate housing are able to develop on small parcels, due to the typical high profit margins available in a higher-value area such as Mill Valley. Yield and scale affect these two housing segments differently.

units per acre if zoned for 29 units and the maximum density bonus were applied).

Criteria Used in Analysis: Due to the resulting infeasibility of affordable housing development on small parcels, City-owned parcels less than 0.75 acres are considered not developable for this purpose. However, separately, some of these smaller sites may have monetary value to raise funds for a project located elsewhere, and are assessed in this memorandum for that purpose.

Degree of Slope

Due to topography, location near sensitive wetlands, areas which experience flooding, and other environmental factors, Mill Valley sites require a fine-grained assessment to determine physical development feasibility. This analysis focuses on two key physical factors: slope and floodplain/floodway status.

Steep slopes adversely affect affordable multifamily development in several ways, all of which combine to increase project costs without an ability to obtain compensation through commonly-used funding sources. Costs rise in steep slope situations because of extra site grading, design challenges, accessibility challenges for people with disabilities, and seismic safety structural mitigations. In addition, often steep slopes face erosion and other constraining soil conditions, all of which also add to project costs. Most affordable housing developers will seek other opportunities elsewhere that do not pose these increased cost risks.³

Criteria Used in Analysis: Sites with an average slope greater than 10% were considered infeasible for affordable housing project development. However, there are a few exceptions noted later in this memorandum, where site visits indicated that flatter building pads may exist among large parcels with otherwise average steeper slopes.

³ It should be noted that these slope-related factors do not necessarily constrain high value new construction townhouse or single-family homes in the same way; these types of buildings can often maximize views and/or incorporate other creative design features on steeply-sloped lots, adding value to offset increased costs.

Floodplain/Floodway Status

Some portions of Mill Valley’s flatter, more developed sections are affected by several waterways which can reach impactful flood stages currently defined by the Federal Emergency Management Agency (FEMA) as having a 1% chance of flooding each year (formerly called “100 year floodplain”). In simple terms, these areas require annual flood insurance premiums, which add to the operating costs in affordable projects. In some subzones of these areas, FEMA recommends architectural and engineering methods to reduce flood damage; while these may add to construction costs, they can sometimes be incorporated without creating project infeasibility (such as raising the dwelling areas above flood levels with parking on the ground floor).

In other floodplain areas, based on waterway hydrology and topography analyses, FEMA designates certain portions as Floodways, which means any building placed on the site needs to be designed so that its structure does not demonstrably impede receding water flow in the event of a flood. In simple terms, this requirement is in place to ensure that floodwaters can flow, unimpeded by structure, causing more damage elsewhere. Building housing structures in floodways is therefore quite difficult to infeasible, and sites in FEMA-designated floodways are not recommended for further consideration by the City of Mill Valley.

Criteria Used in Analysis: Parcels with a FEMA floodplain designation of “AE” or “AO” are considered as possible for development (albeit not ideal), while parcels designated as Floodway are considered not feasible for affordable housing development.

The results of applying the above criteria to the City-owned and other tax-exempt parcels are described in the following section with supporting tables included as Appendices B through D.

Potential City-Owned Affordable Housing Development Sites

The approximately 75 City-owned parcels were evaluated based on criteria outlined above, including a minimum size of at least 0.75 acres and an average slope of 10% or less.

A summary of the resulting “short list” of potentially developable affordable housing sites is shown below. Each of these sites was also visited in-person by The Housing Workshop and evaluated further per other potential site or regulatory constraints, as described below.

Table 1: City-Owned Sites with Potential Feasibility for Multifamily Affordable Rental Housing

Site #	Site Location	APN	Acres	Avg Slope (%)	Zoning	Floodplain (a)	Floodway	# of Units (b)	Notes
1	1 Hamilton Public Safety Building parking lot serving Hauke Field	030-250-01	0.75	10.0%	Open Area (O-A)	No	No	22-39 units	Site size estimated (part of larger parcel). Needs design study to confirm suitable building pad with sufficient distance from Bayland Corridor boundary. Parcel would require subdivision and rezoning.
2	Portion of Boyle Park Tennis courts and part of field behind it	029-212-24, possibly part of another parcel	0.80	< 10%	Open Area (O-A)	No	No	23-41 units	Site size estimated (portion of Boyle park inc. 5 tennis courts and field/parking lot at end of East Drive)
3	Edgewood (MV Reservoir)	046-070-02, 046-061-52	4.37	24.6%	Open Area (O-A)/Single Family (RS)	No	No	29-52 units	Site size and location estimated (part of larger parcel). Review of 1967 grant deed shows covenant to keep as a park. This parcel is relatively large and has some slope areas, so a portion could be removed from covenant w MMWD agreement. Yield estimate assumes 1 buildable acre within larger sloped site.
4	Portion of Mill Valley Golf Course along Vista Linda Drive	029-131-07	45.68	16.5%	Open Area (O-A)	AO	No	22-39 units	Site would be portion along Vista Linda Drive/ edge of golf course. Yield assumes a .75 acre parcel could be identified. May require relocation/redesign of nearby golf hole. Yield may be reduced depending on parcel shape and golf course safety requirements.

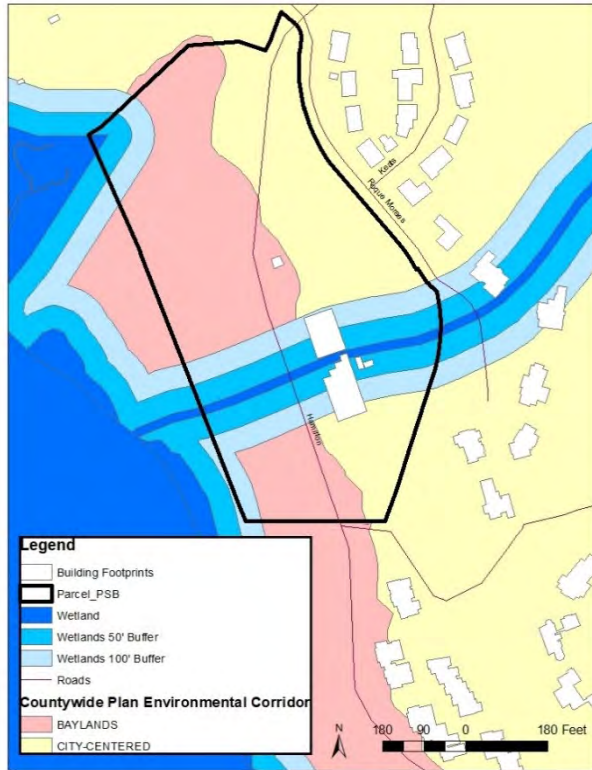
Notes:

a) AE and AO indicate location in FEMA floodplain. AE indicates FEMA has established baseline flood elevation, but project could be designed to accommodate.

AO indicates shallow sheet flooding without known baseline, but could be established and designed for. Both types would also require flood insurance.

b) Low end of range assumes zoning for 29 units/acre. High end assumes application of state density bonus law (80% bonus for 100% affordable projects), which would yield 52 units/ acre

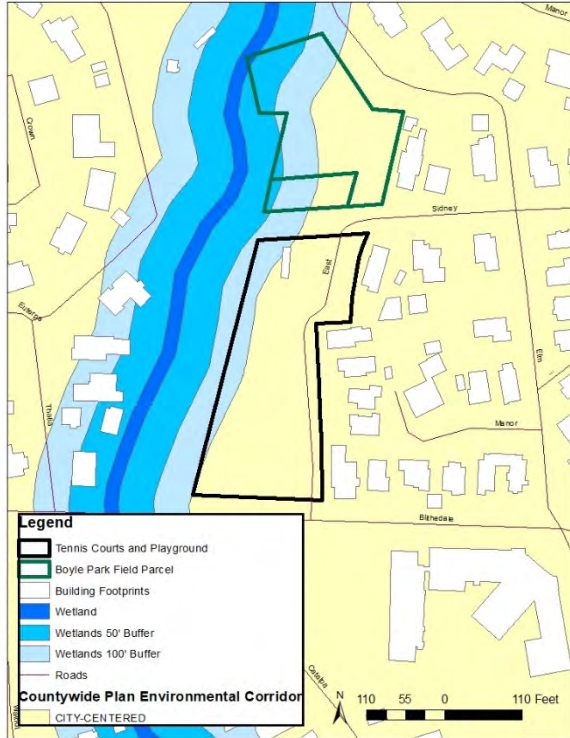
Site 1: Public Safety Building/Hauke Field Parking Lot



Potential 0.75 acre Housing Site

This potential housing site lies adjacent to the City’s Public Safety Building complex, on its northern side. This area currently provides parking and restrooms for recreation fields located nearby. The potential housing site is impacted by its location near the boundaries of the Marin County Baylands Corridor, as described in the County General Plan. This designation identifies uplands adjacent to sensitive wetlands, and requires special biological assessment studies to protect habitat for plants and animals. According to the Marin County General Plan, development sites of between 0.5 and 1 acre require a 30-foot setback from the Baylands boundary. Until further biological and survey studies can be conducted, it is assumed the identified housing site could provide 0.75 acres for development, creating sufficient scale to develop a physically feasible project. Current restrooms and parking area for Hauke Field may need to be relocated elsewhere on the PSB site.

Site 2: Portion of Boyle Park

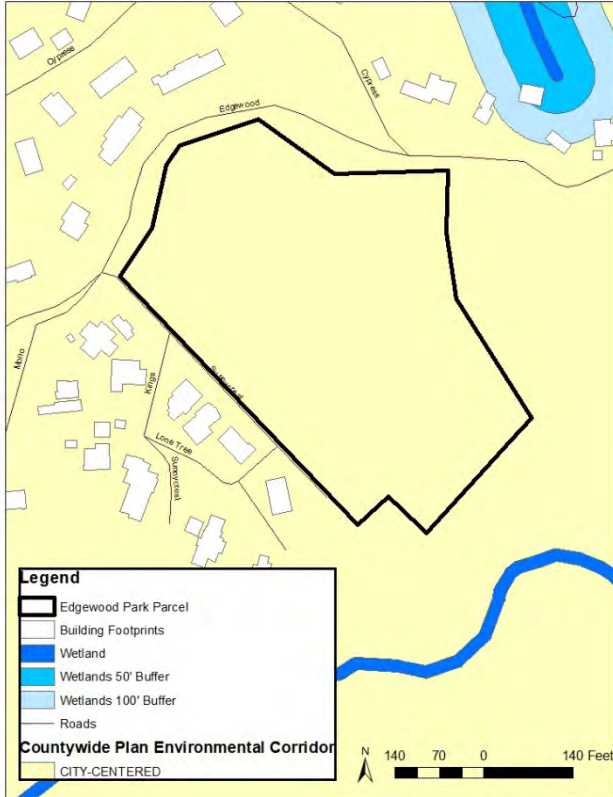


Potential 0.75 acre Housing Site

This site would be subdivided and developed in the portion of Boyle Park containing 5 tennis courts, along E. Blithedale Avenue. While reducing recreational facilities for Mill Valley’s residents is less than ideal, this site is included in this memorandum because it would create a sufficiently-sized and shaped parcel in a pleasant residential neighborhood without prohibitive environmental constraints (e.g., floodplain, sensitive habitat, etc.). From an objective affordable housing development point of view, this is the best of the 4 identified sites. As described in this memorandum, identifying sites with sufficient size and yield, that also do not create extraordinary cost challenges, means that other tradeoffs would need to be made to leverage public lands.

As shown in the map on the left, although not in a floodplain or floodway, the tennis courts are located near sensitive wetlands, and would need to be designed carefully to allow for the medium blue 50 foot buffer. The lost tennis courts could potentially be relocated elsewhere in this part of Mill Valley or designed to be placed on the roof of the new housing project with separate public access provided.

Site 3: Edgewood (aka Mill Valley Reservoir)

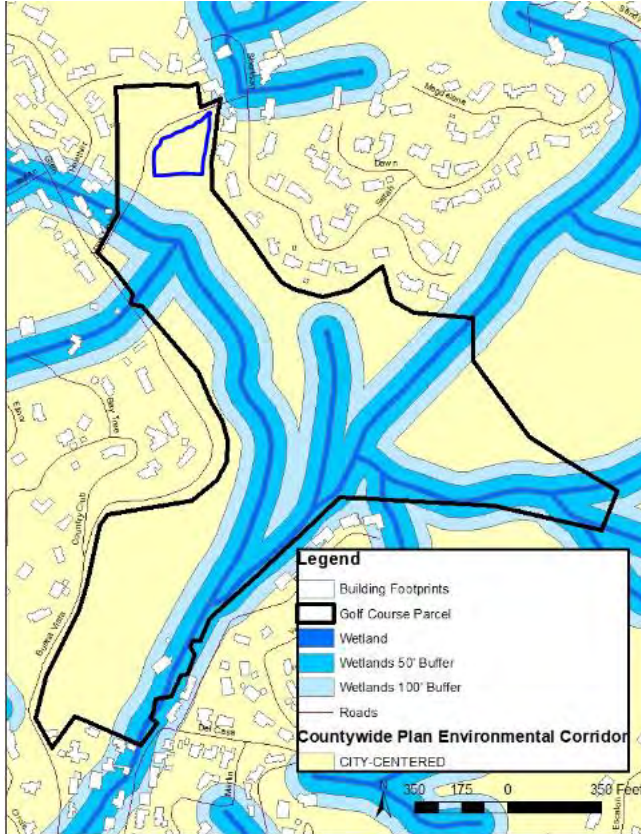


Potential 1 acre Housing Site

The Edgewood parcel contains over 4 acres, with portions containing steep slopes. The site is used as an informal open space area but has not been improved as a public park. Based on topographic map review, it is estimated that a 1-acre or more buildable portion with a feasible slope could be identified. Another development constraint is that this site was deeded by the Marin Municipal Water District to the City in 1967, with a covenant in the recorded deed that the site be maintained by the City and used as a park. However, since this site has not been improved as a park and given the age (50+ years) and nature of the grand deed, it may be possible to amend the deed to remove this covenant for a portion of the site through agreement with the MMWD.

The strategy outlined above has the additional benefit of creating a buildable parcel of 1 acre or more, allowing for a higher unit yield than the other tightly-fitted 0.75 acre sites which limit unit yield with no room to spare. In addition, it may be possible to improve other portions of this site as a park, providing new benefits to the surrounding community in exchange for supporting the 1 acre portion for use as affordable housing.

Site 4: Portion of Mill Valley Municipal Golf Course



Potential 0.75 acre Housing Site

The Mill Valley Municipal Golf Course was purchased by the City from a private owner in the 1930s and has been operated by the City since that time. It has reportedly suffered operating losses in recent years. However, any change in use status of the golf course as a whole will require a more lengthy discussion than the scope of this memorandum, and cannot be addressed here. Thus, as the City considers the future of the 45 acre, 9-hole course, for this memorandum a portion of its greenway buffering along Linda Vista was identified that may be suitable for multifamily affordable housing development in the near term.

It should be noted that the potential housing development site shown above, is across the street along Linda Vista Drive from a recently-proposed public parcel currently used as a playing field, which engendered substantial community resistance to any development. In addition, further design of a potential building site as shown above may impact the adjacent golf hole; research indicated that 9-hole courses typically require 20 to 48 acres of land, so at 45 acres, the Mill Valley course may well be reconfigurable in this section to accommodate the housing site.

City-Owned Sites Considered as Infeasible For Development

Appendix B provides a summary of six additional City-owned sites which were of sufficient size to consider, but have other constraints making them infeasible for near-term multifamily rental housing at affordable levels. These constraints are outlined below.

City Hall/Fire House Parking Lots. The first set of 3 lots are the parking lots and open space surrounding City Hall, including the entry parking area between City Hall and the Mill Valley Market, the back parking lot behind City Hall, and the open space on the far side of the historic fire house adjacent to City Hall. As noted in Appendix B, these parcels are either too small and/or in the case of the back parking lot, designated a Floodway. The table notes that either of the “side” parcels could be developed as a small number (2 to 3) moderate income ownership townhouses, with the most practical site on the open space adjacent to the fire house. This product type does not require an on-site property manager and thus can be developed at a smaller unit yield. These are often more challenging to finance, since many of the commonly-used funding sources such as Low Income Housing Tax Credits do not apply; however, with City-contributed land, there are ways to arrange for this type of housing. In the even the fire house itself were no longer needed, that historic structure could also likely be rehabilitated and converted to possibly 2 more townhouses.

Historic Depot Plaza. This 0.77 acre site is the paved, improved Plaza along with a long, linear parking lot bordering the Plaza area adjacent to and behind the historic Depot in downtown Mill Valley. Although the site is large enough to yield a feasible affordable housing project, it functions as a vital public gathering place, along with much-needed parking for downtown merchants. As such, it would require extensive further study such as a downtown parking study, and likely an urban redesign plan, to replace any public gathering plaza lost to development.

Public Parking Lot Behind D’Angelos. The parking lot behind D’Angelos, accessed from Throckmorton in downtown Mill Valley, has an infeasible configuration due to its linear alley-style parking abutting other buildings. This shape renders the site infeasible for housing of any type.

Community Center Parking Lot. The parking lot adjacent to the Mill Valley Community Center, a portion of which currently contains solar panels, is located partially within or near the Baylands Corridor boundary, meaning that only approximately a 0.5 acre potential development site could be identified. This site size is infeasible for affordable rental housing, as described previously. In addition, the soils on this property are reportedly experiencing substantial subsidence; thus, further soil and biological assessments would need to be conducted to determine if any portion

could be suitable for development. It is likely that a best-case scenario would yield a small developable parcel, which could be used to construct moderate income ownership townhouses.

Public Parking Lot at 411 Miller Avenue. The City-owned parking lot at 411 Miller Avenue offers a good rectangular set of parcels, albeit at an insufficient size for affordable multifamily residential development (smaller than the 0.75 acre threshold). In addition, a substantial portion of the site is located in a FEMA-designated Floodway, rendering new development infeasible. However, due to recent flood improvements in the area, there may be the possibility of requesting a change to the FEMA designation (which may also benefit other parcels that are privately-owned along Miller and adjacent locations such as Sloat Nursery). This would require relatively expensive hydrology studies to demonstrate to FEMA that the current situation has been improved and the Floodway finding in the area no longer applies. This process, including the necessary studies, may be fundable by state or local grants. The City should consult with the Flood Control District to ascertain next steps. If the Floodway designation could be removed, the City-owned portion, with approximately 0.54 acres, would become suitable for moderate income ownership townhouses, which do not require an on-site property manager.

Other City-Owned Parcels

Appendix C shows a summary of dozens of other city-owned parcels deemed infeasible for near-term affordable housing development for one or more of the following reasons:

- Average slopes greater than 10%, with site visits confirming steep slopes throughout parcel
- Small site size below 0.75 acres, limiting yield
- Other prohibitive environmental conditions (see Appendix C)

Potential to Monetize City-Owned Parcels

Among these infeasible-for-development parcels, there were several that may have potential value if offered for sale as a single family lot, as noted in Appendix C. The criteria used to identify salable lots were size and zoning; the parcel must be at least 6,000 square feet (the minimum single family lot size for new construction in Mill Valley) and zoned as some form of residential use. The zoning factor was applied because it is unlikely for retail lot purchasers to undertake a zoning change, especially when most of these parcels are zoned as highly-treasured Open Space.

The value of parcels potentially marketable for single family use involved analyzing sales of single family retail lots in Mill Valley that have occurred over the past 3 years (see Appendix D). As shown, the sales ranged widely, depending on slope (and cost of grading), location, size, and marketing assertions about “approved plans.”⁴ Because the 3 City-owned parcels identified as sufficient in size and zoning to create marketable lots shown in Appendix C are all zoned to require a minimum lot size of 1.5 acres per unit, a total of 10 potential retail lots could be identified on these 3 parcels, with a maximum retail lot value after broker commission and other selling costs was conservatively estimated at up to \$1,000,000 per lot.

This analysis yields a potential total value of up to \$10,000,000, but will very likely decline when more detailed site assessments are conducted to ascertain availability of utilities, identification of building sites amongst the very steep slopes, and other factors impacting marketability and value.

⁴ “Approved plans” described in listing descriptions were not confirmed with the City, and are assumed to contribute only minor additions to value.

Other Tax-Exempt Parcels with Affordable Housing Development Potential

In addition to the direct potential to develop affordable housing on City-Owned parcels, Mill Valley contains numerous parcels owned by other tax-exempt agencies, non-profits, and religious organizations. These parcels were reviewed for size and slope, along with known likelihood of interest in providing land for development.

The following criteria were used to exclude tax-exempt parcels from further consideration:

- Parcels owned by Marin Open Space
- Parcels owned by Marin Municipal Water District
- Parcels owned by public school districts (which may have potential development sites, but should be considered first by the school district)

Remaining non-City owned tax-exempt parcels, described below, are owned by utilities (AT&T) and religious organizations. These parcels may have some longer-term potential for collaboration with the City of Mill Valley for affordable housing development.

Mt. Tamalpais United Methodist Church (410 Sycamore Avenue)



The church provides worship services along with childcare and other community services in a complex of buildings on a relatively large site. While the complex could possibly be envisioned in a reconfigured layout that could incorporate an affordable housing project (a possible 0.75 acre site is outlined in yellow), it is a challenging process, particularly given several environmental constraints including location near the sewage treatment plant making the site potentially unsuitable for

new housing development. In addition, other buildings currently on the site would likely need to be demolished but the functions in them could be incorporated into a housing project (e.g.,

ground floor childcare facility and/or meeting rooms). The leadership of this church may be interested in partnering with the City for housing but does not have near-term plans to undertake such an initiative.

First Church of Christ, Scientist, Mill Valley (279 Camino Alto)

This church sits atop a knoll with substantial land devoted to parking, open space, and



circulation. The building itself, pictured here, is relatively small but with sweeping vistas in keeping with a spiritual center. The site could be potentially reconfigured to place a 0.75 acre housing site on it that would be located beyond the requisite wetland buffer, as shown in yellow outline here. However, this would require new access driveways and reconfigured parking lots. It is not known if the leadership of this institution would be interested in collaborating with the City of Mill Valley.

AT&T Building (300 E. Blithedale)

This site contains an historic Tudor-style 3-story commercial building on a 0.48 acre parcel, which in the past has housed both telephone operations and small commercial tenants. Its current occupancy and use are not known, although it is still owned by AT&T. The building size and condition for potential rehabilitation into affordable housing are not known. Adjacent to the building is another parcel owned by AT&T configured as a parking lot to serve the building; however most of the parking lot lies in a floodway, constraining future development. If the City wished to collaborate on the building site, it or a development partner would need to most likely purchase the site from AT&T at market rates, thereby losing the benefit of leveraging publicly-owned property as a direct subsidy to a project.

Appendix A: List of Plans and Other Resources

Marin Countywide Plan 2007 (County General Plan)

<https://www.marincounty.org/depts/cd/divisions/planning/2007-marin-countywide-plan>

Marin County Housing Element Information (for unincorporated areas of Marin County only)

<https://www.marincounty.org/depts/cd/divisions/housing/housing-element>

Mill Valley 2040 (City of Mill Valley General Plan)

<https://www.cityofmillvalley.org/gov/departments/building/planning/longrangeplannig/default.htm>

City of Mill Valley Housing Element Update 2013-2023 (note: the City will soon be updating the Housing Element for the next 8-year cycle)

<https://www.cityofmillvalley.org/civicax/filebank/blobdload.aspx?BlobID=24590>

About FEMA Flood Zones (portal to many web pages)

<https://www.fema.gov/glossary/flood-zones>

FEMA Information on Changing Flood Zone Maps (relevant for 411 Miller Ave Floodway)

<https://www.fema.gov/flood-maps/change-your-flood-zone>

Additional Explanation of FEMA Flood Zones AE AO, and Floodways Related to Insurance

<https://www.amica.com/en/products/flood-insurance/what-is-an-ae-flood-zone.html>

Appendix B: Infeasible City-Owned Lots Due to Size, Environmental, or Configuration Factors

Site Location	APN	Acres	Avg Slope (%)	Zoning	Flood-plain (a)	Flood-way	# of Units (b)	Notes
30 Corte Madera City Hall Portion of Parking Lot (by Fire Dept)	028-014-06	0.14	5.3%	O-A	AE	No	2-3 townhouses	Small site but could potentially be a few aff townhouse units
26 Corte Madera City Hall Portion of Parking Lot (by MMMarket)	028-014-21	0.19	6.4%	C-D	AE	No	2-3 townhouses	Small site but could potentially be a few aff townhouse units
26 Corte Madera City Hall and Back Portion of Parking Lot	028-014-16	0.49	6.5%	O-A	AE	Yes	N/A	Floodway makes infeasible
Plaza & Parking Lot	028-013-15	0.77	1.3%	Downtown Commercial (C-D)	AE	No	N/A	Site is public plaza plus has long, narrow parking lot, which makes it challenging to design a housing project without eliminating vital downtown space.Reconfiguring developable area by adding portion of private parking lot next door on sunnyside was considered, but that parcel is in Floodway.
Parking Lot behind D'Angelos	028-061-35	0.71	8.1%	Downtown Commercial (C-D)	AE	Yes	N/A	Small street frontage, narrow lot, units would abut other buildings. Very hard to design as infill.
Portion of Com Center parking lot	030-111-09	0.50	2.0%	Community Facilities (C-F)	mixed No/AE	No	7-10 moderate income townhouses	Buildable site is smaller than parking lot due to location of Bayland Corridor boundary and required 50' setback. Site also likely has soil subsidence issues. Replacement parking may also need to be arranged. Needs further analysis.
411 Miller Miller Parking Lot	030-271-70, 030-071-28	0.54	<2.5%	Open Area (O-A) & Commercial (C-N)	AE	Yes	7-10 moderate income townhouses	Site is impacted by existing Floodway designation, but recent improvements have enable a change by FEMA. Would require hydrology studies to demonstrate and obtain change.
Notes:								
a) AE and AO indicate location in FEMA floodplain. AE indicates FEMA has established baseline flood elevation, but project could be designed to accommodate. AO indicates shallow sheet flooding without known baseline, but could be established and designed for. Both types would also require flood insurance.								
b) Assumes townhouse development at approximately 15-18 units per acre..								

Appendix D: Other City-Owned Parcels for Potential Sale

(Includes all City-Owned Parcels > minimum single family lot size of 6,000 square feet)

Location	APN	Acres	Gross Square Feet	Avg Slope (%)	Zoning	Flood-plain (a)	Flood-way	Allowed # of Units	Notes	# of Lots	Per Lot	Total
Camino Alto and Stanton Way . Not maintained by DPW	033-102-18	5.25	228,690	42.0	RSP-5A	No		1 DU/1.5 acres	steep slope	3	\$1,000,000	\$3,000,000
Vasco Court / Corner of Edna Maguire	033-240-15	0.86	37,462	16.3	RSP-2A	No		1 DU/1.5 acres	Does not meet zoning			
Vasco Court / Corner across from Edna Maguire / Creek runs through property/ Bike Path	033-240-01	0.49	21,344	20.0	RSP-2A			1 DU/1.5 acres	Does not meet zoning			
Tenderfoot Trail/Zig Zag Trail. Not maintained by DPW	046-010-25	18.59	809,780	46.2	RSP-10A	No		1 DU/1.5 acres	Trail site			
Corner of Tenderfoot trail. Land Locked/ No Access. Not maintained DPW	046-010-34	0.41	17,644	40.2	RSP-10A			1 DU/1.5 acres	Does not meet zoning			
Marsh/Margarite ROW Creek runs through site two ways.	027-272-01	0.23	9,924	19.4	RS-43	AO		7 DU/acre	Difficult to develop			
Tenderfoot trail. Not maintained by DPW	046-030-29	9.70	422,532	42.2	RS-10A	No		1 DU/1.5 acres	Nested in trails	6	\$1,000,000	\$6,000,000
Fern Canyon. Not maintained by DPW	027-066-40	2.07	90,155	61.1	RS-10A			1 DU/1.5 acres	May be 1 lot. Steep slope.	1	\$1,000,000	\$1,000,000
Next to 226 Rose. Not maintained by DPW	027-252-43	0.49	21,300	72.8	RS-10			7 DU/acre	very steep slope; likely not marketable			
Miller Grove/AE Floodway	029-101-01	11.70	509,865	20.0	O-A	AE	Yes	N/A	Floodway. Not marketable.			
Fern canyon (near old railroad grade). Not maintained by DPW	027-066-50	7.89	343,688	63.9	O-A			N/A	Not marketable due to zoning.			
cascade park (lovell and cascade)	027-106-09	7.40	322,344	24.2	O-A	AE		N/A	Not marketable due to zoning.			
Marsh/Ralston Drive/Blithedale Canyon. Not maintained by DPW	027-033-29	6.80	296,208	36.6	O-A	No		N/A	Not marketable due to zoning.			
Edgewood/Cypress/Rose. Not maintained by DPW	046-320-01	5.47	238,273	62.4	O-A			N/A	Not marketable due to zoning.			
Park/Warner Canyon (Buena Vista/Camelita)	029-192-16	4.99	217,165	11.0	O-A	AE		N/A	Not marketable due to zoning.			
Fern canyon (near old railroad grade). Not maintained by DPW	027-280-03	4.01	174,676	53.7	O-A			N/A	Not marketable due to zoning.			
MonteVista / Tenderfoot trail. Not maintained by DPW	027-162-01	3.84	167,160	49.1	O-A	No		N/A	Not marketable due to zoning.			
tenderfoot trail. Not maintained by DPW	046-030-20	3.22	140,263	39.9	O-A	No		N/A	Not marketable due to zoning.			
Evelyn/Cascade Dam. Not maintained by DPW	046-010-14	3.02	131,551	49.2	O-A	No		N/A	Not marketable due to zoning.			
Golf Club House	029-084-01	2.26	98,446	33.1	O-A	No		N/A	Not marketable due to zoning.			
Old Mill Park (lower)	028-102-12	2.08	90,605	16.4	O-A	AE	Yes	N/A	Not marketable due to zoning.			
MonteVista / Tenderfoot trail. Not maintained by DPW	027-161-26	2.00	87,120	57.5	O-A			N/A	Not marketable due to zoning.			
Old Mill Park (upper near structure/bathrooms)	028-091-09	1.73	75,359	13.6	O-A	AE		N/A	Not marketable due to zoning.			
Cascade/Throckmorton. Not maintained by DPW	027-161-15	1.39	60,600	48.7	O-A	AE		N/A	Not marketable due to zoning.			
Sycamore/Corner of MVMS/MMWD Easement	030-161-12	1.33	58,000	14.8	O-A	No		N/A	Not marketable due to zoning.			
Molino /Cascade (Other side of Old Mill Park). Not maintained by DPW	028-132-09	1.04	45,344	59.4	O-A			N/A	Not marketable due to zoning.			
Cascade/Throckmorton. Not maintained by DPW	027-161-05	1.00	43,512	47.0	O-A	AE		N/A	Not marketable due to zoning.			
MonteVista/Earnscliff Park	027-235-28	0.90	39,282	30.9	O-A	No		N/A	Not marketable due to zoning.			
Norris Memorial Park (Molino/Helens). Not Maintained by DPW	028-161-02	0.65	28,509	30.9	O-A	No		N/A	Not marketable due to zoning.			
Fairway Drive (near Golf Course). Not maintained by DPW. Between RS-10 SFR. Could be split into two lots and sold?	029-161-47	0.59	25,760	34.5	O-A	No		N/A	Not marketable due to zoning.			
Narrow ROW near Azalea/Camino Alto and Pathway. Not maintained by DPW	033-112-01	0.53	23,000	29.4	O-A	No		N/A	Not marketable due to zoning.			
Library and back of/AE Floodplain. Maintained by DPW	028-091-11	0.48	20,757	23.8	O-A			N/A	Not marketable due to zoning.			
Norris Memorial Park (Molino/Helens). Not Maintained by DPW	028-161-01	0.41	17,650	34.2	O-A			N/A	Not marketable due to zoning.			
MonteVista / Tenderfoot trail. Not maintained by DPW	046-030-23	0.39	16,944	46.5	O-A	No		N/A	Not marketable due to zoning.			
Sycamore/ROW/AE Floodplain. 18' wide.	030-101-22	0.27	11,765	10.2	O-A	AE		N/A	Not marketable due to zoning.			
Norris Memorial Park (Molino/Helens). Not Maintained by DPW	028-161-03	0.16	6,825	46.1	O-A			N/A	Not marketable due to zoning.			
Behind 700 East Blithedale/ Roque Mar /AE Floodplain. 47' wide	030-124-11	0.16	7,171	34.9	C-G	AE		29 DU/acre	Too small for cost of building in flood plain unless combined with 700 Blithedale			

Appendix D: Recent Single Family Lot Sales






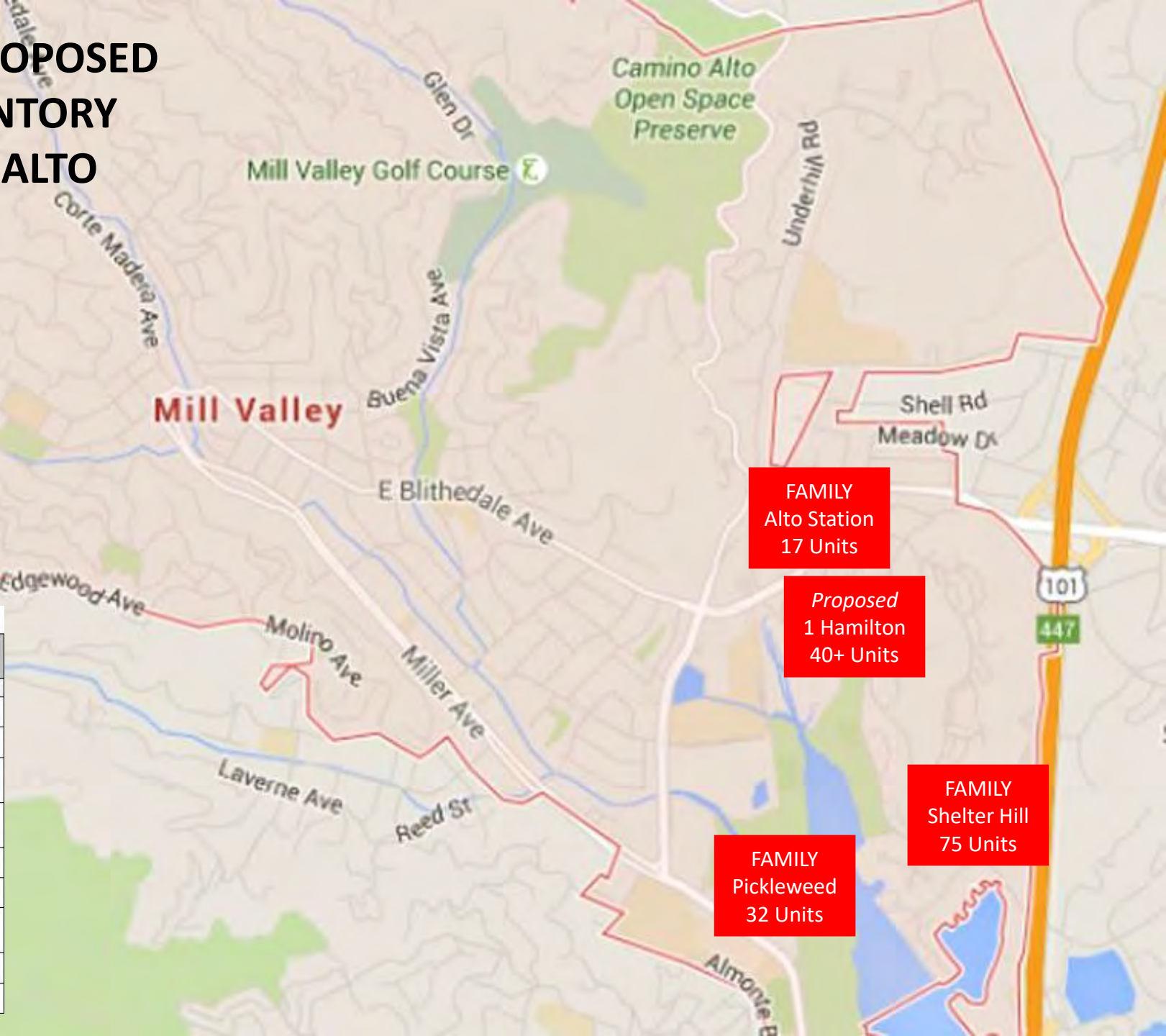
	Address	Acreage	square Feet	Sale Date	Sale Price	Price/Sq. Ft. of Land	Notes
	50 Sandy Lane	1.154	50,268	10/20/2020	\$ 1,250,000	\$ 24.87	1.15 acre parcel above the Mill Valley golf course. Lot features views of the San Francisco Bay and the ridges to the West. Located at the end of a quiet cul de sac with utilities to the lot line. Near trails.
	201 Marion	0.240	10,454	3/24/2019	\$ 450,000	\$ 43.05	Appears to have slope. Site formerly had 1962 house on it (now demolished, foundation visible). Sold previously in 2016 for \$300,000.
	390 N. Ferndale	0.130	5,662	2/24/2019	\$ 559,000	\$ 98.73	Description says site has "approved plans" for 1,800 sf new home. Had former (demolished) 1918 home on it. Note: site size below min lot of 6,000 sf.
	316 W. Blithedale	0.200	8,712	7/25/2018	\$ 1,050,000	\$ 120.52	Sold 4 months earlier for \$800,000 (\$91.83 per sq. ft.). Also sold for 1.05M in 2004.
	321 Loring Avenue	0.132	5,760	6/25/2018	\$ 450,000	\$ 78.13	Description says "approved plans, shovel ready." Note: below min lot size.

EXHIBIT C

MILL VALLEY 2022 CURRENT & PROPOSED ASSISTED FAMILY HOUSING INVENTORY 100% LOCATED EAST OF CAMINO ALTO

Table A.26: Assisted Housing Inventory

Project Name	Year Built	Tenant Type	Total units/ Affordable units	Deed Restriction Source	Potential Subsidy Expiration	Ownership/ Management
Publicly-Assisted Rental Housing						
Homestead Terrace 100 Linden Lane	1969	Senior/ disabled	28	Public housing- HUD	perpetuity	MHA
Kruger Pines 47 North Knoll Road	1971	Senior/ disabled	56	Public housing- HUD	perpetuity	MHA
The Redwoods 40 Camino Alto	1972	Senior/ disabled	149 / 60	HUD Section 231	2028	Non-profit Community Church of Mill Valley
Shelter Hill 37 Miwok Way	1977	Family	75	Refinanced in 2011 – Tax Credits	2066	Non-profit EAH
Camino Alto Apts 260 Camino Alto Court	1983	Disabled	24	HUD Section 202 CDBG, Section 8	2028	Non-profit Mercy Housing
Pickleweed Apts 651 Miller Avenue	1986	Family	32	CHFA bond City Ground-lease	2031	Non-profit BRIDGE Housing
Alto Station Apts 290 Camino Alto Court	1995	Family	17	HOME State RHCP City Ground-lease	2047	Non-profit BRIDGE Housing
Mill Creek Apts 60 Camino Alto	2004	Disabled	9	Section 202 Section 8	2029	Non-profit N Bay Rehab Services
Fireside Apartments (outside City limits)	2009	Family/ Senior	49	Low Income Tax Credit	2064	Non-profit Eden Housing



MILL VALLEY 2022 CURRENT & PROPOSED ASSISTED SENIOR/DISABLED HOUSING INVENTORY

92% LOCATED EAST OF CAMINO ALTO

Table A.26: Assisted Housing Inventory

Project Name	Year Built	Tenant Type	Total units/ Affordable units	Deed Restriction Source	Potential Subsidy Expiration	Ownership/ Management
Publicly-Assisted Rental Housing						
Homestead Terrace 100 Linden Lane	1969	Senior/ disabled	28	Public housing- HUD	perpetuity	MHA
Kruger Pines 47 North Knoll Road	1971	Senior/ disabled	56	Public housing- HUD	perpetuity	MHA
The Redwoods 40 Camino Alto	1972	Senior/ disabled	149 / 60	HUD Section 231	2028	Non-profit Community Church of Mill Valley
Shelter Hill 37 Miwok Way	1977	Family	75	Refinanced in 2011 – Tax Credits	2066	Non-profit EAH
Camino Alto Apts 260 Camino Alto Court	1983	Disabled	24	HUD Section 202 CDBG, Section 8	2028	Non-profit Mercy Housing
Pickleweed Apts 651 Miller Avenue	1986	Family	32	CHFA bond City Ground-lease	2031	Non-profit BRIDGE Housing
Alto Station Apts 290 Camino Alto Court	1995	Family	17	HOME State RHCP City Ground-lease	2047	Non-profit BRIDGE Housing
Mill Creek Apts 60 Camino Alto	2004	Disabled	9	Section 202 Section 8	2029	Non-profit N Bay Rehab Services
Fireside Apartments (outside City limits)	2009	Family/ Senior	49	Low Income Tax Credit	2064	Non-profit Eden Housing

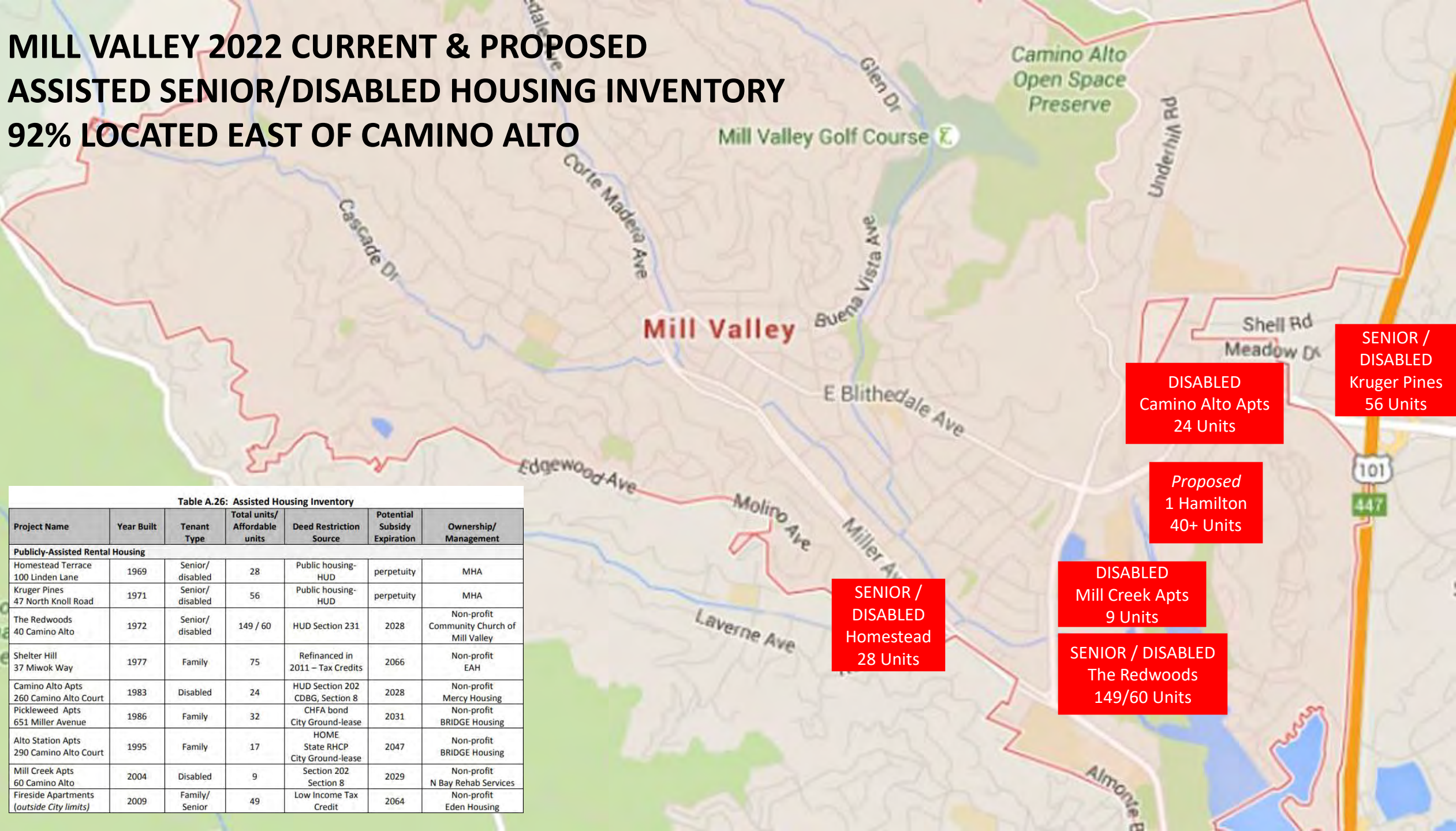


EXHIBIT 3

City of Mill Valley 2023-2031 Housing and Land Use Elements Updates and Zoning Amendments Notice of Preparation

Revised September 15, 2022

The information below has been revised to correct errors in the original Notice of Preparation (NOP) and to incorporate public comments received during the 30-day NOP public comment period (July 21, 2022 through August 22, 2022). Clarifications and minor editions are highlighted in track changes through ~~strike-out~~ and underlined format.

2023-2031 Housing Element Update Overview

The City of Mill Valley (City) is updating its Housing Element in order update the City's housing policies and programs through 2031 and to accommodate the Regional Housing Needs Allocation (RHNA) for the City as determined by the California Department of Housing and Development and the Association of Bay Area Governments. The Housing Element update also requires amendments to the General Plan Land Use Element, as well as the Mill Valley Municipal Code (MVMC), including the Zoning Ordinance (MVMC, Title 20).

Setting/Project Location

The City of Mill Valley is bounded on the east by U.S. Highway 101 and the unincorporated neighborhoods of Strawberry and Alto; on the north by the cities of Corte Madera and Larkspur; on the west by Mount Tamalpais; and on the south by the unincorporated neighborhoods of Homestead and Almonte, and Richardson Bay. Mill Valley and its relationship to surrounding cities and communities are illustrated in [Figure 1, Regional Map](#).

Mill Valley is surrounded by the hillsides and steep ridges of the coastal mountains and the water of Richardson Bay, which form natural edges to urban growth. Many of the ridgelines that create the dominant visual backdrop for the community are now preserved as permanent open space. Much of the bayfront land has been preserved as park and open space, providing important habitat as well as visual and physical access to Richardson Bay and the greater San Francisco Bay beyond. Creeks, marshes, redwood groves, heavily forested and grass-covered hillsides, and chaparral are commonplace. Single-family residential neighborhoods are located in the valleys and on the hillsides,

with commercial and more intensive residential uses clustered on the flat low lands, in close proximity to transit and along the main arterial roadways. The residential and commercial areas, together with the natural setting, create a small-town community character that is cherished by the area’s residents (City of Mill Valley 2013).

General Plan Elements to be Amended

Housing Element

State law requires the City to have and maintain a general plan with specific contents in order to provide a vision for the City’s future, and inform local decisions about land use and development, including issues such as circulation, conservation, and safety. The Housing Element is one of the state-mandated elements of the General Plan. State law specifically requires the City to update the Housing Element of its General Plan by January 15, 2023, while making any changes to other elements of the General Plan needed to maintain internal consistency and undertaking any related changes to the City’s Municipal Code (including the City’s Zoning Ordinance). The City’s Housing Element for the 2015-2023 planning period was adopted in May 2015. In accordance with State law, the eight-year planning period for the updated Housing Element will extend from 2023 to 2031; this is also referred to as the 6th Cycle Housing Element Update. The City is updating its Housing Element to comply with the requirements of State law by analyzing existing and projected housing needs, and updating goals, policies, objectives, and implementation programs for the preservation, improvement, and development of housing for all income categories.

Regional Housing Needs Allocation (RHNA)

The Housing Element Update addresses any changes that have occurred since adoption of the current (2015-2023) Housing Element. These changes include, among others, updated demographic information, housing needs data, and analysis of the availability of housing sites. The Housing Element map of available housing sites is updated to identify sites that could accommodate the City’s Regional Housing Needs Allocation (RHNA) for the 2023-2031 planning period. The final RHNA allocation, broken down by income level, for the City is shown below in [Table 1, Mill Valley 2023-2031 Final RHNA Allocation](#).

Table 1 Mill Valley 2023-2031 Final RHNA Allocation

Income Level	Units
Very Low Income (Less than 50 percent of Area Median Income)	262
Low Income (50 to 80 percent of Area Median Income)	151
Moderate Income (80 to 120 percent of Area Median Income)	126
Above Moderate Income (Above 120 percent of Area Median Income)	326
Total RHNA Allocation	865

SOURCE: ABAG 2021

Community Outreach

Over the last nine months, the City has held four public workshops, conducted two public surveys, held a series of focus group meetings and tabling events, and held several City Council, Planning Commission, and Housing Advisory Committee Meeting debriefs as reflected in [Table 2, Mill Valley Housing Element Update Outreach Events](#). One of the primary goals of the workshop series was to engage the community in a conversation that focused on identifying varying housing-related policy considerations and issues, and methodically developing Mill Valley’s vision and planning framework for addressing regional and local housing needs, and meeting the State-mandated RHNA.

Table 2 Mill Valley Housing Element Update Outreach Events

Type of Outreach	Date	Targeted Outreach/Action	Summary of Outreach
City Council Debrief (in person)	September 1, 2021	Review and approval of Draft Schedule and Outreach Plan	Project Kick-Off: Discuss the proposed Work Plan, including schedule and public outreach for the Housing Element Update.
Survey #1 (online)	September-October 2021	Inform and gather input	Online survey (118 responses) regarding housing needs, goals and interests from the community.
Workshop #1 (online)	September 23, 2021	Inform, listen and gather input	City staff reviewed Housing Element Update requirements and overall process, discussed housing trends and demographics, and reviewed existing housing goals (38 individuals registered).
City Council Debrief (in person)	October 10, 2021	Inform and review comments	Review housing needs and input from the community, including workshop 1 and online survey.
Workshop #2 (online)	November 10, 2021	Inform, listen, and gather input	This workshop focused on the sites analysis. The workshop provided an overview of the requirements for a sites analysis, the overall process and criteria used to evaluate and identify potential locations or sites to accommodate new housing. (64 individuals registered).

Type of Outreach	Date	Targeted Outreach/Action	Summary of Outreach
Survey #2 (online and paper copies available)	January-February 2022	Inform and gather input	Online survey (1,039 responses) regarding strategies for identifying sites and housing programs of interest.
City Council Debrief (in person)	February 7, 2022	Inform and review comments	Review of Workshop 2 and preliminary responses from online survey #2.
Focus Group Meetings and Tabling (online and in person)	January-March 2022	Inform, listen, and gather input	Focus groups to discuss: housing needs; strategies to address RHNA and developing housing programs, including: Mill Valley School District (January 12, 2022); Farmers Market (February 9, 2022); Housing Advocates, including Mill Valley Affordable Housing Committee, Mill Valley Force for Racial Equity and Empowerment and Mount Tam Community Land Trust (February 10, 2022).
Workshop #3 (online)	February 16, 2022	Inform, listen and gather input	City staff reviewed a series of draft scenarios to develop its sites inventory to achieve the City's RHNA allocation (175 individuals registered).
Joint City Council/Planning Commission Meeting (in person)	March 22, 2022	Comment and advise	Joint study session to review the proposed housing strategies and draft sites inventory list to achieve the City's RHNA allocation.
Workshop #4 (online)	April 28, 2022	Inform, listen, and gather input	City staff reviewed existing housing programs and provided an opportunity to discuss new housing policies and programs to address community interests (64 individuals registered).
Housing Advisory Committee Meeting (online)	May 17, 2022	Review, comment, and advise	Review of feedback from Workshop 4 and Draft Chapter 2, Housing Programs (48 individuals registered).

SOURCE: City of Mill Valley 2022

Sites Inventory

The Housing Element Update will identify specific sites appropriate for the development of multifamily housing (including affordable units), and the City would rezone those sites as necessary to meet the requirements of State law. The preliminary sites inventory list of existing and proposed sites that can accommodate development of multifamily housing includes sites that are located throughout Mill Valley, and is subject to refinement based on additional public input and review of the draft Housing Element by City’s Planning Commission and City Council, and the California Department of Housing and Community Development. A summary of the maximum development potential for all sites is included below in [Table 3, Sites Inventory Summary](#). Locations of the potential housing sites are shown on [Figure 2, Sites Inventory Map](#).

Table 3 Sites Inventory Summary

Type of Site	Number of Sites	Number of Units (Anticipated Based on Existing Use without Rezoning)	Number of Units (Maximum Based on Allowable Density After Rezoning)
Vacant Single-Family Zoned Sites	88	88	88
Projected SB 9 Lot Splits	9 10	36 40	40 36
City-Owned Site (1 Hamilton)	1	0 40	50
Underutilized Sites: Commercial and Multi-Family Zoned Sites under ½ acre with Housing Overlay ¹	33 35	138 149	294 328
Opportunity Sites: Commercial Zoned Sites over ½ acre with Housing Overlay ¹	27	258	492
Office Conversions with Housing Overlay	13	65	173
Totals	171 174	585 640	1,133 1,171

SOURCE: City of Mill Valley 2022

NOTE: 1. The City anticipates no change in the existing commercial square footage on each of the opportunity sites with existing commercial uses.

In addition to the Sites Inventory, the City anticipates an additional 160 Accessory Dwelling Units (ADUs) based on the City’s 4-year trend of issuing over 20 new ADU building permits a year. Additional units are also anticipated based on three overlay districts proposed and the rezoning of 300 East Blithedale and the Presidio Neighborhood. See details below.

Land Use Element

The Land Use Element will be amended to redesignate land use designations on the Land Use Map and Land Use Categories Table contained in the General Plan based on proposed rezoning for the parcels and areas discussed below.

Amendments to Land Use/Zoning

The proposed project includes amending the general plan land use designations and redesignating the zoning district for several parcels in Mill Valley in order to create consistent land use and zoning designations and accommodate the City's RHNA allocation. The sites identified by City staff requiring amendments to land use designations and zoning amendments include the following locations as reflected in Figure 2, Sites Inventory and [Figure 3, 300 East Blithedale Ave and Presidio Neighborhood](#).

1 Hamilton Drive

Mill Valley City Council has declared the northern portion of 1 Hamilton Drive (030-250-01) as "exempt surplus land" for the sole purpose of building affordable rental housing on the site. The 1 Hamilton parcel is approximately 11 acres in size and is zoned Open Area (O-A) with a land use designation of Community Facility (C-F) containing the Bayfront and Hauke Park, Public Safety Building (PSB), Hauke Park and PSB parking lots, electric vehicle charging stations, ground-mounted solar panels, and community garden. The surplus land is identified as the northern portion of 1 Hamilton ("the site") and is approximately 1.6 - 1.73 acres in size, pending additional survey, topographical and preliminary site planning required to determine the feasibility of relocating existing facilities that are on the site. In order to build affordable housing on the site, a separate parcel will be created with rezoning and land use amendments required. Zoning and land use amendments are assumed to be similar as those multi-family residences in the surrounding area, which are zoned Multi-Family Residential Bayfront (RM-B) with a land use designation of Multi-family (MFR-2) allowing up to 29 units/acre.

300 East Blithedale Avenue

The 0.5-acre site, located at 300 East Blithedale Avenue, is currently operating as a server building for Comcast inside an existing building. The parcel is currently zoned for single-family use. Amending the General Plan designation and rezoning the property to multi-family would result in a maximum of eight units. [Table 4, 300 East Blithedale Existing and Proposed Conditions](#), presents a breakdown of existing and proposed land use and zoning conditions at the site.

Table 4 300 East Blithedale Existing and Proposed Conditions

	Existing	Proposed
General Plan Land Use Designation	Single Family Residential (SFR-2)	Multi-Family Residential (MFR-1)
Zoning District	Single-Family Residential, minimum lot size of 6,000 square feet (RS-6)	Multi-Family Residential Parkway (RM-P)
Density Range	One (1) dwelling units per acre to seven (7) dwelling units per acre	Nine (9) dwelling units per acre to 15 dwelling units per acre
Total Units (excluding Accessory Dwelling Units permitted by-right under State law)	0	8

SOURCE: City of Mill Valley 2022

Presidio Neighborhood (Properties Currently Zoned RM-3.5)

Currently the Presidio neighborhood, located in close proximity to Downtown between Forrest Street and Millwood Street, consist of 64 parcels in which the Single-Family land use designation in the General Plan does not align with the RM-3.5 zoning designation. As part of the Housing Element Update, the land use and zoning for these properties will be updated to ensure General Plan and zoning consistency. The General Plan land use designation for these properties will be amended from Single Family to “Downtown Residential” and the “RM 3.5” zoning will be modified to “Downtown Residential” with maximum densities increasing from remaining at 15 units/acre to 16 units/acre. [Table 5, Presidio Neighborhood Existing and Proposed Conditions](#), presents a breakdown of existing and proposed land use and zoning conditions at the site.

Table 5 Presidio Neighborhood Existing and Proposed Conditions

	Existing	Proposed
General Plan Land Use Designation	Single Family Residential (SFR-2)	Multi-Family (MFR-1) <u>Downtown Residential (DR-1)</u>
Zoning District	Multi-family Residential minimum lot 3,500 square feet (RM-3.5)	Downtown Residential (DR)
Density Range	Per SFR 2 Land Use: One (1) dwelling units per acre to seven (7) dwelling units per acre Per RM 3.5 Zoning: up to 15 units per acre	Nine (9) dwelling units per acre to 15 <u>16</u> dwelling units per acre
Units (excluding Accessory Dwelling Units or Duplexes permitted by-right under State Law)	94	15

SOURCE: City of Mill Valley 2022

In the Presidio Neighborhood, assessor data indicates one (1) parcel operating as commercial use; 22 parcels operating as multi-family use and 41 parcels operating as single-family use. Modification

of the zoning designation to Downtown Residential allows all existing uses to remain, and permits the redevelopment and use of property as either single-family or multi-family. The average size parcel in this neighborhood is less than 5,000 square feet. Based on allowable densities ~~and assuming that all parcels convert to a multi-family use, an additional~~ 15 units could be added (excluding Accessory Dwelling and Duplex Units permitted by right under State Law).

Site Inventory Housing Overlays

To accommodate its regional housing numbers and to facilitate the development of housing in Mill Valley, the following three Overlay Zoning Districts and Zoning Map Update will be adopted in conjunction with the Housing Element Update process. As such, the following housing overlays will specifically apply to those properties identified on the City's Sites Inventory list under the categories of office conversion; underutilized "small lot" sites and opportunity sites.

- **Small Lot Housing Overlay:**

The "small lot overlay zone" will apply to those parcels that are less than ½ acre as identified on the sites inventory list.

The following modified standards apply to projects seeking to develop a parcel through this overlay district:

1. reduced parking (1 space per unit for units less than 1,000 square feet);
2. increased height up to 40-feet for buildings being raised to address the floodplain management requirements or to provide higher ceiling heights on the first floor of a mixed-use building;
3. increased density up to 40 units/acre;
- ~~3.4. modified Floor Area as allowed under State Law (SB 478);~~ and
- ~~4.5. exemption to the inclusionary housing requirement for those projects that provide units that are 1,000 square feet or less.~~

- **Opportunity Site Housing Overlay:** Those parcels identified on the sites inventory that are ½ acre or more may apply for the "opportunity site housing overlay" and Density Bonus as part of the redevelopment of the parcel, which will include the following modified standards:

1. reduced parking (1 parking space for units less than 1,000 square feet);
2. increased height up to 40' for buildings being raised to address the floodplain or to provide higher ceiling heights on the first floor of a mixed use building;
3. revised density standards: minimum density of 20 units/acre and maximum density of 40 units/acre;
4. full residential projects permitted;
5. mixed use projects must have at least 50% of the floor area for residential uses;
6. lot consolidation permitted to facilitate proposed development; ~~and~~

7. modified Floor Area as allowed under State Law (SB 478);

7.8. subject to inclusionary requirements, established in MVMC 20.80, with the following incentives: a) projects subject to the inclusionary regulations must include six or more new units, b) waiving the maximum micro-unit standards in MVMC 20.24.040(B)(1) for those projects that allocate 25% of the inclusionary units as low income, and 3) waiving one affordable inclusionary unit for projects that provide one three-bedroom unit as a low-income inclusionary unit; and

~~8.9.~~ those redevelopment projects that designate 20% of the units as affordable to lower income households are subject to by-right ministerial approval by the Planning Director (not subject to a hearing or discretionary review) as required by state law.

- **Office Conversion Overlay:** The “office conversion overlay zone” will apply to those parcels identified on the sites inventory that currently utilize upper floor space as office space.

The following modified standards apply to projects seeking to develop a parcel through this overlay district:

1. grandfathering parking based on existing parking on site so long as the proposed units are 1,000 square feet or less and the footprint of the building is not expanded;
2. modified density standard, up to 40 units/acre;
3. exemption to the inclusionary housing requirement for those projects that provide units that are 1,000 square feet or less; and
4. ministerial approval (no hearing) based on objective standards to streamline approval.

Other Zoning Code Amendments

Various amendments to code section addressing Commercial Zones (20.36 through 20.48), plus some changes under 20.66 Design Review.

- Modifications to Design Review, as discussed above;
- Removal of Conditional Use Permit for residential use in commercial zoned districts;
- Modification of Development Standards based on state law, including but not limited to State Density Bonus and creating objective standards and guidelines; and
- Modification of allowable uses and development standards based on state law, including but not limited to emergency shelters, residential care facilities and low barrier navigation centers.

Summary of Zoning Map and Land Use Amendments

The proposed project includes amending the Zoning Ordinance as referenced above. In doing so, as reflected in [Table 6, Summary of Zoning Map and Land Use Amendments](#), the following amendments will be made to the Zoning Map and General Plan Land Use Map and Land Use Categories Table.

Table 6 Summary of Zoning Map and Land Use Amendments

Site/Location	Proposed Zoning Amendment	Proposed Land Use Map	Proposed Land Use Density Category
1 Hamilton Drive	Multi-Family Residential Bayfront (RM-B)	Multi-Family Residential (MFR-2)	17 dwelling units per acre to 29 dwelling units per acre
300 East Blithedale Avenue	Multi-Family Residential Parkway (RM-P)	Multi-Family Residential (MFR-1)	Nine (9) dwelling units per acre to 15 dwelling units per acre
Presidio Neighborhood (RM3.5 Zoning District)	Downtown Residential (DR)	Multi-Family Residential (MFR-1)	Nine (9) dwelling units per acre to 15 dwelling units per acre
Small Lot Overlay Zoning District	Overlay district applied to sites identified Table 2 and Figure 2	Overlay district applied to sites identified Table 2 and Figure 2	17 dwelling units per acre to 40 dwelling units per acre
Office Conversion Overlay Zoning District	Overlay district applied to sites identified Table 2 and Figure 2	Overlay district applied to sites identified Table 2 and Figure 2	17 dwelling units per acre to 40 dwelling units per acre
Opportunity Site Overlay Zoning District	Overlay district applied to sites identified Table 2 and Figure 2	Overlay district applied to sites identified Table 2 and Figure 2	20 dwelling units per acre to 40 dwelling units per acre

SOURCE: Mill Valley 2022

Subsequent EIR Approach

Consistent with CEQA Guidelines Section 15162, the EIR will provide subsequent environmental analysis to the 2013 *City of Mill Valley 2040 General Plan Certified Final EIR* (general plan EIR), updating existing analysis where appropriate, and presenting new analysis where necessary. This subsequent EIR will evaluate only the impacts resulting from the amendments to the general plan elements. The subsequent EIR will not evaluate total buildout of the amended General Plan.

CEQA Guidelines section 15146 states that, “The degree of specificity required in an EIR will correspond to the degree of specificity involved in the underlying activity which is described in the EIR.” The underlying activity is adoption of the 2023-2031 Housing Element and associated general plan and zoning amendments. Therefore, the subsequent EIR will evaluate the environmental impacts of the 2023-2031 Housing Element to the greatest degree feasible; however, later environmental review in compliance with CEQA may be required when development proposals

requiring discretionary action are proposed. Later projects may be able to “tier” off of this SEIR, meaning they can rely on the environmental analysis in this document to the extent applicable to their project, limiting environmental analysis to impacts not previously identified, or increases to impacts that were previously identified.

Probable Environmental Effects

Based on a review of the general plan EIR, the following environmental issues have been determined to be adequately addressed in the general plan EIR and will not be addressed further in the subsequent EIR:

- Agricultural and Forestry Resources;
- Cultural Resources (with the exception of Tribal Cultural Resources);
- Geology and Soils (including Paleontological Resources);
- Hazards and Hazardous Materials (with the exception of Sea Level Rise and Wildfire);
- Hydrology and Water Quality; and
- Mineral Resources.

Environmental effects to be addressed in the subsequent EIR will be based on a review of the environmental analysis contained in the general plan EIR and an understanding of current conditions in the city. Probable environmental effects associated with adoption of the 2023-2031 Housing Element and associated updates to the City’s Land Use Element and Zoning Ordinance will be addressed in the subsequent EIR and are briefly discussed below.

Aesthetics

The aesthetics discussion and analysis in the general plan EIR will be utilized in this section, and updated where necessary to address the proposed project. For example, the project may include increasing the allowed heights of buildings. This section will address both project-level and cumulative visual resource impacts.

Air Quality

This section of the subsequent EIR will reflect current air quality analyses, as well as current federal, state, regional, and local regulations. The proposed project could result in an increase in operational criteria air emissions through new vehicle trips generated by additional housing. The proposed project may also increase community health risks and hazards by placing sensitive receptors near existing or planned sources of toxic air contaminants (TACs) or other hazardous emissions.

Biological Resources

The biological resources section of the subsequent EIR will utilize the California Natural Diversity Database (CNDDDB) to determine whether there have been any status changes to special status plant and wildlife species, and whether the general plan EIR adequately addresses sensitive biological resources to current standards.

Energy

The proposed project is presumed to create new development capacity that would result in increased energy demand. The three primary sources of energy demand would likely be fuel use in vehicles, and electricity and natural gas use in buildings. The net change in demand for these types of energy will be modeled in CalEEMod and EMFAC. Because the threshold of significance for energy impacts is qualitative, the impact discussion and analysis will also be qualitative.

Greenhouse Gas Emissions

The City is anticipating that it will adopt and updated climate action plan (CAP) in the summer of 2022. The forthcoming update to the City's will include GHG emission projections that incorporate the new residential development capacity enabled by the Housing Element Update. Consequently, the Housing Element would be consistent with the CAP and GHG reduction measures included in the CAP would be applicable to that new residential development. Consequently, the GHG impact analysis can be streamlined pursuant to CEQA Guidelines section 15183.5. The Housing Element Update GHG impact would be less than significant provided each new future individual project made possible is conditioned to implement applicable GHG reduction measures found in the updated CAP.

In addition, this section of the subsequent EIR will address potential impacts associated with sea level rise. CEQA does not require the evaluation of the environment's impact on a project, but does require an analysis if a project contributes to an environmental effect that could have an effect on a project. The general plan EIR and updated CAP address sea level rise. Existing documentation will be used in this section of the subsequent EIR to present the anticipated flooding impacts of sea level rise, and a qualitative discussion as to how the project could exacerbate these flooding issues.

Noise

This section will address whether the proposed project would result in an increase in the noise levels identified in the general plan EIR with implementation of the proposed project. Cumulative project impacts will be discussed.

Public Services

This section will address whether the proposed project would require new or expanded public services facilities, and whether those facilities would result in significant environmental impacts.

Public services to be addressed include fire protection and emergency medical services, law enforcement, public schools and recreation facilities. Cumulative project impacts will be discussed.

Transportation

The transportation section of the subsequent EIR will address the vehicle miles traveled (VMT) impacts of the project. VMT was not a required component of a CEQA transportation impact analysis when the general plan EIR was prepared.

Tribal Cultural Resources

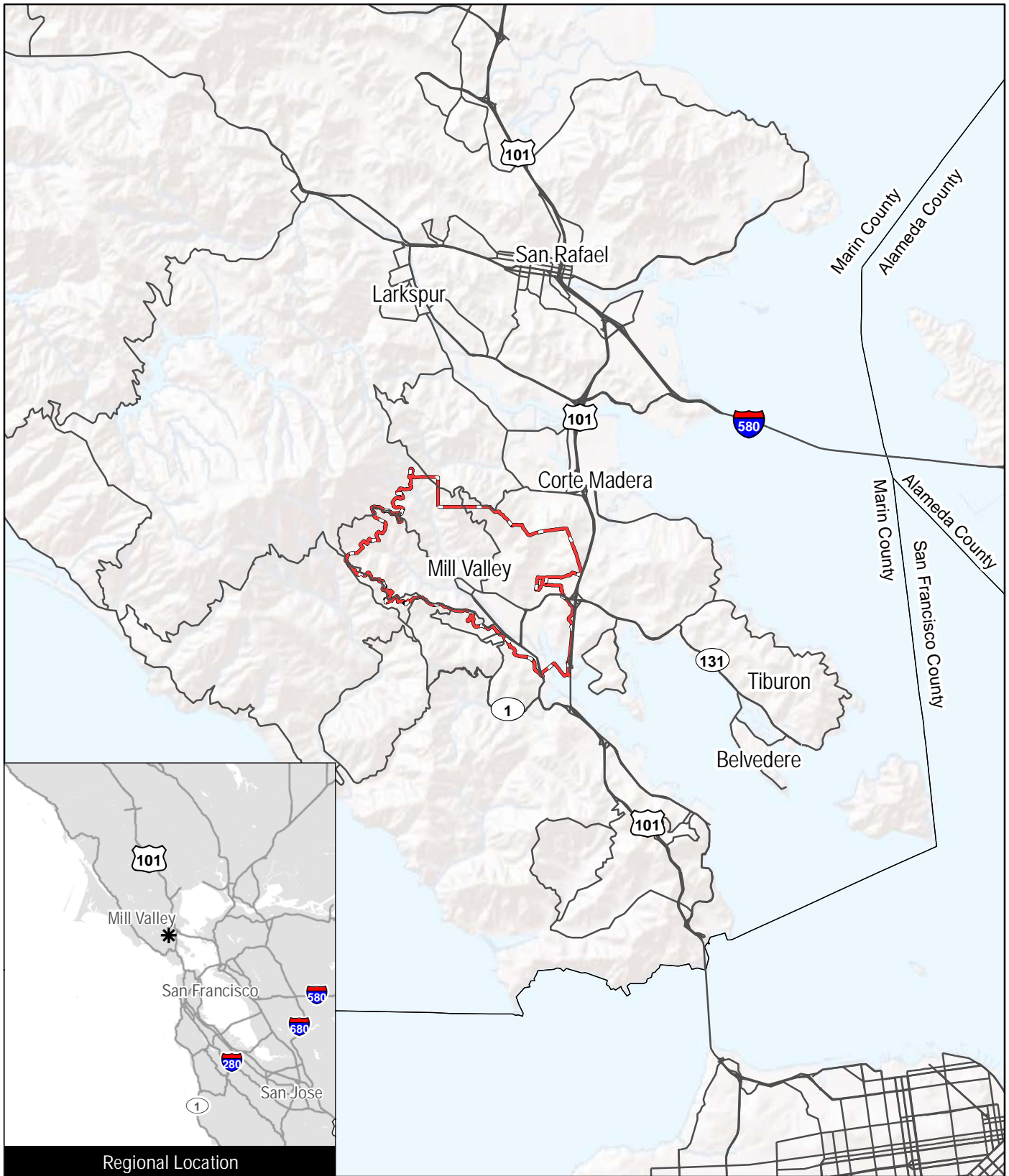
This section of the subsequent EIR will report on the City's SB 18 and AB 52 Tribal Consultation process, which was not a required component of the CEQA cultural resources impact analysis when the general plan EIR was prepared. If consultation does occur, this section will address whether the proposed project may have an adverse change on the significance of a tribal cultural resource.

Utilities and Service Systems

This section will address possible physical changes associated with expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, sufficient water supplies, waste water treatment capacity, and solid waste. Various agencies will be consulted including City of Mill Valley, Marin Municipal Water District, Sewerage Agency of Southern Marin, PG&E, Mill Valley Refuse Service, and the Redwood Landfill. Cumulative project impacts will be discussed.

Wildfire

This section of the subsequent EIR will address whether the project would substantially impair an adopted emergency response plan or emergency evacuation plan; expose people to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire; require installation or maintenance of associated infrastructure that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment; or expose people or structures to significant risks, including downslope of downstream flooding or landslides as a result of runoff, postfire slope instability, or drainage changes. Cumulative project impacts associated with wildfire hazards will also be discussed.



0 2 mile

 City Limits

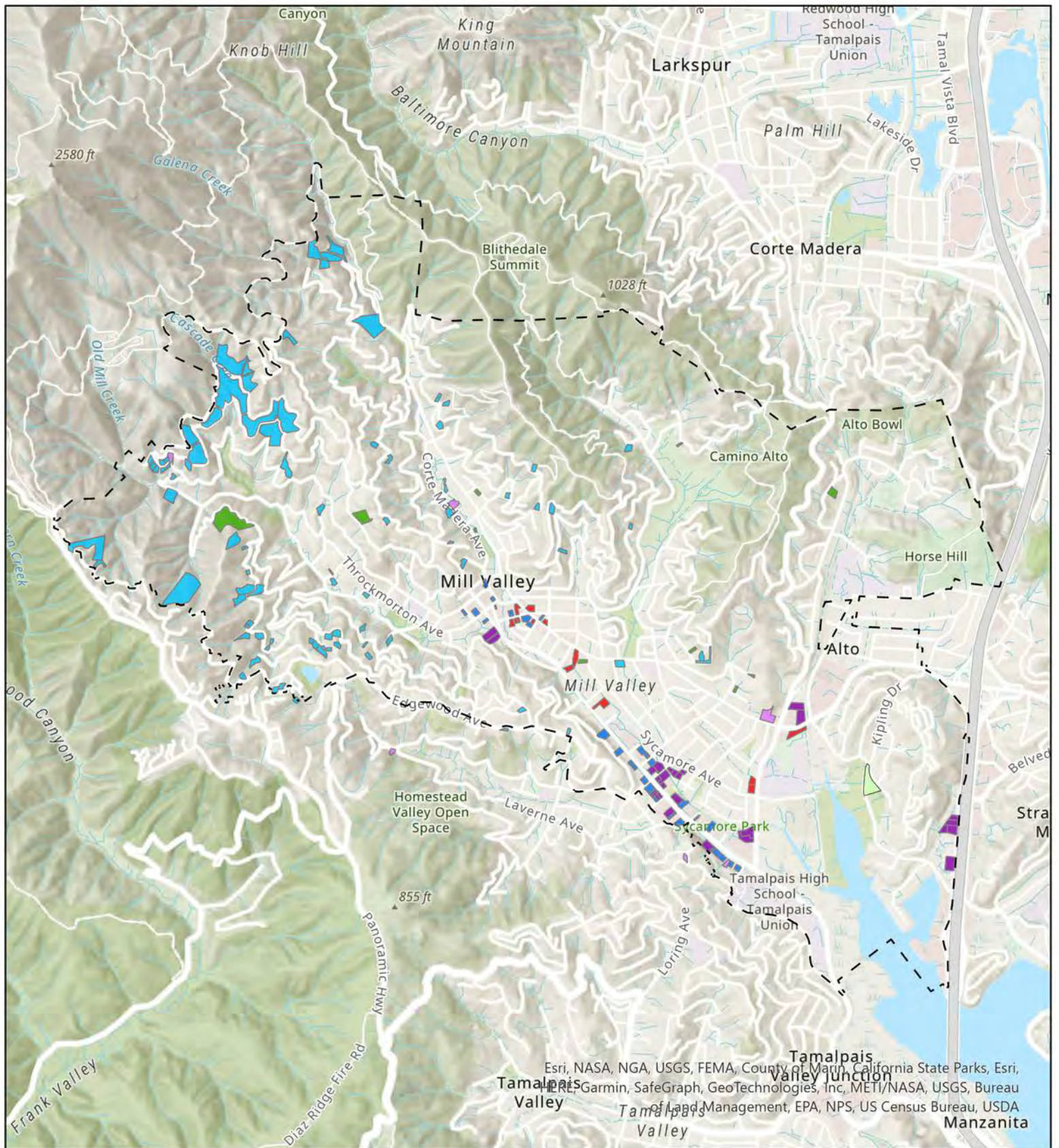
Source: ESRI 2014

Figure 1

Regional Map



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Esri, NASA, NGA, USGS, FEMA, County of Marin, California State Parks, Esri, HERE, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, Bureau of Land Management, EPA, NPS, US Census Bureau, USDA

Table A

Site Category

- City-Owned Site
- Pipeline Projects
- Vacant SF (Not SB9)
- Vacant SF (SB9)

Table B

Site Category

- Office Conversion
- Opportunity Sites (>0.5 acre)
- Underutilized Sites (<0.5 acres)
- City Boundary

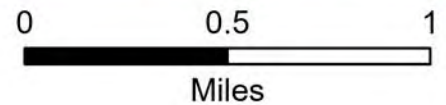
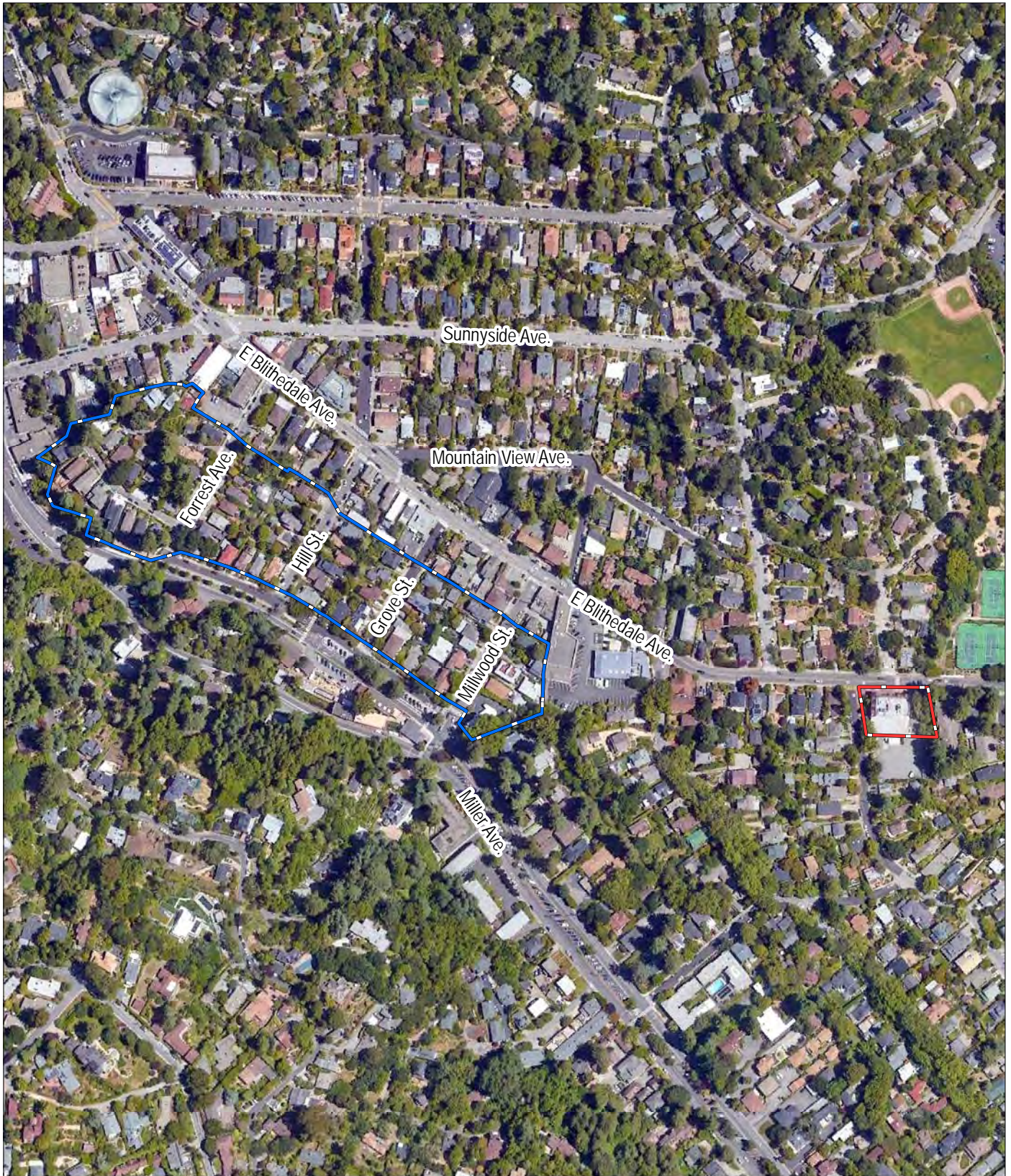




Figure 2

City of Mill Valley

Site Inventory

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-  300 E. Blithedale Ave.
-  Presidio Neighborhood

Source: Marin County GIS 2022, Google Earth 2022

Figure 3



300 East Blithedale Ave and Presidio Neighborhood

City of Mill Valley 2023-2031 Housing and Land Use Element Update and Zoning Amendments NOP

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EXHIBIT 4

Planning & Building

Posted on: October 20, 2022

City Hosts 1 Hamilton Open House

On October 13, 2022, the City of Mill Valley and [EAH Housing](#) hosted a community Open House to discuss building approximately 40-50 affordable rental apartments on the northern portion of the city-owned parcel at 1 Hamilton Drive. The main topics at the Open House included preliminary design and building concepts based on input, Council direction, and financial feasibility. We thank the many community members that attended and shared their feedback with the planning team.



Open House materials included:

- [Project Update \(LINK\)](#)
- [Conceptual Designs and Site Planning/Relocation of Existing Uses \(LINK\)](#)
- [FAQs \(LINK\)](#)

The conceptual designs presented at the Open House identify specific features such as unit count, building height, building location(s), driveway locations, number of parking spaces and relocation of existing facilities on the site. These details are required for the City to fully evaluate building housing on the site, including design review and environmental review.

Project website:

Tools

[RSS](#)

[Notify Me@](#)

[View Archived](#)

Categories

- [All Categories](#)
- [City Main Home News](#)
- [Library](#)
- [Recreation](#)
- [SASM](#)
- [Diversity, Equity, and Inclusion](#)
- [Planning & Building](#)
- [Police](#)
- [Public Works](#)
- [Fire Department/Emergency Preparedness](#)
- [Road Closures](#)
- [Sustainability News](#)

Select Language ▼

Answers to recent questions asked are available on the [1 Hamilton project website \(LINK\)](#).

Other City-related work:

The City of Mill Valley is also updating its Housing Element and has identified a program (#10) in the Draft Housing Element Update to rezone and amend the General Plan land use designation for the northern portion of 1 Hamilton. The land use designation for the site will be revised to “multi-family residential” in order to effectuate the Housing Element Update.

The Housing Element is one of the required elements of the General Plan, and adoption of the Housing Amendment amends the General Plan. In order to maintain internal consistency within the General Plan, the City Council will amend the land use designations in the General Plan Land Use Element at the time of Housing Element adoption to revise the land use designation for the 1 Hamilton site to “multi-family residential.” This will occur concurrently with the adoption of the Housing Element. See, Government Code Section 65302(a).

Identification and evaluation of other city-owned sites will also continue as part of the housing program.

For more information about the [Housing Element Update](#), [click here](#)

← [Previous](#)

[Richardson Terrace Update – 575 East Blithedale Avenue](#)

[Next](#) ⇒

[1 Hamilton Update: Council Approves Relocation of Facilities, City Hosts Open House in October](#)

Other News in Planning & Building

[**1 Hamilton Joint City Council/Planning Commission Meeting Canceled/Postponed**](#)

Posted on: October 27, 2022

[**Richardson Terrace Update – 575 East Blithedale Avenue**](#)

Posted on: October 12, 2022

[**1 Hamilton Update: Council Approves Relocation of Facilities, City Hosts Open House in October**](#)

Posted on: September 22, 2022



[**Housing Element Environmental Review: 30-day Public Comment Period**](#)

Posted on: July 26, 2022

Select Language ▼

Green Building – Community Meeting June 22 (6pm)

Posted on: June 17, 2022

Proposal to Renovate the Sequoia Theater

Posted on: May 26, 2022

Request for Qualifications for Housing-Related Environmental Services

Posted on: January 13, 2022



New City Hall Lobby Kiosk

Posted on: January 13, 2022



City Council Scheduled to Update the Accessory Dwelling Unit (ADU) Regulations

Posted on: November 2, 2021

Climate Action Plan Update - November 2021

Posted on: November 2, 2021

1 Hamilton Drive - Join us for an Online Workshop on March 10

Posted on: February 22, 2022

Housing Element Update - November 2021

Posted on: November 2, 2021

Zoning Code Updates - October 2021

Posted on: October 8, 2021

Richardson Terrace - 575 E Blithedale Avenue

Posted on: May 13, 2021



City of Mill Valley's Tree Ordinance

Posted on: April 12, 2021



Housing Advisory Committee Meeting #9

Posted on: May 14, 2021

Richardson Terrace - 575 E Blithedale Update

Posted on: December 28, 2020

Select Language 

575 E. Blithedale / Richardson Terrace Preliminary Application

Posted on: July 16, 2020

Housing Element Update

Posted on: September 7, 2021



 Government Websites by CivicPlus®

EXHIBIT 5



tel: 916.455.7300 · fax: 916.244.7300
510 8th Street · Sacramento, CA 95814

August 15, 2022

SENT VIA EMAIL (pkelly@cityofmillvalley.org)

Patrick Kelly, Director of Building and Planning
City of Mill Valley
26 Corte Madera Avenue
Mill Valley, CA 94941

RE: Public Comments to the City of Mill Valley’s Notice of Preparation of the 2023-2031 General Plan Housing and Land Use Element Update and Zoning Amendments

Dear Mr. Kelly:

On behalf of Friends of Hauke Park (“FOHP”), this letter provides comments regarding the City of Mill Valley’s Notice of Preparation (“NOP”) for the General Plan Housing and Land Use Element Update and Zoning Amendments (“Project”). As explained more fully below, the NOP includes substantive inconsistencies and even factual misrepresentations regarding existing conditions as well as the scope of the Project and its relationship to the proposed residential development at 1 Hamilton (“Hamilton Project”). Action is required by the City, including possibly a revised NOP, to correct these deficiencies.

1. False Information Regarding Existing Conditions

CEQA requires that an EIR evaluate, and that public agencies mitigate or avoid, significant effects of projects in the “area which will be affected by a proposed project.” (Cal. Code Regs., tit. 14, § 15000 et seq. (“CEQA Guidelines”), § 15360.) The project description is the activity the EIR must evaluate for environmental impact (*Nelson v. County of Kern* (2010) 190 Cal.App.4th 252, 271-272; Pub. Resources Code, § 21065), while the environmental setting (i.e., baseline) is the condition of the environment against which the EIR will evaluate project changes for environmental harm (*Communities for a Better Environment v. South Coast Air Quality Management District* (2010) 48 Cal.4th 310, 315). Therefore, CEQA requires that an EIR adequately describe the environmental setting. (*Ibid*; *Friends of the Eel River v. Sonoma County Water Agency* (2003) 108 Cal.App.4th 859, 874; CEQA Guidelines, § 15125.)

Here, the City is off to a bad start as the NOP sets forth demonstrably false information regarding existing conditions. Specifically, the NOP asserts that 40 residential units are allowed at 1 Hamilton under existing conditions:

Table 3 Sites Inventory Summary

Type of Site	Number of Sites	Number of Units (Anticipated Based on Existing Use without Rezoning)	Number of Units (Maximum Based on Allowable Density After Rezoning)
Vacant Single-Family Zoned Sites	88	88	88
Projected SB 9 Lot Splits	10	40	40
City-Owned Site (1 Hamilton)	1	40	50
Underutilized Sites: Commercial and Multi-Family Zoned Sites under ½ acre with Housing Overlay ¹	35	149	328
Opportunity Sites: Commercial Zoned Sites over ½ acre with Housing Overlay ¹	27	258	492
Office Conversions with Housing Overlay	13	65	173
Totals	174	640	1,171

SOURCE: City of Mill Valley 2022

NOTE: 1. The City anticipates no change in the existing commercial square footage on each of the opportunity sites with existing commercial uses.

This information is demonstrably false. 1 Hamilton’s General Plan land use designation is Community Facilities (Land Use Element, p. 25), and its zoning designation is Open Area (“O-A”) (see existing Housing Element, p. C-19). Both designations prohibit residential development. The Land Use Element’s Community Facilities description includes, “All City facilities including City golf course, parks, City Hall, Community Center, Public Safety Building, etc.; public schools and private schools.” (Land Use Element, p. 24.) It further states that a residential density range is “not applicable.” (*Ibid.*) Eliminating any confusion on this point, the draft Housing Element states, “The OA and CF Zoning Districts do not permit residential use on the property.” (Draft Housing Element, p. C-2.)

As we explained to the City by letter dated July 29, 2022, there is no question that residential uses are prohibited at 1 Hamilton based on its General Plan land use designation and its zoning designation. Six days later, the City’s PowerPoint presentation

for the Project’s scoping meeting included a revised table that implicitly acknowledges the NOP’s error:

PROJECT DESCRIPTION SUMMARY

Type of Site	Number of Sites	Number of Units (Anticipated Based on Existing Use without Rezoning)	Number of Units (Maximum Based on Allowable Density After Rezoning) ²
Vacant Single-Family Zoned Sites	88	88	88
Projected SB 9 Lot Splits	10	40	40
City-Owned Site (1 Hamilton)	1	0	50
Underutilized Sites: Commercial and Multi-Family Zoned Sites under ½ acre with Housing Overlay ¹	35	149	328
Opportunity Sites: Commercial Zoned Sites over ½ acre with Housing Overlay ¹	27	258	492
Office Conversions with Housing Overlay	13	65	173
Totals²	174	600	1,171

NOTE: 1. The City anticipates no change in the existing commercial square footage on each of the sites with existing commercial uses.
 NOTE 2: The “number of units” identified in this table is a conservative estimate of the number of units that will be built on these sites. In most instances the number indicated in this table will be larger than the number of units estimated for the purpose of meeting the City’s Regional Housing Needs Assessment (RHNA) allocation. The number of units estimated for RHNA purposes takes into account site constraints, environmental constraints, and market trends to devise an estimate of the realistic number of units that will be built on-site. The number of units used for CEQA purposes takes into account maximum build-out to ensure that the City has analyzed potential environmental impacts adequately.

While we speculate that this PowerPoint slide represents some effort by the City to correct the NOP, more is required to acknowledge this error and eliminate any confusion resulting from the NOP’s fundamentally misleading information. The environmental impacts of ten additional residential units (as suggested by the NOP) to an existing residential area are dramatically different from the environmental impacts of 50 new residential units in an area where all residential development was previously prohibited. Setting that aside, the NOP’s suggestion that “existing” conditions allow residential uses raises serious questions regarding whether the City intends to rely on a shifting and inconsistent project description in order to thwart adequate CEQA review of the Hamilton Project, which is addressed below.

2. Shifting and Inconsistent Project Description

The courts have consistently held that an “accurate and stable project description” is a bedrock requirement of CEQA—the sine qua non (that without which there is nothing) of an adequate CEQA document:

Only through an accurate view of the project may affected outsiders and public decision-makers balance the proposal’s benefit against its environmental cost, consider mitigation measures, assess the advantage of terminating the proposal (i.e., the “no project” alternative) and weigh other

alternatives in the balance. An accurate, stable and finite project description is the sine qua non of an informative and legally sufficient EIR.

(*Inyo v. Los Angeles* (1977) 71 Cal.App.3d 185, 192-93 (*Inyo*.) The ability of informed citizens to participate in environmental review is a key component of CEQA. (*Washoe Meadows v. Dept. of Parks and Recreation* (2017) 17 Cal.App.5th 277, 285 (*Washoe*) [“Informed public participation is essential to environmental review under CEQA.”]; *Inyo, supra*, 71 Cal.App.3d at 192 [“The EIR process facilitates CEQA’s policy of supplying citizen input.”].) Through the EIR process, CEQA “provide[s] public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment.” (*Washoe, supra*, 17 Cal.App.5th at 286 [quoting Pub. Resources Code, § 21061].)

An interrelated bedrock CEQA principle of informed public participation is that all aspects of a proposed project, i.e., the “whole of the action,” must be analyzed in an EIR. (See CEQA Guidelines, § 15378, subd. (a) [a project is the “whole of an action” which may result in direct or indirect physical changes to the environment].) This means that an EIR must include analysis of “all phases of a project” and all “reasonably foreseeable consequences” of a project. (CEQA Guidelines, § 15126 [EIR’s impact analysis must consider all phases of a project]; *Laurel Height Improvement Assn. v. Regents of the Univ. of Cal.* (1988) 47 Cal.3d 376 [EIR must analyze “reasonably foreseeable consequence” of a project].)

Concerns about both of these interrelated CEQA requirements are raised because the NOP is internally inconsistent about whether the Project includes changing the General Plan land use designation and zoning designation for 1 Hamilton. On one hand, NOP page 6 states, “The proposed project includes amending the general plan land use designations and redesignating the zoning district for . . . the following locations as reflected in Figure 2,” which includes 1 Hamilton. (See NOP, Figure 2.) Further, Table 3 to the NOP 3 identifies 1 Hamilton as allowing up to 50 residential units “after rezoning.” This information strongly suggests the Project includes General Plan amendment and rezoning action in order to accommodate the Hamilton Project. On the other hand, Table 6, “Summary of Zoning Map and Land Use Amendments,” appears to omit any reference to 1 Hamilton. (NOP, p. 9.)

This inconsistency leaves the public to speculate about the scope of the CEQA “project” to be analyzed in the EIR. To the extent the NOP’s mischaracterization of 1 Hamilton’s “current” zoning is premised on the City’s intention to revise 1 Hamilton’s General Plan land use designation and zoning designation as part of the Project, the EIR

will need to include adequate analysis of the Hamilton Project. We ask the City to directly address two simple questions:

- (1) Does the CEQA project include changing 1 Hamilton's General Plan land use designation to allow residential uses?
- (2) If the answer to the first question is "yes," why is the City suggesting that it will prepare a subsequent EIR for the Hamilton Project since a subsequent approval would ostensibly be exempt from CEQA review pursuant to Public Resource Code section 21083.3?

A member of FOHP attended the City's public scoping meeting on August 4, 2022, in an attempt to obtain answers to these questions. Incredibly, City officials refused to answer and, in order to avoid any follow-up questions, ended the scheduled three-hour meeting after only thirty minutes. The City's obfuscation thwarts the public's efforts to understand the City's environmental review strategy for both the Project and the Hamilton Project.

To eliminate any confusion, if the Project includes revisions to the General Plan Land Use Element and/or Zoning Ordinance that would authorize residential use of 1 Hamilton, the City must use its best efforts to find out and disclose all that it reasonably can about the Hamilton Project. (*Laurel Heights, supra*, 47 Cal.3d at 395-396; *Environmental Protection & Information Center v. Cal. Dept. of Forestry & Fire Protection* (2008) 44 Cal.4th 459, 503.) As will be demonstrated by other comment letters submitted in response to the NOP, detailed project-level information is presently available regarding the proposed affordable housing project and will continue to be refined over the next several months. The City will not be allowed to shirk its duty to prepare adequate CEQA analysis of the Hamilton Project by claiming either that it has not yet been approved, or by promising (well-intentioned or not) to perform such review in the future.¹

¹ Even if the City were to commit in good faith to prepare an EIR for the Hamilton Project and actually followed through with that promise, the City could later argue that any deficiencies in that EIR are not prejudicial and therefore require no corrective action. (*Del Cerro Mobile Estates v. City of Placentia* (2011) 197 Cal.App.4th 173, 179 [rejecting argument that by "preparing and certifying the EIR as if CEQA applied, the City waived any right to later invoke a potential CEQA exemption"].)

Patrick Kelly, Director of Building and Planning
City of Mill Valley
August 15, 2022
Page 6 of 6

* * *

The City must take unmistakable, legally-cognizable action to correct the NOP's deficiencies identified above. A failure to do so will likely be construed by a reviewing court as evidence that the City is misleading the public regarding the Hamilton Project and the City's intended process for future review and approval. Thank you for the opportunity to comment.

Very truly yours,

SOLURI MESERVE
A Law Corporation

By:



Patrick M. Soluri

cc: Jim Wickham, Mayor (jwickham@cityofmillvalley.org)
Urban Carmel, Vice Mayor (ucarmel@cityofmillvalley.org)
Stephen Burke, Councilmember (sburke@cityofmillvalley.org)
Sashi Sabaratnam, Councilmember (smcentee@cityofmillvalley.org)
Max Perrey, Councilmember (mperrey@cityofmillvalley.org)
G. Inder Khalsa, City Attorney (gkhalsa@rwglaw.com)
Kelsey Rogers, City Clerk (cityclerk@cityofmillvalley.org;
krogers@cityofmillvalley.org)



tel: 916.455.7300 · fax: 916.244.7300
510 8th Street · Sacramento, CA 95814

August 30, 2022

SENT VIA EMAIL (gkhalsa@rwglaw.com)

Inder Khalsa
City Attorney, City of Mill Valley
1 Sansome Street, Suite 2850
San Francisco, CA California 94104

**RE: Additional Comments to the City of Mill Valley’s Notice of Preparation
of the 2023-2031 General Plan Housing and Land Use Element Update
and Zoning Amendments**

Dear Ms. Khalsa:

This responds to your letter dated August 26, 2022, which purports to answer a question raised in our letter dated August 15, 2022. Unfortunately, your letter does not directly answer our question, and so we will restate it more concisely:

Does the project to be analyzed in the so-called “Housing Element EIR” include changes to 1 Hamilton’s General Plan land use and zoning designations to allow residential use for that site?

To clarify the matter for the public, a “yes” or “no” would be helpful and appropriate.

Very truly yours,

SOLURI MESERVE
A Law Corporation

By:

A handwritten signature in blue ink, appearing to read "Patrick M. Soluri", is written over a light blue horizontal line.

Patrick M. Soluri

cc: Jim Wickham, Mayor (jwickham@cityofmillvalley.org)
Urban Carmel, Vice Mayor (ucarmel@cityofmillvalley.org)
Stephen Burke, Councilmember (sburke@cityofmillvalley.org)

Inder Khalsa, City Attorney
City of Mill Valley
August 30, 2022
Page 2 of 2

Sashi Sabaratnam, Councilmember (smcentee@cityofmillvalley.org)
Max Perrey, Councilmember (mperrey@cityofmillvalley.org)
Kelsey Rogers, City Clerk (cityclerk@cityofmillvalley.org,
kr Rogers@cityofmillvalley.org)

EXHIBIT 6



Inder Khalsa

T 415.421.8484
F 415.421.8486
E ikhalsa@rwglaw.com

1 Sansome Street, Suite 2850
San Francisco, CA 94104-4811
rwglaw.com

August 26, 2022

VIA ELECTRONIC MAIL
PATRICK@SEMLAWYERS.COM

Patrick M. Soluri
Soluri Meserve, A Law Corporation
510 8th Street
Sacramento, CA 95814

Re: **2023-2031 General Plan Housing Element Update**

Dear Mr. Soluri:

I am writing in response to your letters, dated August 15 and August 22, as well as several comments we have received from Mill Valley residents inquiring about how the City plans to handle the environmental analysis required under the California Environmental Quality Act (“CEQA”) for the proposed development of affordable housing on the northern portion of the City-owned property known as 1 Hamilton Drive (the “Property”).

The City has included the Property on its sites inventory in the draft Housing Element and the maximum of 50 units based on allowable density after rezoning¹ will be analyzed in the Subsequent Environmental Impact Report for the Housing Element (“Housing Element EIR”) which was described in the City’s recent notice of preparation. The Housing Element EIR will be a “program EIR” which will analyze the impacts of the policies laid out in the Housing Element on the City of Mill Valley as a whole, pursuant to CEQA Guidelines Section 15168. The Housing Element EIR will not include a site-specific, project-level analysis of the proposed 1 Hamilton development or any other site described in the sites inventory, nor is it required to include such an analysis.

Rather, the City will follow the analysis laid out in CEQA Guidelines Sections 15168(c) and 15162 to determine what additional CEQA analysis is required for later projects that tier off of the Housing Element EIR. In the case of the proposed affordable housing development that the City is considering for the Property, the City is currently working with the community to prepare a

¹ Thank you for your feedback on Table 3 (Sites Inventory Summary) of the Housing Element. We have corrected the referenced table to show that the Property is not currently zoned for residential development.

project description for the site-specific project-level CEQA analysis. While nothing is finalized at this point in time, we anticipate that the project-level CEQA analysis will be an EIR or focused EIR, and that it will be circulated for public comment after publication of the Housing Element EIR (and Council action to certify the EIR and approve the Housing Element), but (as required by law) before final approval of the rezoning, ground lease, and other approvals associated with the development of the Property. In short, I wanted to reassure you and your clients that the City currently plans to analyze both the concept of housing on the site at a programmatic level in the Housing EIR **and** the details of any specific development of the Property in a later project-level CEQA document.

In your most recent letter to the City, you also inquired as to the status of the City's preliminary studies and reports related to the Property, including the geotechnical study. The City will, through its consultants, prepare a number of preliminary reports in preparation for a full and robust CEQA analysis, but any studies conducted to date are currently in draft form and being reviewed internally. All studies will be included with the project-level CEQA analysis when that is released to the public.

Very truly yours,



Inder Khalsa
City Attorney
City of Mill Valley

cc: Alan Piombo, City Manager
Todd Cusinamo, City Manager effective September 1, 2022
Patrick Kelly, Planning Director
Danielle Staude, Senior Planner
Hannah Politzer, City Clerk
Jim Wickham, Mayor
Urban Carmel, Vice Mayor
Stephen Burke, Councilmember
Max Perrey, Councilmember

12219-0001\2709079v2.doc

EXHIBIT 7



tel: 916.455.7300 · fax: 916.244.7300
510 8th Street · Sacramento, CA 95814

August 22, 2022

SENT VIA EMAIL (pkelly@cityofmillvalley.org)

Patrick Kelly, Director of Building and Planning
City of Mill Valley
26 Corte Madera Avenue
Mill Valley, California 94941

RE: Public Comments to the City of Mill Valley’s Notice of Preparation of the 2023-2031 General Plan Housing and Land Use Element Update and Zoning Amendments

Dear Mr. Kelly:

On behalf of Friends of Hauke Park (“FOHP”), this letter provides additional comments and information regarding the City of Mill Valley’s Notice of Preparation (“NOP”) for the General Plan Housing and Land Use Element Update and Zoning Amendments (“Project”).

Our prior letter explained that we would later describe the considerable project-level information regarding the proposed Hamilton Project that is currently available, and will continue to be developed in the future. This is relevant because, as also explained previously, the City must use its best efforts to find out and disclose all that it reasonably can about the Hamilton Project. (*Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 395-396; *Environmental Protection & Information Center v. Cal. Dept. of Forestry & Fire Protection* (2008) 44 Cal.4th 459, 503.)

Back on February 7, 2022, the City Council took action that staff described as:

The proposed actions direct staff to execute an ENA that establishes the contractual agreement to commence negotiations regarding disposition of a portion of 1 Hamilton Drive, as well as initiating preliminary site analysis and design work that will further define an affordable housing development that would constitute a “project” under CEQA.

(Staff report dated February 7, 2022, p. 5.) The staff report also set forth a timeline for future work to define the project:



Further, the “Schedule of Performance” between the City and the developer sets forth milestones for defining the project and even CEQA review. It provides that the “schematic design” will be developed from February through July 2022, “Environmental Phase 1” would occur in February 2022, and “Environmental Phase 2 (if necessary)” would occur in April 2022.

Consistent with this schedule, the developer hosted a public meeting on May 3, 2022, to announce its project designs. The developer proposed two different designs, the “T” and “U” designs, that also included detailed site and building layouts, building cross-sections, visual simulation, view simulation, and even “building style examples.” (See [Exhibit 1](#).) There is no question that project-level information for the Hamilton Project is well underway, which is more than adequate to support project-level CEQA review.

Indeed, the developer’s architect stated at the public meeting on May 3, 2022, that a geological report for the Hamilton Project was being prepared, would be completed by the end of May, and would be shared with the public. Based on this representation, a representative of FOHP asked the City on May 26, 2022, for a copy of that geotechnical report. The City representative would not acknowledge that a geological report was being prepared, obliquely stating, “A Geologic Hazards Evaluation **will be completed** as part of a comprehensive environmental impact report for the project. Geotechnical studies **will serve** to complete the Geologic Hazards Evaluation.” ([Exhibit 2](#), email dated May 26, 2022.) Having declined to acknowledge or deny its existence, the City did not provide geological report as requested.

The City’s obfuscation is troubling since it strongly suggests that the City is attempting to shield from public disclosure the existence of project-level information about the Hamilton Development as well as the existence of any technical studies that would be based on that project-level information. If the City intends for the scope of the

Patrick Kelly, Director of Building and Planning
City of Mill Valley
August 22, 2022
Page 3 of 3

Project to include changes to 1 Hamilton's land use and zoning designations allowing for residential uses of any density, the City will not be allowed to shirk its duty to prepare adequate CEQA analysis of the Hamilton Project by claiming that inadequate project-level information is available.

Thank you for the opportunity to comment.

Very truly yours,

SOLURI MESERVE
A Law Corporation

By: 
Patrick M. Soluri

Attachments:

Exhibit 1 Project posters presented at the May 3, 2022, public meeting
Exhibit 2 May 26, 2022, Email from Patrick Kelly, Director of Planning and Building, City of Mill Valley

cc: Jim Wickham, Mayor (jwickham@cityofmillvalley.org)
Urban Carmel, Vice Mayor (ucarmel@cityofmillvalley.org)
Stephen Burke, Councilmember (sburke@cityofmillvalley.org)
Sashi Sabaratnam, Councilmember (smcentee@cityofmillvalley.org)
Max Perrey, Councilmember (mperrey@cityofmillvalley.org)
G. Inder Khalsa, City Attorney (gkhalsa@rwglaw.com)
Kelsey Rogers, City Clerk (cityclerk@cityofmillvalley.org;
krogers@cityofmillvalley.org)

EXHIBIT 1

BUILDING STYLE EXAMPLES



PHOTO 1



PHOTO 2



PHOTO 3



PHOTO 4



PHOTO 5



PHOTO 6

"U"-SHAPED BUILDING CONCEPT

REAR COURTYARD

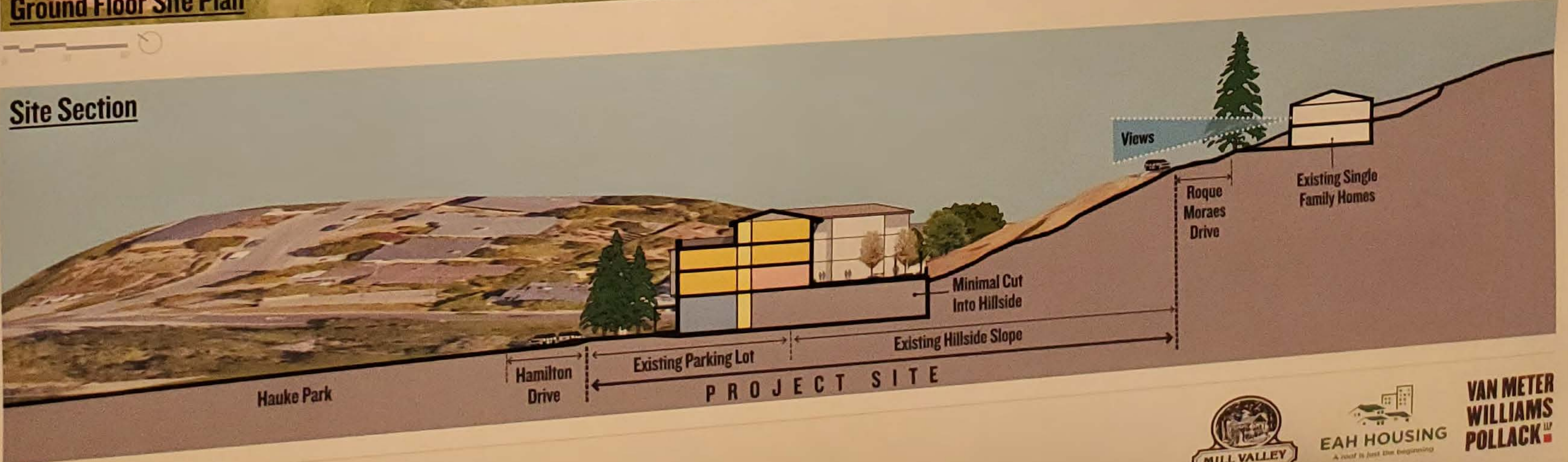


2nd Floor Plan



- Office
- Common
- Circulation
- Service
- Residential

Site Section



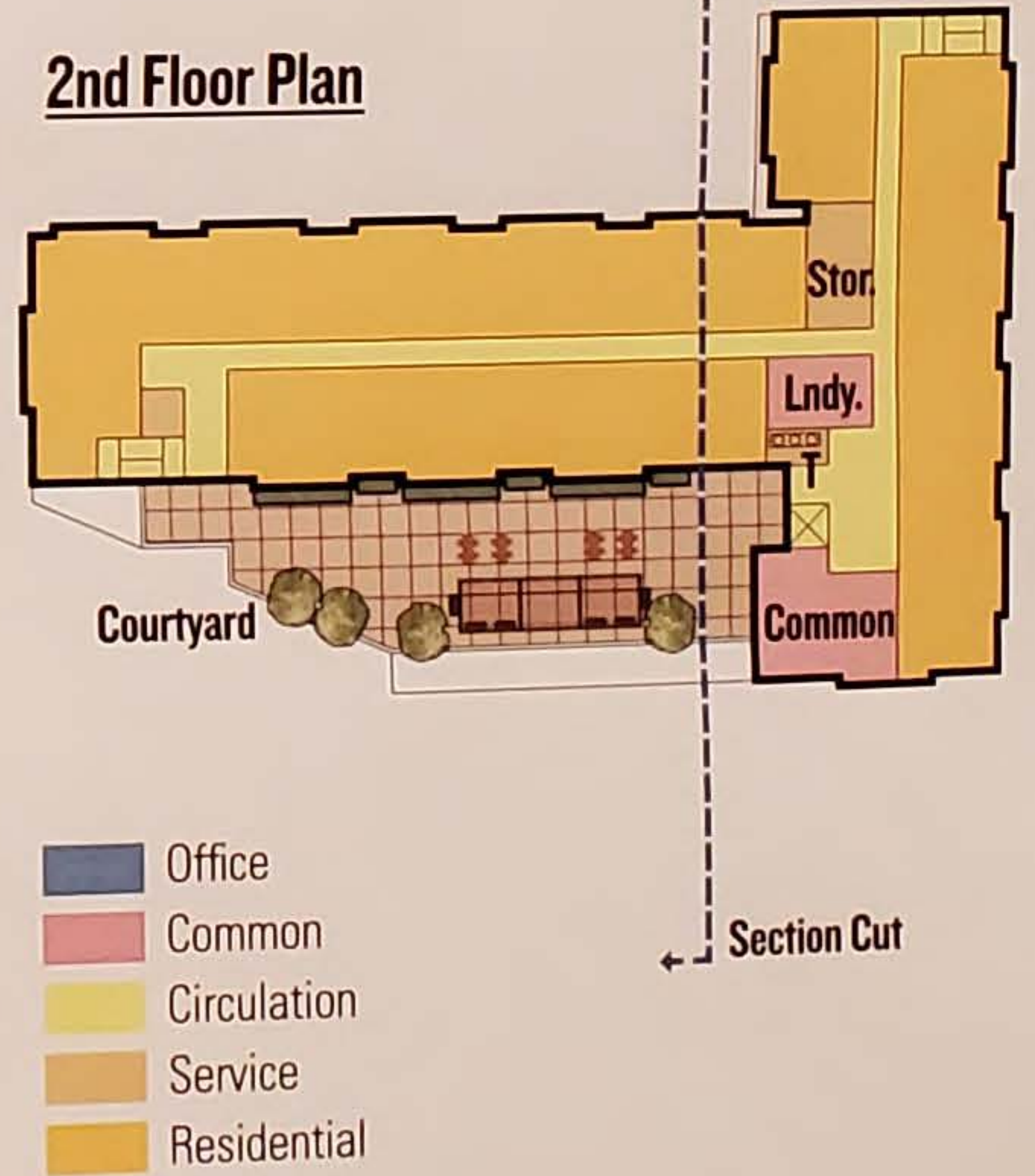
"T"-SHAPED BUILDING CONCEPT

FRONT COURTYARD



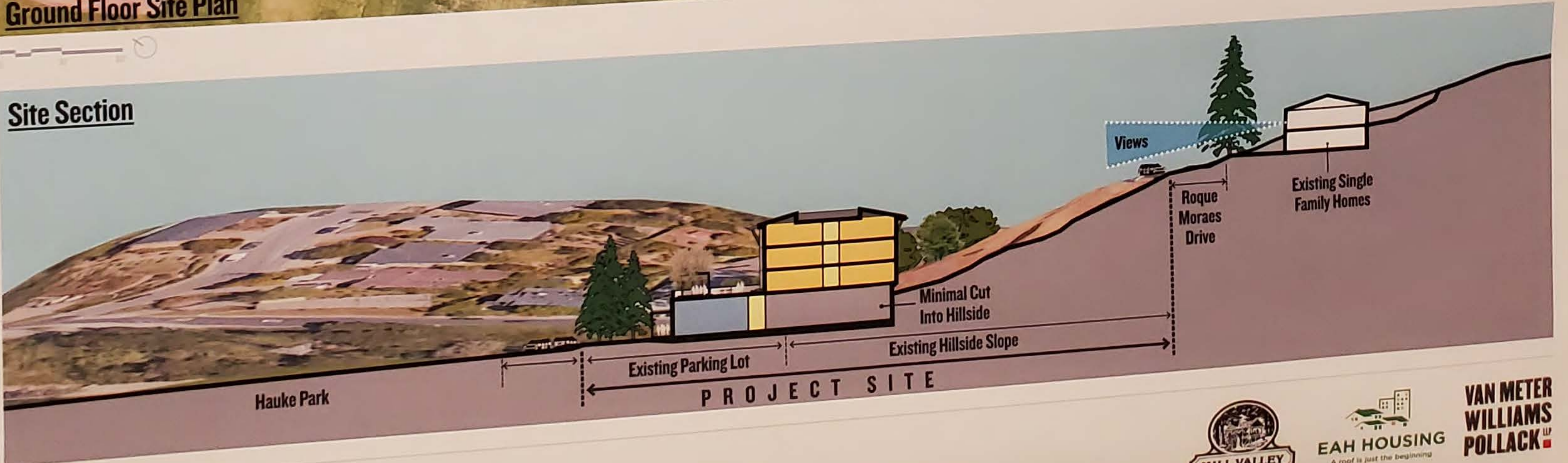
Ground Floor Site Plan

2nd Floor Plan



- Office
- Common
- Circulation
- Service
- Residential

Site Section



1 HAMILTON DRIVE
MILL VALLEY, CA | MAY 2, 2022 | EAH HOUSING



VIEW SIMULATION COMPARISONS



View Facing South on Hamilton Drive

"U"-SHAPED BUILDING CONCEPT



SKETCH A

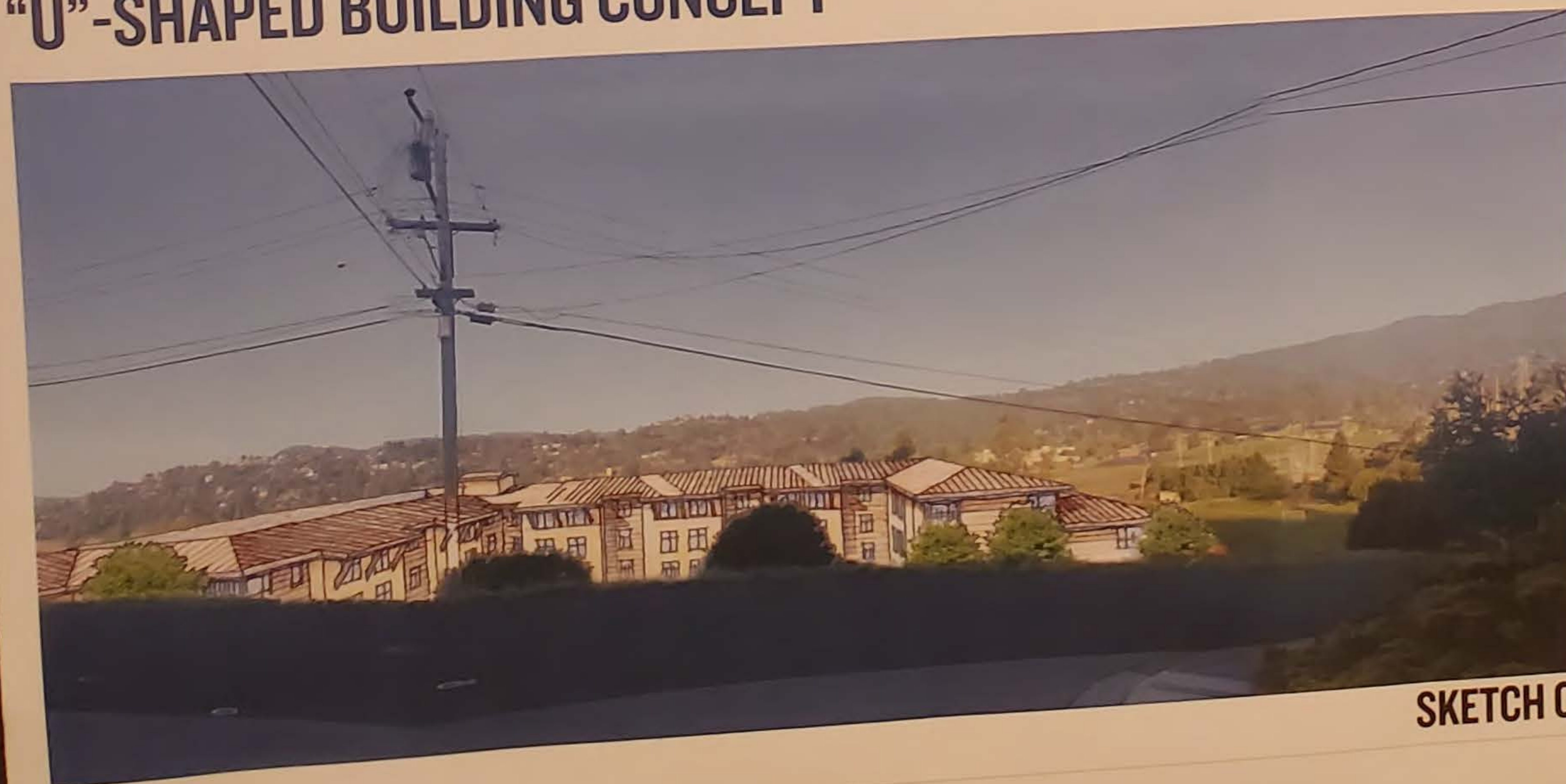
"T"-SHAPED BUILDING CONCEPT



SKETCH B

View from Intersection of Roque Moraes Drive and Keats Drive

"U"-SHAPED BUILDING CONCEPT

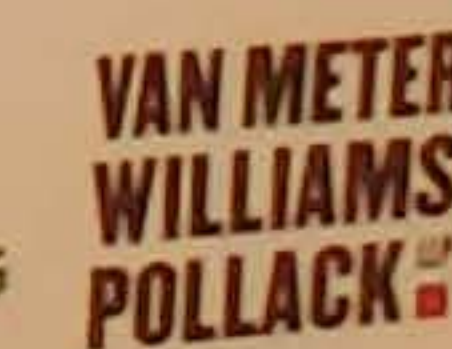


SKETCH C

"T"-SHAPED BUILDING CONCEPT



SKETCH D



VIEW SIMULATION COMPARISONS



View from Hamilton Drive Across from Fire Station

"U"-SHAPED BUILDING CONCEPT



SKETCH E

"T"-SHAPED BUILDING CONCEPT



SKETCH F

View from Hauke Park

"U"-SHAPED BUILDING CONCEPT

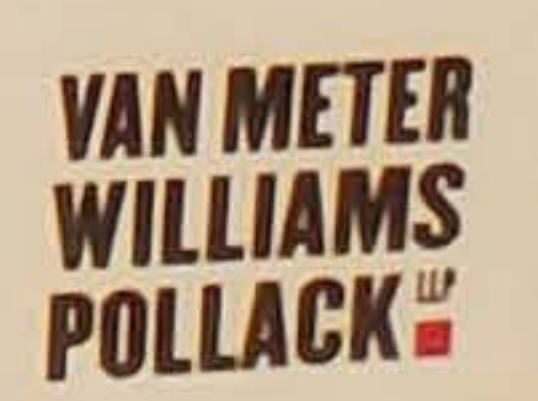


SKETCH G

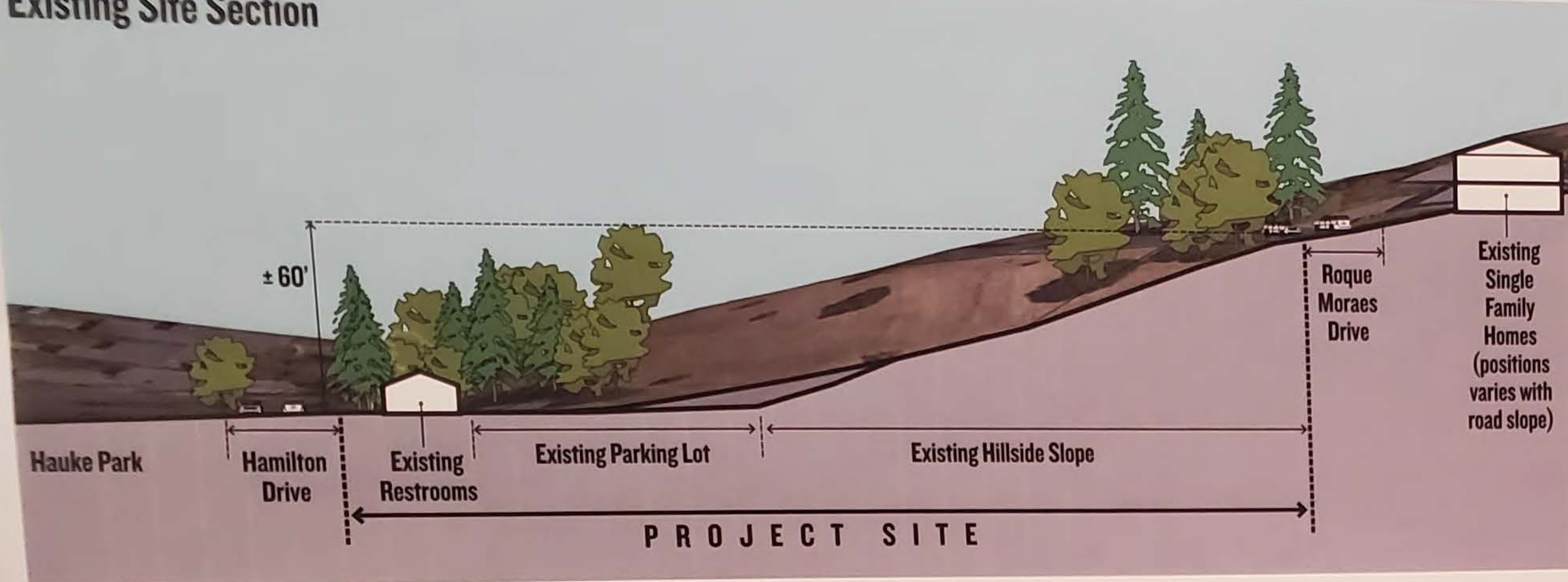
"T"-SHAPED BUILDING CONCEPT



SKETCH H



Existing Site Section



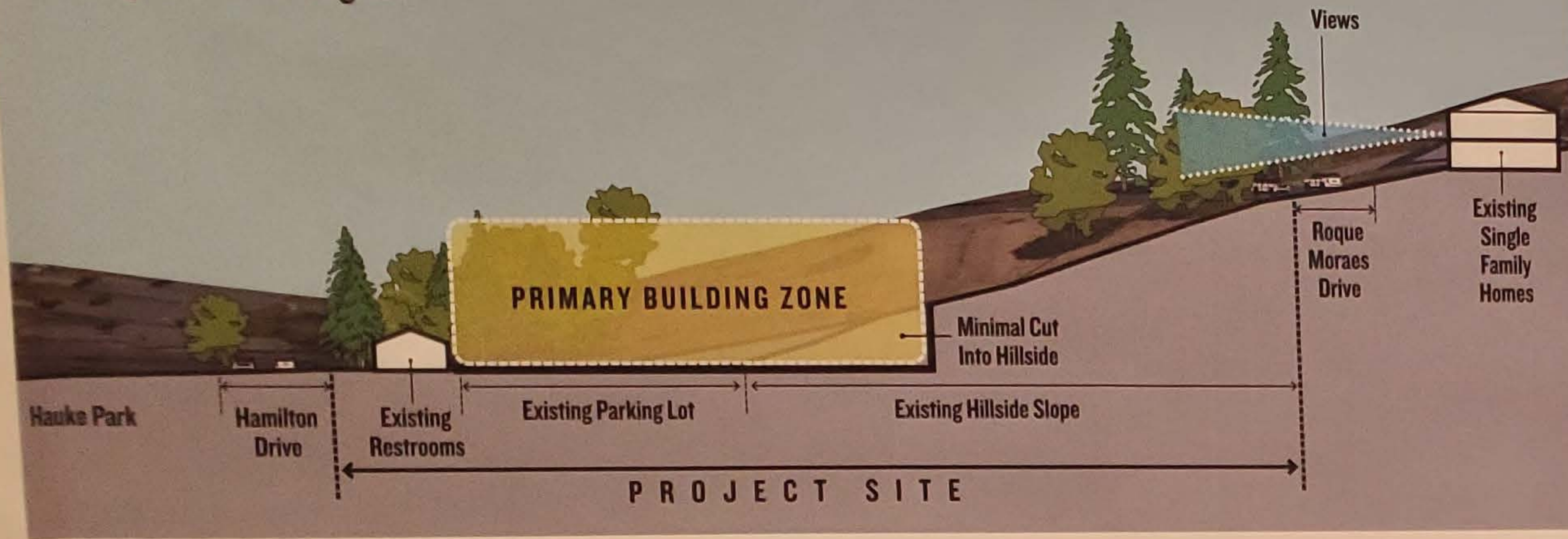
Existing View of Parking Lot from Fields



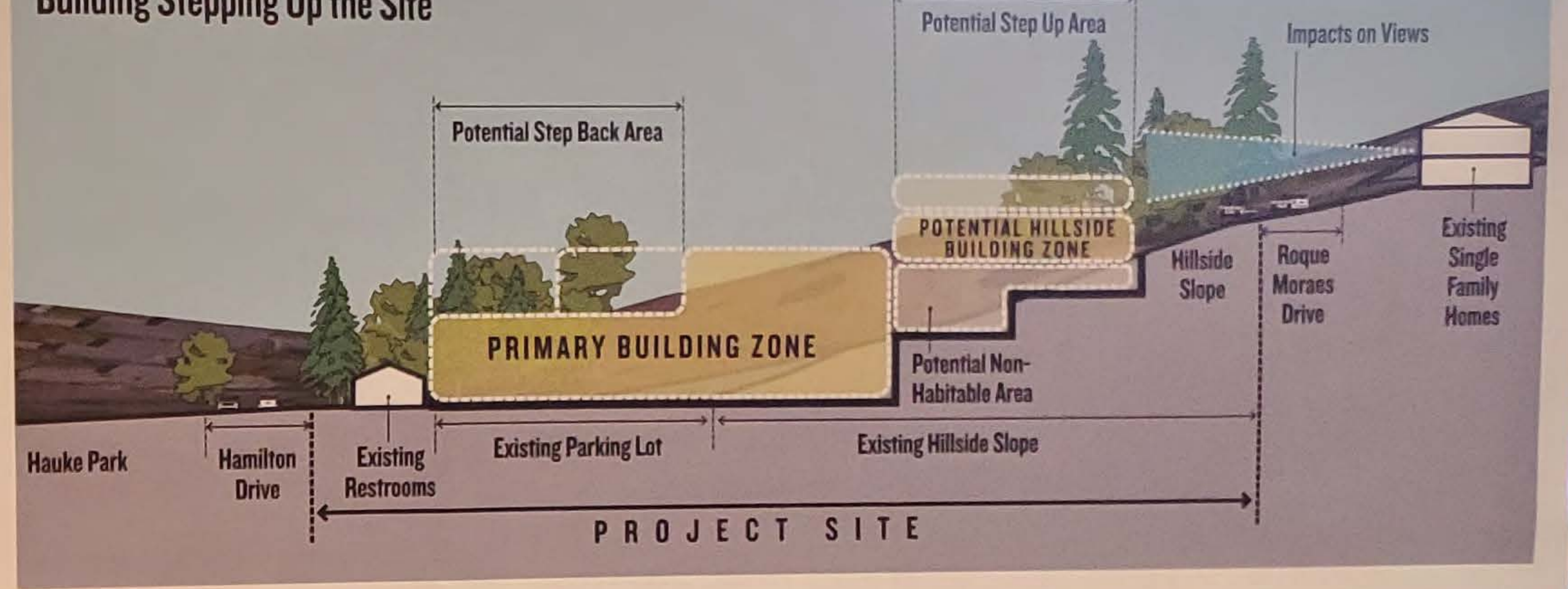
Existing Police / Fire / Muni Safety Parking
48 spaces
Existing Public Parking
± 67 spaces (includes on-street, housing site lot, and PG&E lot)



Building on the Parking Lot



Building Stepping Up the Site



How we look at a Property

Building Program - What goes into the building?

UTILITIES

- Mechanical room
- Electrical room
- Communications room
- Water pump room
- Trash / recycling room
- Transformer

APARTMENTS + CIRCULATION

- Corridors and stairs
- Studio: 400 sf
- 1 Bedroom: 450 - 500 sf
- 2 Bedroom: 750 - 850 sf
- 3 Bedroom: 950 - 1,000 sf
- 20 - 25% circulation

PARKING

- 50-65 spaces
- Approximately 400 sf per parking space
- Bike storage room

COMMUNITY ROOM

- 1,000 - 1,500 sf
- Laundry room
- Service offices

MANAGEMENT + ENTRY

- Management offices
- Lobby and elevators

EXHIBIT 2

From: [Patrick Kelly](#)
To: paula@weavermcgrath.com
Cc: [Danielle Staude](#)
Subject: RE: [External] Request for Geotechnical Report for 1 Hamilton
Date: Thursday, May 26, 2022 3:52:31 PM

Paula,

A Geologic Hazards Evaluation will be completed as part of a comprehensive environmental impact report for the project. Geotechnical studies will serve to complete the Geologic Hazards Evaluation. The environmental impact report will be initiated following completion of a project description which is a work in progress. The draft environmental impact report will be published for public review at which time the public will have the opportunity to review and comment on the document.

I will add your email address to the interested parties list to receive notifications regarding the environmental review process for the project.

Patrick Kelly, MPA, AICP

Director of Planning and Building
City of Mill Valley
26 Corte Madera Ave.
P. 415-388-4039

From: Paula Weaver <paula@weavermcgrath.com>
Date: May 26, 2022 at 1:25:35 PM PDT
To: Danielle Staude <dstaude@cityofmillvalley.org>
Subject: [External] Request for Geotechnical Report for 1 Hamilton

Dear Danielle,

Is the geotechnical report for the 1 Hamilton project completed and ready to be shared with the public? If so, I would like to receive a copy.

Thank you.
Paula McGrath

EXHIBIT 2

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov



November 21, 2022

Patrick Kelly, Director
Planning and Building Department
City of Mill Valley
26 Corte Madera Avenue
Mill Valley, CA 94941

Dear Patrick Kelly:

RE: City of Mill Valley's 6th Cycle (2023-2031) Draft Housing Element

Thank you for submitting the City of Mill Valley's (City) draft housing element received for review on August 23, 2021. Pursuant to Government Code section 65585, subdivision (b), the California Department of Housing and Community Development (HCD) is reporting the results of its review. Our review was facilitated by a telephone conversation on November 4, 2022 with yourself, Danielle Staude, Senior Planner; Veronica Tam, Consultant and Diana Varat, Special Counsel. In addition, HCD considered comments pursuant to Government Code section 65585, subdivision (c). See enclosed Appendix B for list of commenters.

The draft element addresses many statutory requirements; however, revisions will be necessary to comply with State Housing Element Law (Article 10.6 of the Gov. Code). The enclosed Appendix A describes these revisions needed to comply with State Housing Element Law.

For your information, pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), if a local government fails to adopt a compliant housing element within 120 days of the statutory deadline (February 15, 2023), then any rezoning to make prior identified sites available or accommodate the regional housing needs allocation (RHNA) shall be completed no later than one year from the statutory deadline pursuant to Government Code sections 65583, subdivision (c) and 65583.2, subdivision (c). Otherwise, the local government's housing element will no longer comply with State Housing Element Law, and HCD may revoke its finding of substantial compliance pursuant to Government Code section 65585, subdivision (i). Please be aware, if the City fails to adopt a compliant housing element within one year from the statutory deadline, the element cannot be found in substantial compliance until these rezones are completed.

Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. Throughout the housing element process, the City should continue to engage the community, including organizations that represent lower-income and special needs households, by making information regularly available and considering and incorporating comments where appropriate. Please be aware, any revisions to the element must be posted on the local government's website and to email a link to all individuals and organizations that have previously requested notices relating to the local government's housing element at least seven days before submitting to HCD.

For your information, some general plan element updates are triggered by housing element adoption. HCD reminds the City to consider timing provisions and welcomes the opportunity to provide assistance. For information, please see the Technical Advisories issued by the Governor's Office of Planning and Research at: <https://www.opr.ca.gov/planning/general-plan/guidelines.html>.

Several federal, state, and regional funding programs consider housing element compliance as an eligibility or ranking criteria. For example, the CalTrans Senate Bill (SB) 1 Sustainable Communities grant; the Strategic Growth Council and HCD's Affordable Housing and Sustainable Communities programs; and HCD's Permanent Local Housing Allocation consider housing element compliance and/or annual reporting requirements pursuant to Government Code section 65400. With a compliant housing element, the City meets housing element requirements for these and other funding sources.

HCD appreciates the work and dedication of the City's housing element team during the course of our review. We are committed to assisting the City in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Reid Miller, of our staff, at Reid.Miller@hcd.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'Melinda Coy', with a long, sweeping horizontal stroke extending to the right.

Melinda Coy
Proactive Housing Accountability Chief

Enclosure

APPENDIX A CITY OF MILL VALLEY

The following changes are necessary to bring the City's housing element into compliance with Article 10.6 of the Government Code. Accompanying each recommended change, we cite the supporting section of the Government Code.

Housing element technical assistance information is available on HCD's website at <https://www.hcd.ca.gov/hcd-memos>. Among other resources, the housing element section contains HCD's latest technical assistance tool, *Building Blocks for Effective Housing Elements (Building Blocks)*, available at <https://www.hcd.ca.gov/building-blocks> and includes the Government Code addressing State Housing Element Law and other resources.

A. Review and Revision

Review the previous element to evaluate the appropriateness, effectiveness, and progress in implementation, and reflect the results of this review in the revised element. (Gov. Code, § 65588 (a) and (b).)

As part of the evaluation of programs in the past cycle, the element must also provide an explanation of the effectiveness of goals, policies, and related actions in meeting the housing needs of special needs populations (e.g., elderly, persons with disabilities, large households, female-headed households, farmworkers and persons experiencing homelessness). Programs should be revised as appropriate to reflect the results of this evaluation.

B. Housing Needs, Resources, and Constraints

1. *Affirmatively further[ing] fair housing in accordance with Chapter 15 (commencing with Section 8899.50) of Division 1 of Title 2...shall include an assessment of fair housing in the jurisdiction (Gov. Code, § 65583, subd. (c)(10)(A))*

Local Data and Knowledge and Other Relevant Factors: The element must include local data, knowledge, and other relevant factors to discuss and analyze any unique attributes about the City related to fair housing issues. While the element does provide local data not captured in regional, state, or federal data analysis, it should incorporate local data and knowledge of the jurisdiction into the Affirmatively Furthering Fair Housing (AFFH) section to more clearly inform potential contributing factors to fair housing issues, and provide actions that address these factors. Also, the element must include other relevant factors that contribute to fair housing issues in the jurisdiction. For instance, the element could incorporate the historical land use and investment practices and other information and demographic trends outlined in the Introduction and community context section of the housing element to help inform the AFFH analysis.

Integration and Segregation: The element provided some local and regional analysis on integration and segregation patterns by disability and income but must still provide a more thorough analysis of segregation and integration patterns by race and familial status at the local level. The element must discuss and analyze the data provided for trends over time and patterns across census tracts and neighborhoods.

Racial/Ethnic Areas of Concentration of Areas of Affluence (RCAA): As the element acknowledges that a RCAA exists within the City, and that the City is predominantly in the high resource category according to TCAC/HCD Opportunity Maps and is predominantly higher income, the City must consider additional actions (not limited to the Regional Housing Needs Allocation (RHNA)) to promote housing mobility and improve new housing opportunities throughout the City for existing residents and the broader region.

Access to Opportunity: While the element provides some local and regional analysis on access to transit and educational opportunities, it must still provide local and regional analysis for environmental health as well as local trends and patterns for economic opportunities throughout the City. The element must discuss and analyze the data provided for trends over time and patterns across census tracts and neighborhoods.

Contributing Factors: The element identifies many contributing factors to fair housing issues. In addition, the element should consider prioritizing these factors to better formulate policies and programs and carry out meaningful actions to AFFH.

2. *Include an analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition. (Gov. Code, § 65583, subd. (a)(2).)*

Overpayment: While the element identifies the total number of households overpaying for housing (p. A-40), it must quantify and analyze the number of lower-income households overpaying for housing by tenure (i.e., renter and owner) and add or modify policies and programs as appropriate.

Overcrowding: While the element provides data of the breakdown of overcrowding by tenure, income level, and race in Figures 32, 33, and 34 of Appendix A, it does not provide the total number of overcrowded households in the City.

Housing Conditions: The element identifies the age of the housing stock (p. A-35). However, it must include analysis of the condition of the existing housing stock and estimate the number of units in need of rehabilitation and replacement. For example, the analysis could include estimates from a recent windshield survey or sampling, estimates from the code enforcement agency, or information from knowledgeable builders/developers, including non-profit housing developers or organizations. For additional information, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/housing-needs/housing-stock-characteristics.shtml>.

- 3. An inventory of land suitable and available for residential development, including vacant sites and sites having realistic and demonstrated potential for redevelopment during the planning period to meet the locality's housing need for a designated income level, and an analysis of the relationship of zoning and public facilities and services to these sites. (Gov. Code, § 65583, subd. (a)(3).)*

The City has a RHNA of 865 housing units, of which 413 are for lower-income households. To address this need, the element relies on vacant and nonvacant sites, including multifamily and commercially zoned sites that will be rezoned through a series of Overlays to accommodate any RHNA Shortfall. To demonstrate the adequacy of these sites and strategies to accommodate the City's RHNA, the element must include complete analyses:

Progress in Meeting the RHNA: As you know, the City's RHNA may be reduced by the number of new units pending, approved, permitted or built since July 1, 2022 by demonstrating availability and affordability based on rents, sale prices or other mechanisms ensuring affordability (e.g., deed restrictions). The element identifies three projects in the pipeline, including 575 East Blithedale project, and notes four units affordable to low-income household and nine units affordable to moderate-income households will be provided. However, the element must describe how affordability was determined for these units and demonstrate the units will be available in the planning period including a description of any remaining entitlements and timeline for approval. This is particularly critical for the East Blithedale project currently going through the approval process. As you are aware, HCD issued a technical assistance letter to the City on November 2, 2022 regarding this project. The letter provides technical assistance on the application of State Density Bonus Law (SDBL) and identifies potential conflicts with the Housing Accountability Act when applying subjective development standards to the project.

Realistic Capacity: While the element provides assumptions of buildout for sites included in the inventory, it must also provide support for these assumptions. For example, the element should demonstrate what specific trends, factors, and other evidence led to the assumptions. The estimate of the number of units for each site must be adjusted as necessary, based on the land use controls and site improvements, typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction, and on the current or planned availability and accessibility of sufficient water, sewer, and dry utilities. The element also must analyze the likelihood that the identified units will be developed as noted in the inventory in zones that allow nonresidential uses (e.g., mixed-use). This analysis should consider the likelihood of nonresidential development, performance standards, and development trends supporting residential development.

Suitability of Nonvacant Sites: The element identifies nonvacant sites to accommodate the regional housing need and outline the general methodology for how sites were considered (p. C-4 to C-6). To demonstrate the redevelopment potential of the sites in

the inventory, the element should relate the factors described in the methodology to the characteristics of each site. In addition, a complete analysis must demonstrate the extent to which existing uses may impede additional residential development. The element should summarize past experiences converting existing uses to higher density residential development, include current market demand for the existing use, provide analysis of existing leases or contracts that would perpetuate the existing use or prevent additional residential development and include current information on development trends and market conditions in the City and relate those trends to the sites identified. (Gov. Code, § 65583.2, subd. (g).) For sites with residential uses, the inventory could also describe structural conditions or other circumstances and trends demonstrating the redevelopment potential to more intense residential uses. For nonresidential sites, the inventory could also describe whether the use is operating, marginal or discontinued, and the condition of the structure or could describe any expressed interest in redevelopment and describe other incentives or standards to encourage additional residential development on these sites.

In addition, the element relies upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households. For your information, the housing element must demonstrate existing uses are not an impediment to additional residential development and will likely discontinue in the planning period (Gov. Code, § 65583.2, subd. (g)(2)). Absent findings (e.g., adoption resolution) based on substantial evidence, the existing uses will be presumed to impede additional residential development and will not be utilized toward demonstrating adequate sites to accommodate the RHNA.

Senate Bill 9 (Statutes of 2021) Projections: The element is projecting 36 units that will be developed based on the passage of SB 9 (Statutes of 2021) to accommodate a portion of its above-moderate income RHNA. To utilize projections based on SB 9 legislation, the element must; 1) include a site-specific inventory of sites where SB 9 projections are being applied; 2) include a nonvacant sites analysis demonstrating the likelihood of redevelopment and that the existing use will not constitute as an impediment for additional residential use and; 3) include programs and policies that establish zoning and development standards early in the planning period and implement incentives to encourage and facilitate development. The element should support this analysis with local information such as local developer or owner interest to utilize zoning and incentives established through SB 9.

City-Owned Sites: The element includes some discussion on the City-Owned site identified to accommodate the RHNA at 1 Hamilton Drive on Page C-2 to C-3. However, the analysis should also address where the City is in the process of rezoning the site from Open Area (O-A) to Multifamily Residential-Bay Front (RM-B) to accommodate affordable units on the site, where EAH Housing is in terms of having plans in place to produce affordable units on the site within the planning period, and any existing uses or known conditions that preclude development in the planning period.

Small Sites: Sites smaller than half an acre are deemed inadequate to accommodate housing for lower-income households unless it is demonstrated, with sufficient evidence, that sites of equivalent size with affordability were successfully developed during the prior planning period or other evidence demonstrates the suitability of these sites. The element currently identifies smaller sites, but it must still provide analysis of past trends or present other evidence to demonstrate the suitability of these sites. For example, the analysis could describe the City's role or track record in facilitating past lot consolidation, common ownership, policies, or incentives offered or proposed to encourage and facilitate lot consolidation or other conditions rendering parcels suitable and ready-for-lot consolidation.

Sites Identified in Prior Planning Periods: Sites identified in prior planning periods shall not be deemed adequate to accommodate the housing needs for lower-income households unless a program, meeting statutory requirements, requires rezoning within three years. The element should clarify if sites were identified in prior planning periods and if so, which sites and include a program if utilizing previously identified sites in the current planning period.

Suitability and Availability of Infrastructure: The element includes some discussion on suitability of infrastructure on Page F-29 to 31. However, it must also clarify whether sufficient total water and sewer capacity (existing and planned) can accommodate the regional housing need and include programs if necessary.

For your information, water and sewer service providers must establish specific procedures to grant priority water and sewer service to developments with units affordable to lower-income households. (Gov. Code, § 65589.7.) Local governments are required to immediately deliver the housing element to water and sewer service providers. HCD recommends including a cover memo describing the City's housing element, including the City's housing needs and regional housing need.

Sites with Zoning for a Variety of Housing Types:

- *Emergency Shelters:* The element should describe the capacity and development standards of the zone that allows emergency shelters by-right and should provide an analysis of proximity to transportation and services for these sites, hazardous conditions, and any conditions in appropriate for human habitability. In addition, the element should describe how emergency shelter parking requirements are in line with AB139/Government Code section 65583, subdivision (a)(4)(A) or include a program to comply with this requirement.
- *Housing for Farmworkers:* The element must demonstrate zoning is consistent with the Employee Housing Act (Health and Safety Code, § 17000 et seq.), specifically, sections 17021.5 and 17021.6. Section 17021.5 requires employee housing for six or fewer employees to be treated as a single-family structure and permitted in the same manner as other dwellings of the same type in the same zone.

4. *An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. (Gov. Code, § 65583, subd. (a)(5).)*

Land-Use Controls: The element must identify and analyze all relevant land use controls impacts as potential constraints on a variety of housing types. The analysis should analyze land use controls independently and cumulatively with other land use controls. The analysis should specifically address requirements related to parking, heights, lot coverage and limits on allowable densities. The analysis should address any impacts on cost, supply, housing choice, affordability, timing, approval certainty and ability to achieve maximum densities and include programs to address identified constraints. For example, where residential development is allowed in commercially zoned areas, the element should more clearly state and describe what the development standards are for potential residential projects.

Zoning, Development Standards and Fees: The element must clarify compliance with new transparency requirements for posting all zoning, development standards and fees on the City's website and add a program to address these requirements, if necessary.

Other Local Ordinances: The element must analyze any locally adopted ordinances that directly impacts the cost and supply or residential development (e.g., inclusionary requirements, short term rentals, growth controls). Specifically, the element should analyze 25-50 percent inclusionary requirements for projects greater than four units as a constraint, as well as other requirements and alternative means of compliance per Government Code section 65850(g). Program 11 (Inclusionary Housing Ordinance) should be adjusted as appropriate based on this additional analysis.

SB 35 Streamlined Ministerial Approval Process: The element must clarify whether there are written procedures for the SB 35 (Chapter 366, Statutes of 2017) Streamlined Ministerial Approval Process and add a program to address these requirements.

Constraints on Housing for Persons with Disabilities: The element briefly describes its reasonable accommodation procedures. However, the element should also describe the process and decision-making criteria such as approval findings and analyze any potential constraints on housing for persons with disabilities.

Additionally, The City's zoning code appears on page F-9 and F-13 to isolate and regulate various types of housing for persons with disabilities based on the number of people and other factors. Examples include residential care facilities, group homes and sober living homes for six or fewer persons or seven or more persons. First, zoning should simply implement a barrier-free definition of family instead of subjecting,

potentially persons with disabilities, to special regulations such as the number of persons, population types and licenses. Second, these housing types are excluded from some residential zones, most notably low-density zones, which can constrain the availability of housing choices for persons with disabilities. Finally, these housing types in many cases are subject to a special use or conditional use permit, potentially subjecting housing for persons with disabilities to higher discretionary standards where an applicant must demonstrate compatibility with the neighborhood, unlike other residential uses. The element should include specific analysis of these and any other constraints, including their enforcement and considering public comments, for impacts on housing for persons with disabilities and add or modify programs as appropriate.

5. *Analyze any special housing needs such as elderly; persons with disabilities, including a developmental disability; large families; farmworkers; families with female heads of households; and families and persons in need of emergency shelter. (Gov. Code, § 65583, subd. (a)(7).)*

While the element quantifies most of the City's special needs populations, it must still quantify the number of persons experiencing homelessness and the number of seasonal and permanent farmworkers living in the City. For all special-needs populations, the element must also analyze their special housing needs. For a complete analysis of each population group, the element should discuss challenges faced by the population, the existing resources to meet those needs (availability senior housing units, number of large units, number of deed restricted units, etc.), an assessment of any gaps in resources, and proposed policies, programs, and funding to help address those gaps.

C. Housing Programs

1. *Include a program which sets forth a schedule of actions during the planning period, each with a timeline for implementation, which may recognize that certain programs are ongoing, such that there will be beneficial impacts of the programs within the planning period, that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the Housing Element through the administration of land use and development controls, the provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available. The program shall include an identification of the agencies and officials responsible for the implementation of the various actions. (Gov. Code, § 65583, subd. (c).)*

To address the program requirements of Government Code section 65583, subdivision (c)(1-6), and to facilitate implementation, programs should include: (1) a description of the City's specific role in implementation; (2) definitive implementation timelines; (3) objectives, quantified where appropriate; and (4) identification of responsible agencies and officials.:

Programs must demonstrate that they will have a beneficial impact within the planning period. Beneficial impact means specific commitment to deliverables, measurable metrics or objectives, definitive deadlines, dates, or benchmarks for implementation. Deliverables should occur early in the planning period to ensure actual housing outcomes. All programs should be evaluated to ensure meaningful and specific actions and objectives. Programs containing unclear language (e.g., “Evaluate”; “Consider”; “Encourage”; etc.) should be amended to include more specific and measurable actions. Programs to be revised include, but are not limited to, the following:

Program 1 (Historic Preservation Regulations and Guidelines): This program should provide specific commitments and actions.

Program 2 (Home Maintenance and Public Information): The program should be revised to clarify the objective benefit of the “soft story ordinance”.

Program 7 (Micro-Apartment Units): This program should be revised to include actions that will be implemented once an evaluation of the micro-unit incentives has been completed and redevelopment input has been received.

Program 14 (Affordable Housing Development Assistance): The program should be revised to include more clear and quantifiable actions and objectives.

Program 17 (Section 8 Rental Assistance): The program should be revised to include more clear and quantifiable actions and objectives.

Program 24 (Zoning Updates to Reflect State Law): This program appears to include adopting updates to comply with State law that should already have been codified. If the City has not already completed these updates, it should do so as soon as possible, and must apply State Law standards until updated local ordinances have been adopted.

Program 25 (Identify and Address Causes and Conditions of Racial Segregation): The program should be revised to state concrete actions the City will take once it has received findings from the County of Marin as to its past discriminatory practices and current conditions that perpetuate racial segregation to ameliorate these conditions.

Program 27 (Fair Housing Programs): The program should be revised to include clear and quantifiable objectives.

Program 29 (Home Sharing and Tenant Matching Opportunities): The program should be revised to state exactly how the City will “support” organizations that facilitate house sharing.

Program 30 (Universal Design/Visibility/Adaptable Design): The program should be revised to include more clear and quantifiable objectives.

Program 35 (Community Education and Outreach): This program should be revised to include more clear and quantifiable actions and objectives.

Program 37 (Mill Valley Housing Advisory Committee): This program should be revised to include more clear and quantifiable actions and objectives.

2. *Identify actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Government Code section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing. (Gov. Code, § 65583, subd. (c)(1).)*

As noted in Finding B3, the element does not include a complete site analysis; therefore, the adequacy of sites and zoning were not established. Based on the results of a complete sites inventory and analysis, the City may need to add or revise programs to address a shortfall of sites or zoning available to encourage a variety of housing types. In addition, the element should be revised as follows:

Sites Inventory: Page III-2 of the element states that there is “a sufficient amount of appropriately zoned sites to accommodate the City’s RHNA needs,” but on Page III-6 it states that, “the City was not able to identify an adequate number of sites to meet its RHNA at all income levels.” The element also includes Program 20 to rezone certain sites to accommodate the RHNA. Table 3.2 on Page III-4 and the sites inventory itself should be revised to clearly state the City’s RHNA shortfall at all income levels and clarify how the rezone programs cited in the element will accommodate this shortfall.

Program 9 (Adaptive Reuse of Commercial Buildings): As this program constitutes a rezone program needed to accommodate the City’s RHNA, it must be established within three years of adoption of the housing element. The program should be revised to ensure necessary activities are completed within this timeframe.

Program 10 (Publicly Owned Tax-Exempt Land for Affordable Housing): This program should be revised to have concrete actions and clear timelines as to when specific actions will be taken to actualize the housing.

Program 20 (Rezoning to Accommodate RHNA/Housing Overlay Zoning Districts): As this program is necessary to meet the City’s RHNA shortfall, its timeline must be revised to ensure all necessary rezones are established within three years of the adoption of the housing element pursuant to Government Code section 65583, subdivision (c)(1)(A).

3. *Address and, where appropriate and legally possible, remove governmental and nongovernmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities. (Gov. Code, § 65583, subd. (c)(3).)*

As noted in Findings B4, the element requires a complete analysis of potential governmental constraints. Depending upon the results of that analysis, the City may need to revise or add programs and address and remove or mitigate any identified constraints.

Program 5 (Mixed Use Zoning in Commercial Districts): This program should be revised to remove conditional use permit requirements for mixed use projects sooner than 2025 in order to ensure beneficial impact within the planning period needed capacity on sites in the inventory to accommodate the City's RHNA.

Program 11 (Inclusionary Housing Regulations): As noted in the constraints section, the City must make more concrete commitments to address potential constraints in its inclusionary ordinance policy and add alternative forms of compliance as necessary to comply with state law.

Program 12 (General Financial Resources (Local Impact Fees and/or Taxes)): This program should be revised to include more concrete actions to be taken by the City as a result of its evaluation of the Single-Family Impact Fee.

4. *Promote and affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics protected by the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2), Section 65008, and any other state and federal fair housing and planning law. (Gov. Code, § 65583, subd. (c)(5).)*

As noted in Finding B1, the element requires a complete AFFH analysis. Depending upon the results of that analysis, the City may need to revise or add programs. In addition, the element included actions related to zoning, density, development standards, and ADUs to address contributing factors. However, in addition to addressing contributing factors, programs and actions must enhance housing mobility, provide new housing choices and affordability in high opportunity areas, place-based strategies that promote more inclusive communities and accessible communities, as well as displacement protection. Additionally, the City can incorporate relevant policies and actions from other general plan elements such as the environmental justice and safety element. For your information, place-based programs include actions that improve quality of life related to housing, transportation, safety, education, recreation, infrastructure, etc.

Furthermore, the element must include metrics and milestones for targeting meaningful change and evaluating progress on programs, actions, and fair housing results. For a list of sample policies and programs, please visit page 73 of HCD's Affirmatively Furthering Fair Housing (AFFH) Guidance: https://www.hcd.ca.gov/community-development/affh/docs/affh_document_find_4-27-2021.pdf.

D. Public Participation

Local governments shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the Housing Element, and the element shall describe this effort. (Gov. Code, § 65583, subd.(c)(9).)

While Appendix B of the element includes a general summary of the public participation process and outreach methods the City employed, it must also demonstrate diligent efforts were made to involve all economic segments of the community in the development of the housing element. The element should be revised to discuss outreach to lower-income and special needs groups during the public participation efforts, solicitation efforts for survey responses, participation in community workshops and or the City's "Housing Advisory Committee." The element should also summarize the public comments and describe how they were considered and incorporated into the element.

Additionally, HCD received a number of comments related to zoning and AFFH, particularly in relation to the City's apparent lack of units affordable to lower income West of Camino Alto. Many commentors also voiced concerns that, of the over seventy City-Owned sites in the City, only one was chosen to accommodate housing lower-income. HCD encourages the City to consider these comments.

**APPENDIX B
LIST OF COMMENTERS**

Campaign for Fair Housing Elements
South Bay YIMBY
YIMBY Law and Greenbelt Alliance
Paula and Kevin McGrath
Elizabeth O'Donnell
Mike Shapiro
David Wygant
James Horio
Elena McClain
Carlos Montalvan
Lynn Perry
Marie Filippi
Regina Filippi
Gina Garcia
Craig Collins
P.C. Chang
James LaRocca
Ann Matthews
Mary Beth Culler
Douglas Clark
David Kennedy
Daphne de Marneffe
Gail Katz
Peter Emblad
Geoffrey MacDonald
Paul Whitehead
Peter Riaboff
Ellen Casazza
Gary Batroff
Mae Ryan
Friends of Hauke Park
Terrence Becker
Augustus Ang
Kate McGerity
Lisa Edson
Eleonore and Hans Fallant
Grant Morris
Lee Kirkpatrick
Maria Scott
Ladonna Wood
Natalie Morris
Judith Staples
Mary McGerity

Eric Bindelglass
Gabrielle Tierney
Simin Batroff

EXHIBIT 3



**Notice of Completion and Availability:
Draft Subsequent Environmental Impact Report (SEIR) for the
City of Mill Valley's 2023-2031 Housing Element Update**

Project Title: City of Mill Valley 2023-2031 General Plan Housing and Land Use Element Update and Zoning Amendments (SCH#2013052005)

Project Location (Specific): City of Mill Valley (Citywide)

Project Location (City): Mill Valley

Project Location (County): Marin

Project Website: WWW.CITYOFMILLVALLEY.ORG/HOUSINGELEMENT

Description of Nature, Purpose, and Beneficiaries of Project: The City of Mill Valley (City), acting as the lead agency under the California Environmental Quality Act (CEQA) of 1970, as amended, has determined that the City of Mill Valley 6th Cycle (2023-2031) Housing Element Update (hereinafter "proposed project") could result in significant adverse environmental impacts and has required that a draft subsequent environmental impact report (SEIR) be prepared to evaluate these potentially significant adverse environmental impacts. The SEIR is subsequent to the *2013 Final -Certified Environmental Impact Report Mill Valley 2040 General Plan* (general plan EIR), updating existing analysis where appropriate, and presenting new analysis where necessary. This SEIR only evaluates the change in General Plan buildout resulting from the amendments to the Land Use and Housing Elements. The SEIR does not evaluate total buildout of the amended General Plan.

Environmental Impacts: The draft subsequent EIR identifies the following impacts that would result from the proposed project: **Air Quality** (Adverse Effects to Sensitive Receptors from Toxic Air Contaminants During Operations); **Biological Resources** (Loss of Special-Status Plant Species or Their Habitats; Loss of Special-Status Wildlife Species or Their Habitats; Disturbance or Fill of Protected Wetlands, Waters of the U.S. and Sensitive Natural Communities; Interference with Movement of Wildlife Species or with Established Wildlife Corridors); **Greenhouse Gas Emissions** (Generate Greenhouse Gas Emissions; Conflict with GHG Reduction Plans); **Noise** (Construction Activities Noise; Groundborne Vibration); **Transportation** (VMT); **Tribal Cultural Resources** (Potential Adverse Impact to Tribal Cultural Resources); **Utilities** (Increased Water

Demand; Relocation or Construction of New or Expanded Water Connection Facilities for Individual Projects); **Wildfire** (Impair an Adopted Emergency Response Plan or Emergency Evacuation Plan).

Lead Agency: City of Mill Valley; **Division:** Planning Department

Address Where Copy of Draft Subsequent EIR is Available: Mill Valley City Hall, Planning Department, 26 Corte Madera Avenue, Mill Valley, CA 94941. A copy of the draft subsequent EIR is also available on the City of Mill Valley website: www.cityofmillvalley.org/housingelement

Public Review and Comment Period: January 17, 2023 - March 3, 2023

Public Hearing: Public hearing scheduled for **Tuesday, February 28, 2023 at 6:30pm** to receive oral comments on the Draft Subsequent EIR (during Planning Commission meeting)

You may submit comments in writing during the above-referenced comment period or attend the meeting in person to submit oral comments. You can also view the meeting remotely via City website: <https://www.cityofmillvalley.org/278/Watch-Meetings-Online>. If you require assistance or accommodation to participate in a Planning Commission meeting, please contact the City Clerk at (415) 388-4033 (TTY 711) least 24 hours prior to the meeting. The City will use its best efforts to make reasonable accommodations to provide as much accessibility as possible, while also maintaining public safety.

Contact Person:

Danielle Staude, Senior Planner

Submit E-mail Comments to: dstaude@cityofmillvalley.org

Mailing Address:

26 Corte Madera Avenue
Mill Valley, CA 94941

Phone: 415-384-4812

EXHIBIT 4

From: [Danielle Staude](#)
To: [Patrick Soluri](#)
Subject: RE: [External] Notice of Availability - DSEIR for the Mill Valley Housing Element
Date: Thursday, January 19, 2023 9:15:23 AM

Hello Mr. Soluri,

The City is in the process of incorporating HCD comments into a revised Draft HEU. The redlined version will be released in early February. This revision contains clarifications to existing language and administrative edits to incorporate and better define requirements of state law, as outlined in the HCD letter. The sites inventory remains the same, with the exception of a reduced unit count to address HCD comments related to SB9. This change and reduction in unit count will not impact the results of the DSEIR. Policies and programs remain similar to those contained in the DSEIR, with additional clarifying language and further detailed explanation of meaningful actions with metrics to further fair housing. As noted in the DSEIR a new program is recommended to mitigate potential significant impacts related to VMT. This program will be included in the revised HEU and further discussed in the FEIR.

Sincerely,
Danielle L. Staude
Senior Planner
City of Mill Valley
26 Corte Madera Avenue
Mill Valley, CA 94941
(415) 388-4033

www.cityofmillvalley.org

From: Patrick Soluri <patrick@semlawyers.com>
Sent: Tuesday, January 17, 2023 5:30 PM
To: Danielle Staude <dstaude@cityofmillvalley.org>
Cc: Patrick Kelly <pkelly@cityofmillvalley.org>; Mae Ryan Empleo <Legal@semlawyers.com>; Jim Wickham - Mill Valley mail <jwickham@cityofmillvalley.org>; Urban Carmel <ucarmel@cityofmillvalley.org>; Stephen Burke <sburke@cityofmillvalley.org>; Max Perrey <mperrey@cityofmillvalley.org>; 'gkhalsa@rwglaw.com' <gkhalsa@rwglaw.com>
Subject: RE: [External] Notice of Availability - DSEIR for the Mill Valley Housing Element

Ms. Straude,

Thank you for the emailed notice of the Draft EIR for the Housing Element Update. I was unaware that the City had prepared a revised Housing Element that responds to HCD's comments. I reviewed the appendices to the DEIR and noticed that the revised Housing Element is not included. **Please send me the revised Housing Element immediately**, which is required for public review and comment on the Draft EIR that purports to analyze it. The public cannot possibly review and comment on the adequacy of the DEIR's analysis of the Housing Element Update without having access to the Housing Element Update.

Regards,
Patrick M. Soluri

 tel: 916.455.7300 ■  fax: 916.244.7300 ■  mobile: 916.599.0474 ■  email: patrick@semilawyers.com

From: Danielle Staude <dstaude@cityofmillvalley.org>
Sent: Tuesday, January 17, 2023 4:02 PM
To: Danielle Staude <dstaude@cityofmillvalley.org>
Cc: Patrick Kelly <pkelly@cityofmillvalley.org>
Subject: Notice of Availability - DSEIR for the Mill Valley Housing Element

Thank you for your interest in Mill Valley's Draft Housing Element. Attached is a Notice of Availability for the environmental document to support the Housing Element, referred to as the Draft Subsequent Environmental Impact Report (DSEIR).

Please note that the Notice also includes information about submitting comments as well as a meeting that will be hosted on February 28th to collect oral comments.

Project website for the Housing Element is www.cityofmillvalley.org/housingelement

Sincerely,
Danielle L. Staude
Senior Planner
City of Mill Valley
26 Corte Madera Avenue
Mill Valley, CA 94941
(415) 388-4033

www.cityofmillvalley.org

EXHIBIT 5



tel: 916.455.7300 · fax: 916.244.7300
510 8th Street · Sacramento, CA 95814

July 29, 2022

SENT VIA EMAIL (dstaude@cityofmillvalley.org)

Danielle Staude, Project Planner
City of Mill Valley
Mill Valley City Hall
26 Corte Madera Avenue
Mill Valley, CA 94941

RE: Public Comments to Mill Valley's Draft Housing Element

Dear Ms. Staude:

On behalf of Friends of Hauke Park ("FOHP"), this letter provides comments regarding Mill Valley's Draft Housing Element. As set forth more fully below, the City's reliance on 1 Hamilton to meet its Regional Housing Needs Assessment ("RHNA") is arbitrary and lacks evidentiary support. The Draft Housing Element's discussion of 1 Hamilton is also misleading and at times demonstrably erroneous. The City must provide a credible explanation for excluding dozens of City-owned sites that contain similar characteristics as 1 Hamilton.

Government Code section 65583.2 requires a city to inventory land that is suitable for residential development and must further identify sites that can be developed for housing within the planning period. The purpose of this inventory is to show that the City has sufficient housing to meet its RHNA requirements. (Gov. Code, § 65583.2, subd. (a).) Land that is suitable for residential development includes, "Sites zoned for nonresidential use that can be redeveloped for residential use, and for which the housing element includes a program to rezone the site, as necessary, to permit residential use, including sites owned or leased by a city, county, or city and county." (*Id.* subd. (a)(4).)

"If a housing element contains the elements mandated by the statute, it will be found to conform with state law unless it is 'arbitrary, capricious, or entirely lacking in evidentiary support.'" (The California Municipal Law Handbook, § 10.27, quoting *Fonseca v. City of Gilroy* (2007) 148 Cal.App.4th 1174, 1191.) The City's Draft Housing Element has arbitrarily excluded nearly all City-owned sites from the Sites Inventory. Further, the Sites Inventory includes 40 low-income units from a property zoned Open Area, which prohibits residential development. The City's conclusions lack evidentiary support and are the result of an insidious scheme to keep affordable housing out of downtown and select wealthy neighborhoods in Mill Valley.

I. THE 1 HAMILTON SITE REQUIRES A GENERAL PLAN AMENDMENT AND REZONING

A. Neither General Plan Designation “Community Facilities” nor Zoning Designation “O-A” Permit Residential Development

The Draft Housing Element asserts that 1 Hamilton’s zoning allows for residential development. This is inexcusably false and misleading. 1 Hamilton’s General Plan designation is Community Facilities (Land Use Element, p. 25), and its zoning designation is Open Area (“O-A”) (Current Housing Element, p. C-19). Both designations prohibit residential development. The Land Use Element’s Community Facilities description includes, “All City facilities including City golf course, parks, City Hall, Community Center, Public Safety Building, etc.; public schools and private schools.” (Land Use Element, p. 24.) It also states that the residential density range is not applicable. (*Ibid.*) Further, the Draft Housing Element states, “The OA and CF Zoning Districts do not permit residential use on the property.” (Draft Housing Element, p. C-2.) Thus, there is no question that residential uses are prohibited on parcels designated as Community Facilities or zoned as O-A. 1 Hamilton is both.

The City has been consistent in its prohibition of residential development on parcels zoned as O-A. The language in the Current Housing Element shows that the City never intended to include O-A zoned parcels in its publicly-owned inventory. Program Objective 12 states, “By 2018, prepare an inventory of publicly-owned land **that is not already zoned for open space**, including parking lots, and examine the feasibility of their use of housing. Consider modifying the City’s zoning regulations to allow residential uses in the C-F zone subject to the approval of a conditional use permit.” (Current Housing Element, p. II-12 [bold added].)

As a result of these prohibitions, any development proposed on land that is zoned O-A would require a General Plan amendment and rezoning. The Draft Housing Element fails to discuss this requirement for 1 Hamilton and so falsely claims that residential development is allowed on this site. It is not. This misrepresentation is so blatant that one can only surmise that it is intentional by City officials, which is inexcusable.

B. The Draft Housing Element Fails to Describe the Process Required to Develop 1 Hamilton

The City has previously represented the need to amend 1 Hamilton’s land use designation and zoning in order to allow residential development. A staff report from the February 7, 2022, City Council meeting plainly states that both a General Plan

Amendment and Rezoning of the parcel would occur between February through June 2023. (Exhibit A, February 7, 2022, City Council Staff Report re: 1 Hamilton Drive, p. 25, Exhibit B.) However, the Draft Housing Element fails to mention that 1 Hamilton requires both legislative actions in order to be developed. Ignoring this reality, the Draft Housing Element includes 1 Hamilton as part of the Site Inventory that calculates potential units from “existing zoning.” (Draft Housing Element, p. III-4; see also p. III-10 [Table 3.7 indicates 1 Hamilton could accommodate 40 units as currently zoned].)

The City’s Draft Housing Element has inexplicably chosen to whitewash the inescapable fact that 1 Hamilton allows no residential units whatsoever under “existing zoning.” As part of its arbitrary and capricious scheme to manufacture rationale for limiting affordable housing to 1 Hamilton, the City has failed to comply with its duty under state law to identify all suitable properties for housing.

To the extent the Draft Housing Element’s mischaracterization of 1 Hamilton’s “current” zoning is premised on the City’s intention to revise 1 Hamilton’s General Plan land use designation and zoning designation as part of the proposed Land Use Element update, the EIR will need to fully analyze on a project level the proposed housing project. (See CEQA Guidelines, §§ 15378, subd. (a) [a project is the “whole of an action” which may result in direct or indirect physical changes to the environment]; 15126 [EIR’s impact analysis must consider all phases of a project]; *Laurel Heights Improvement Assn. v. Regents of the Univ. of Cal.* (1988) 47 Cal.3d 376 [EIR must analyze “reasonably foreseeable consequence” of a project].) The Draft Housing Element does not indicate that the City intends to comply with this duty, and the City’s past conduct suggests that it may attempt to misuse the concept of “tiering” to evade full public disclosure.

II. THE CITY ARBITRARILY RELIES ON THE HOUSING WORKSHOP AND OTHER CRITERIA TO UNLAWFULLY EXCLUDE NUMEROUS CITY-OWNED PARCELS

As explained above, the City has a duty to prepare an inventory of land that is suitable for residential development in order to show that the City has sufficient housing to meet its RHNA requirements. (Gov. Code, § 65583.2, subd. (a).) The shifting and inconsistent explanation for its planning process in this regard reveals that it is failing to comply with that duty.

Although the City previously stated that the Housing Workshop is a completely separate process from its RHNA analysis, the Draft Housing Element now reveals that the City is relying on that process to identify — or, more accurately, exclude — suitable land for its RHNA requirements. By doing so, the Draft Housing Element arbitrarily narrows

the potential sites where residential housing could be located in violation of its duties under state law.

A. The City Previously Claimed That the Housing Workshop Findings are a Separate and Distinct Analysis

The City hired a consultant to prepare an analysis of City-owned parcels that could be developed for affordable housing. After excluding more than 100 sites for various reasons, the analysis concluded that the City should conduct additional analysis on only four different sites. (The Housing Workshop, p. 2.) The Housing Workshop's analysis was patently perfunctory, and public commenters questioned why this separate process was occurring at all in light of the City's Housing Element Update that was being drafted at the same time. (Exhibit B, February 4, 2022, Letter re: Public Comments to February 7, 2022, City Council Meeting, Agenda Item 6 re: 1 Hamilton Drive, pp. 1-3.) Purporting to respond directly to these concerns, Mayor McCauley asserted at the February 7, 2022, Council meeting that the RHNA process is completely separate from the Housing Workshop process. He stated in relevant part:

Another thing, there is a confusion here about the idea of doing an analysis of regional housing needs authority or RHNA sites and the city site analysis that was done so as a part of the HCC hazard advisory committee we went down two paths. One path was can we find surplus land we can sell to raise money to provide the ability to develop land with another party maybe a church or whatever. The second process we had was can the city on its own find a site that we can offer to a developer, a low-income mission driven developer to create a site. **That is completely different than the analysis which is going on to find out where we are going to come up with these 865 units for RHNA which is all generally private property.** They are completely different things, so I just want to make sure that people understand that difference.

(Mill Valley City Council Meeting, February 7, 2022, at 3:03:00¹ [bold added].)

The Draft Housing Element now reveals the Mayor's statements to be false. Public comments were not confused. Rather, it was the Mayor who was either confused or intentionally misrepresented the relationship between the Housing Workshop's analysis and the Housing Element Update. There is no question that the Draft Housing

¹ The meeting can be accessed at https://cityofmillvalley.granicus.com/MediaPlayer.php?view_id=2&clip_id=1694.

Element expressly relies on the Housing Workshop’s analysis to exclude suitable properties. (Draft Housing Element, pp. III-11, C-2.) As explained more fully below, the Draft Housing Element’s reliance on the Housing Workshop’s analysis means that the City has not complied with its duties under state law.

B. The Draft Housing Element Excludes Numerous City-Owned Parcels Without Adequate Explanation or Factual Support

Although the City claimed that the RHNA process is completely separate from the Housing Workshop process, the City nevertheless based the Draft Housing Element’s entire discussion of City-owned properties on the Housing Workshop’s analysis. For example, the Housing Workshop analysis determined that 27 of 38 City-owned sites were “not marketable due to zoning,” all of which are zoned O-A. (The Housing Workshop, p. 19.) The Draft Housing Element uncritically adopted these parameters, which resulted in the improper exclusion of properties from the Draft Housing Element. (Compare The Housing Workshop, p. 19 with the Draft Housing Element, Sites Inventory List.)

A housing element is required to include land suitable for residential development, including “Sites zoned for nonresidential use that can be redeveloped for residential use, and for which the housing element includes a program to rezone the site, as necessary, to permit residential use, including sites owned or leased by a city, county, or city and county.” (Gov. Code, § 65583.2, subd. (a)(4).) Thus, the statute requires the City to include City-owned sites that are currently zoned nonresidential, but could be redeveloped for residential use. The Draft Housing Element follows a similar procedure for Program 21, which rezones 300 East Blithedale from RM3.5 to Downtown Residential, which allows multi-family residential. (Draft Housing Element, p. IV-22.) The parcel is then included under the Sites Inventory for above-moderate housing. (Draft Housing Element, Appendix C [APN 028-233-36].) Thus, the City has included similar programs for some properties, but is completely silent on the omission of others.

Put simply, that properties are “not marketable due to zoning” is both logically and legally irrelevant to whether they are “suitable for residential development” for purposes of the City’s RHNA obligations since the definition of “land suitable for residential development” specifically includes properties “[s]ites zoned for nonresidential use that can be . . .rezone[d] . . . to permit residential use.” (Gov. Code, § 65583.2, subd. (a)(4).) The Draft Housing Element fails to provide any explanation for omitting scores of City-owned parcels that could be rezoned for residential use.

This excludes the majority of City-owned sites based on similar arbitrary criteria. First, there are sites already zoned for residential and commercial. The Draft Housing Element states that those City-owned properties zoned residential or commercial, “that are not on the Sites Inventory are due to the parcels being in the right of way or on a highly sloped and forested piece of property in the high fire severity zones.” (Draft Housing Element, p. C-2.) The City fails to provide an explanation of what “being in the right of way” entails and how parcels could physically be in the right of way. Second, the City disregards all religious and public education institutions because “The OA and CF Zoning Districts do not permit residential use on the property.” (Draft Housing Element, p. C-2.) Omitting parcels based on these unsupported criteria results in an overly constricted Site Inventory and artificially limits the City-owned properties that could be developed.

Additionally, the City fails to discuss the other potential development sites identified in the Housing Workshop such as the Boyle Park tennis facilities and a portion of the Mill Valley Municipal Golf Course, which are both zoned O-A and were determined to be potential sites for affordable housing, similar to 1 Hamilton. In fact, the Housing Workshop analysis of Boyle Park states, “From an objective affordable housing development point of view, this is the best of the 4 identified sites.” (The Housing Workshop, p. 9.)

III. OTHER FACTORS SHOW THAT THE DRAFT HOUSING ELEMENT IS DEFECTIVE

The Draft Housing Element ignores several other factors impacting the ability to develop 1 Hamilton. As explained previously, the Draft Housing Element incorrectly assumes that 1 Hamilton could provide 40 units for very low- and low-income housing as zoned. This assumption disregards the obvious conflict with the General Plan and zoning designations, and further fails to consider environmental constraints at the property. The City’s disregard for other parcels, in order to push development at 1 Hamilton, appears to further Mill Valley’s discriminatory housing practices.

A. Baylands Corridor

Government Code section 65583.2, subdivision (b)(4) requires “[a] general description of any environmental constraints to the development of housing within the jurisdiction[.]” The Draft Housing Element provides, “Those city-owned sites that are zoned residential and commercial that are not on the Sites Inventory are due to the parcels being in the right of way or on a highly sloped and forested piece of property in the high fire severity zones.” (Draft Housing Element, p. C-2.) However, the Draft

Housing Element does not provide an explanation for how environmental constraints may interfere with development at a specific parcel. According to the California Department of Housing and Community Development's ("HCD") Guidance, a local entity must:

Provide in the analysis a general description of any known environmental or other features (e.g., presence of floodplains, protected wetlands, oak tree preserves, very high fire hazard severity zones) that have the potential to impact the development viability of the identified sites. The housing element need only describe those environmental constraints where documentation of such conditions is available to the local government. **This analysis must demonstrate that the existence of these features will not preclude development of the sites identified in the planning period at the projected residential densities/capacities.**

(HCD Housing Element Sites Inventory Guidebook, p. 10 [bold added].)

1 Hamilton is adjacent to the County's Baylands Corridor, but the Draft Housing Element completely ignores this fact. This omission is inexcusable given that the City was well aware of this circumstance, and the Housing Workshop determined:

The potential housing site is impacted by its location near the boundaries of the Marin County Baylands Corridor, as described in the County General Plan. This designation identifies uplands adjacent to sensitive wetlands, and requires special biological assessment studies to protect habitat for plants and animals. According to the Marin County General Plan, development sites of between 0.5 and 1 acre require a 30-foot setback from the Baylands boundary.

(The Housing Workshop, p. 8.) The Draft Housing Element fails to acknowledge this environmental constraint. Therefore, even if the City were to rezone the parcel, it may not be able to physically accommodate 40 units.

B. Omission of Parcels Located West of Camino Alto

There are nine affordable housing options in or near Mill Valley. All but one of those properties is located east of Camino Alto, and the ninth is located south of Miller Avenue. Thus, not one is located near downtown. The City now apparently intends to continue its historic segregation of affordable housing by arbitrarily constricting the City-owned properties in the Sites Inventory to 1 Hamilton. This decision excludes several

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potential parcels that could be developed west of Camino Alto such as Boyle Park and the Mill Valley Municipal Golf Course.

The City is well aware of this trend. Multiple public comments provided in the Draft Housing Element illustrate the City's determination to keep affordable housing out of the City center, and push it toward the highway. (Draft Housing Element, Survey 2, pp. 42, 60.) This is also shown in the attached PowerPoint slides previously submitted to the City. (Exhibit C.) All of the City's actions suggest an intent by City officials to keep affordable housing out of the City center and other select wealthy neighborhoods west of Camino Alto.

As previously discussed, the Housing Workshop identified four parcels that it recommended for additional analysis, three were discarded by the City. 1 Hamilton is the only parcel the City chose to include in its Site Inventory. The three parcels it chose to exclude are all located west of Camino Alto. The City has failed to provide any explanation for excluding two of the properties identified in the Housing Workshop.

* * *

The City has arbitrarily erected barrier after barrier in order to single out 1 Hamilton for affordable housing — a parcel with land use and zoning designations that prohibit any and all residential use. By doing so, the City has artificially constricted the potential locations that could be used to meet its RHNA requirements and thereby violates the City's duty to identify all land that is suitable for residential development. The result is an inaccurate, misleading and ultimately unlawful Housing Element that also continues the City's history of segregating affordable housing.

Very truly yours,

SOLURI MESERVE
A Law Corporation

By:



Patrick M. Soluri

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Attachments:

Exhibit A February 7, 2022, City Council Staff Report re: 1 Hamilton Drive
Exhibit B February 4, 2022, Letter re: Public Comments to February 7, 2022, City
Council Meeting, Agenda Item 6 re: 1 Hamilton Drive
Exhibit C PowerPoint Slides submitted to the City on July 10, 2022

EXHIBIT A



STAFF REPORT

TO: Mayor and City Council


FROM: Danielle Staude, Senior Planner

VIA: Patrick Kelly, Director of Planning and Building

SUBJECT 1 Hamilton Drive: Receive report from staff on recommended next steps to build affordable rental housing on the northern portion of 1 Hamilton Drive (Assessor's Parcel Number 030-250-01) ("the Property"), which includes: 1) the approval of an Exclusive Negotiating Agreement (ENA) between the City of Mill Valley and EAH Housing; 2) allocation of Affordable Housing Trust Funds in support of the ENA; and 3) approval of Community Outreach Plan.

DATE: February 7, 2022

Approved for Forwarding:



Alan E. Piombo, Jr., City Manager

1 **Issue:** Approval of next steps to partner with EAH Housing and conduct predevelopment
2 activities including but not limited to community outreach, site planning and design, and
3 environmental review to build affordable rental housing on the northern portion of 1 Hamilton
4 Drive.

5
6 **Recommendation:** Staff recommends that City Council receive a report from staff, consider
7 public comments, and adopt Resolution No. 22-__: A Resolution (ATTACHMENT 1)
8 authorizing the following:

- 9
10 1) Execution of an Exclusive Negotiating Agreement ("ENA"/ATTACHMENT 2)
11 between the City of Mill Valley and EAH Housing to allow the City and EAH to
12 negotiate with respect to the terms and conditions for the potential ground lease or
13 sale of property and development of affordable rental housing on the Northern portion
14 of the 1 Hamilton Property; and
15

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- 16 2) Release and allocate Affordable Housing Trust Funds to support predevelopment
17 activities, including but not limited to community outreach, site planning, design, and
18 environmental review; and
19
20 3) Approval of the Community Outreach Plan (ATTACHMENT 3).
21

22 **Background:** On September 20, 2021 City Council took action to: 1) declare a portion of the
23 property located at 1 Hamilton Drive as “exempt surplus land” as required under the California
24 Surplus Land Act (Government Code 54220 et seq.) pursuant to Government Code Section
25 54221(f)(1)(A)¹ and 2) authorize the City Manager to negotiate and draft an Exclusive
26 Negotiating Agreement (ENA) with EAH Housing for the purpose of negotiating the terms and
27 conditions for the potential ground lease or sale of property and development of affordable rental
28 housing on the Northern portion of 1 Hamilton Drive, as described herein.
29

30 The EAH Housing Team (“EAH Team”) was selected by City Council on September 20, 2021,
31 based on their qualifications and recommendations of the selection committee (City Manager,
32 Planning and Building Director, two members of the Housing Advisory Committee), which
33 interviewed the EAH Team on September 10, 2021. The EAH Team is comprised of the
34 following firms:

- 35 • EAH Housing: Development, property management, and resident services
 - 36 • Van Meter Williams Pollack LLP: Lead design and architect
 - 37 • Adobe Associates, Inc: Civil Engineer
- 38

39 As noted during the September 20, 2021, Council meeting, the EAH Team has direct experience
40 in guiding successful public/private partnerships to create affordable housing opportunities
41 within Marin County communities as well as the greater Bay Area and California.
42

43 **Discussion:** Staff is returning to City Council to report back on negotiations with the EAH Team
44 to build affordable rental housing on the Northern portion of 1 Hamilton Drive. For purposes of
45 this report, the proposed site for affordable housing will be referred to as the “Property,” whereas
46 the larger 1 Hamilton Drive parcel will be referred to as “1 Hamilton.”
47

48 Staff and City Council has acknowledged that a team of experts is required to further determine
49 the number of potential homes that can be placed on the Property, balancing the interests of the

¹ Because the City plans to ground lease (or sell) the Property for the development of a 100% affordable housing project to persons and families of low or moderate income, the proposed lease (or sale) meets the criteria for “exempt surplus land” under Government Code Section 54221(f)(1)(A), including the following provisions: (a) Not less than 80 percent of the area of the parcel will be used for the development of housing; and (b) Not less than 40 percent of the total number of those housing units developed on the parcel shall be affordable to households whose incomes are equal to, or less than, 75 percent of the maximum income of lower income households, and at least half of which shall be affordable to very low-income households; and (c) Dwelling units produced for persons and families of low or moderate income under Government Code Section 37364 shall be restricted by regulatory agreement to remain continually affordable to those persons and families for the longest feasible time, but not less than 30 years, with such regulatory agreement recorded in the office of the county recorder in which the housing development is located.

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50 community, construction feasibility, and financing opportunities. The ENA will allow City staff
51 to exclusively partner with EAH Housing to focus on site planning and preliminary design,
52 which includes the relocation of existing restrooms, electric charging station, and public parking
53 (with the goal of providing up to a total of 50 spaces).

54
55 The EAH Team is deeply experienced and well-capitalized not-for-profit corporation grounded
56 in the belief that attractive, permanently affordable rental housing is the cornerstone to
57 sustainable communities. Founded in Marin County based on the recognition that housing for all
58 is a cornerstone to a fair and just society, the Developer is one of the oldest and most
59 experienced nonprofit housing management and development organizations in the Country. The
60 architectural team also has a deeply established connection to Marin County and has successfully
61 designed multi-family projects in the area.

62
63 The ENA provides EAH Housing with a specific time during which the Property is not available
64 to other parties and sets forth a framework for the selected developer's performance during the
65 ENA period. The ENA also sets forth the City's terms to fund a portion of pre-development
66 studies, necessary because non-profit organizations do not have large amounts of funding for this
67 work. The ENA does not grant any rights related to land use entitlements, project approvals, or
68 any other future City action not specified in the ENA.

69
70 Staff recommends that Council adopt the attached Resolution (ATTACHMENT 1) authorizing
71 the City Manager to execute an ENA with EAH Housing in substantially the form attached
72 (ATTACHMENT 2). The resolution also allocates Affordable Housing Trust Funds as part of
73 cost sharing negotiations outlined in the ENA for predevelopment activities as well as approving
74 the Draft Community Outreach Plan to allow the City to kick off site planning and design work
75 with the community. Details about the ENA, proposed outreach and budget are discussed below.

76
77 **Exclusive Negotiating Agreement (ENA).** The ENA (ATTACHMENT 2) outlines the general
78 scope, cost sharing, and expectations with respect to predevelopment work and negotiations for a
79 final project and disposition of the site.

80
81 The ENA does not commit the City to ground lease or sell the Property nor grant the City's
82 approval of the development of the Property, but rather sets the terms under which the parties
83 will negotiate for a final project and disposition and the predevelopment activities that are
84 necessary to move the project forward towards design. The ENA includes performance
85 milestones and expected schedule for the period needed to design the project. The ENA also
86 outlines the City of Mill Valley's commitment to advance the project, including a loan for certain
87 pre-development expenses such as preliminary design, site planning including relocation of
88 public parking and restrooms.

89
90

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91 The following provides a summary of some key points contained in the ENA:

- 92 • Term: The ENA sets out a “Negotiation Period,” which shall extend until September 1,
93 2023. The City has the option to extend the Negotiation period.
- 94
- 95 • Milestones: The ENA includes a Schedule of Performance (Exhibit B) which establishes
96 milestones with respect to community outreach, design and entitlements, environmental
97 review, and a financing plan.
- 98
- 99 • City Responsibilities: City agrees to negotiate in good faith with EAH and not to
100 negotiate with respect to the site with any other parties during the term of the ENA. City
101 also agrees to loan the Housing Team up to \$150,000, to be used towards certain
102 predevelopment costs. Assuming the project is approved, the ENA lays out the terms for
103 repayment. The City also agrees take steps with respect to the zoning and entitlements on
104 the site, which will include hiring various consultants to conduct the environmental
105 review for the project.
- 106
- 107 • EAH Responsibilities: EAH agrees to negotiate in good faith with the City with respect to
108 the disposition of the site, to share any work product that arises from the predevelopment
109 work with the City, to work with the City on community outreach as described in the
110 Community Outreach Plan, and to meet other specified milestones with respect to due
111 diligence and predevelopment work on the site. If the project is approved, EAH agrees to
112 repay the predevelopment loan issued by the City through project financing.
- 113

114 If Council authorizes the City Manager to execute the ENA, staff and the EAH Housing Team
115 will begin negotiating an agreement for the final disposition of the site, as well as conducting due
116 diligence and predevelopment work. In addition, the City will kick off community outreach,
117 which is discussed below. Once CEQA review and approval of project entitlements occurs, it is
118 anticipated that the City would enter into a development agreement and formal ground lease (or
119 sale) with the EAH Housing Team.

120

121 **Community Outreach Plan.** City Council has continued to emphasize the importance of
122 outreach and community participation in the design of the project since its initial discussion on
123 June 21, 2021. The EAH Team is looking forward to kicking off the outreach program to gather
124 input from the community on interests and concerns that will help guide the site planning and
125 design process.

126

127 Community outreach is divided into three different phases: 1) information gathering, 2) focused
128 outreach on design concepts and 3) confirming design and assembling materials for the planning
129 and entitlement application. Outreach will begin upon adoption of the resolution. Staff and the
130 EAH Housing Team anticipate hosting the first community workshop in mid-March. This
131 workshop is part of the information gathering stage and will focus on gathering community input
132 on preliminary site planning work, such as the relocation of public parking and restrooms and the
133 overall massing for the site. The workshop will also provide an opportunity for the community
134 to ask questions and identify concerns

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135 The illustration on page 5 summarizes the overall outreach process and timing. See
136 ATTACHMENT 3 containing the Draft Community Outreach Plan for additional details.

137

138

Proposed Community Outreach Process and Timeline



139

140

141 **Affordable Housing Trust Fund.** At its June 21, 2021, City Council meeting, Council
142 authorized use of the Affordable Housing Trust Fund to assist in preliminary site investigations.
143 Staff is further recommending that City Council authorize use of the Affordable Housing Trust
144 Funds to assist in the cost sharing of predevelopment activities, as outlined in the ENA. The
145 ENA provides that the City will provide up to \$150,000 to EAH as a predevelopment loan to
146 assist with specified predevelopment costs including site analysis and design. Approval of the
147 resolution will also allow City staff to hire consultants to conduct the environmental review of
148 the proposed project.

149

150 Staff believes the \$150,000 loan to EAH for predevelopment activities is appropriate,
151 particularly since the EAH team will be providing design and consultant assistance to plan and
152 design off-street public parking in the surrounding area and the relocation of the public
153 restrooms. The EAH team is also contributing substantial staff time and organizational resources
154 to provide preliminary conceptual designs to support the planning application for Planning
155 Commission and City Council review and approval.

156

157 **Environmental Review:** Site planning and preliminary design will help inform the
158 environmental review required for the eventual housing development. The level of
159 environmental review will be determined once the scope of the project is determined.

160

161 The resolution before Council is not subject to the California Environmental Quality Act
162 (“CEQA”) because the approval of an ENA and the other activities authorized by the resolution
163 are excluded from the definition of a “project” by section 21065 of the Public Resources Code
164 and section 15378(b) of the State CEQA Guidelines. A “project” is an “activity which may cause
165 either a direct physical change in the environment, or a reasonably foreseeable indirect change in
166 the environment.” The proposed actions direct staff to execute an ENA that establishes the
167 contractual agreement to commence negotiations regarding disposition of a portion of 1
168 Hamilton Drive, as well as initiating preliminary site analysis and design work that will further
169 define an affordable housing development that would constitute a “project” under CEQA. The
170 proposed actions are therefore considered an administrative activity of government which does
171 not result in direct or indirect physical change to the environment. No commitment to any project
172 is being made at this time.

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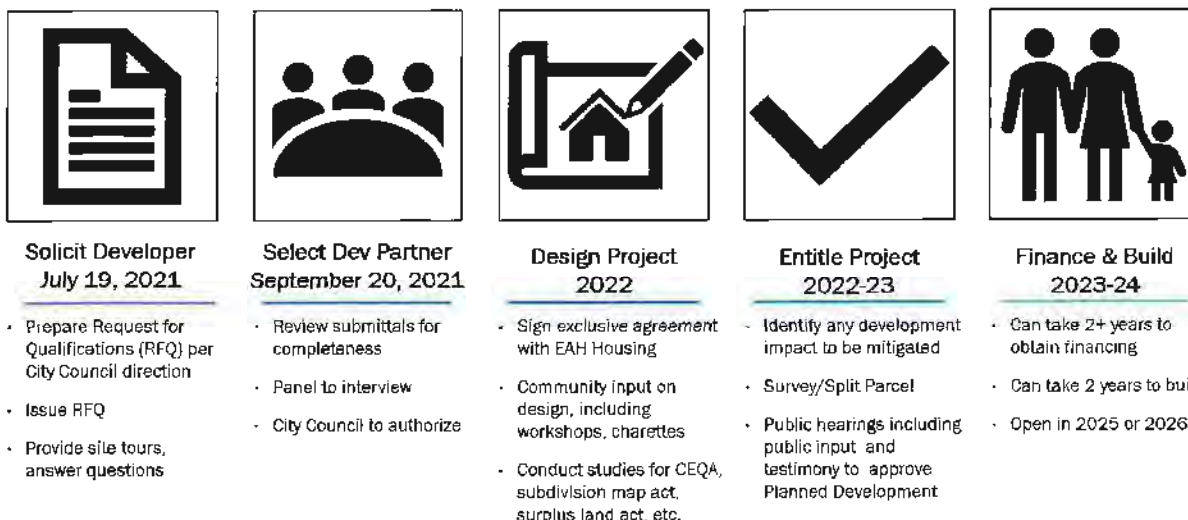
173
 174 Notwithstanding that there is no “project” for purposes of CEQA, as discussed above, the City’s
 175 actions are also covered by the general rule that CEQA applies only to projects which have the
 176 potential for causing a significant effect on the environment. CEQA Guidelines § 15061(b)(3).
 177 There is no evidence that the City’s agreement to negotiate with a potential affordable housing
 178 development partner or undertake predevelopment activities or community outreach will have
 179 any direct or indirect effect on the environment, since the City is not committing itself to any
 180 final project now and may still decide not to move forward with a project on the site.

181
 182 CEQA review requirements must and will be completed before any commitment to a housing
 183 development occurs and appropriate environmental review pursuant to CEQA will be completed
 184 and considered by the City Council at such time.

185
 186 **Fiscal Impact:** There is no impact to the City’s General Fund. The City intends to authorize
 187 Affordable Housing Trust Funds as part of executing the ENA and work on predevelopment
 188 activities.

189
 190 **Next Steps:** Should City Council adopt the proposed resolution; staff will work to execute the
 191 ENA. Once the ENA is signed by both parties, staff and the Housing Team will begin site
 192 planning and design and kick off the community engagement process. Assuming the project
 193 proceeds forward, CEQA review would occur, and Council would later consider project
 194 entitlements based on Planning Commission’s recommendations, along with separate agreements
 195 with EAH for development and disposition (ground lease or sale) to construct the housing.

Overview of Next Steps



199
 200
 201
 202

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1 Hamilton Drive: Consideration of ENA, Trust Funds and Outreach Plan
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203 **Attachments:**

- 204 1. Resolution No. 22-___: Authorizing execution of an Exclusive Negotiating Agreement
- 205 with EHA Housing, authorizing the allocation of Affordable Housing Trust Funds and
- 206 approval of the Community Outreach Plan
- 207 2. Exclusive Negotiating Agreement
- 208 3. Community Outreach Plan
- 209

210 **Online Materials and Resources:**

- 211 • Project website: <https://ca-millvalley.civicplus.com/931/Hamilton-Drive>

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RESOLUTION NO. 22-____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILL VALLEY AUTHORIZING THE EXECUTION OF AN EXCLUSIVE NEGOTIATING AGREEMENT WITH EAH HOUSING, INC. TO NEGOTIATE THE TERMS UNDER WHICH THE CITY WOULD ALLOW THE DEVELOPMENT OF AFFORDABLE RENTAL HOUSING ON THE NORTHERN PORTION, AS DESCRIBED HEREIN, OF A CITY-OWNED PARCEL LOCATED AT I HAMILTON DRIVE [ASSESSOR'S PARCEL NO. 030-250-01], AUTHORIZING THE ALLOCATION OF AFFORDABLE HOUSING TRUST FUNDS FOR PREDEVELOPMENT ACTIVITIES ON THE SITE, AND APPROVING THE COMMUNITY OUTREACH PLAN

THE CITY COUNCIL OF THE CITY OF MILL VALLEY HEREBY FINDS AND RESOLVES AS FOLLOWS:

SECTION 1. The City of Mill Valley ("City") is the owner in fee simple of that certain real property located at 1 Hamilton Drive (Assessor's Parcel 030-250-01).

SECTION 2. The City desires to ground lease or sell a portion of the property located at 1 Hamilton Drive, such portion is generally the northern portion of the current parcel, incorporated herein by reference (the "1 Hamilton Property"), to be developed as a 100 percent affordable housing development that complies with Government Code Section 37364.

SECTION 3. At its June 21, 2021 meeting, City Council directed staff to issue a Request for Qualifications ("RFQ") to solicit interest from multifamily developers to partner with the City of Mill Valley to build and manage affordable housing on the Property.

SECTION 4. On July 19, 2021 the City of Mill Valley released the RFQ and notified all California Housing Finance Agency certified developers that have notified the California Department of Housing and Community Development of their interest in purchasing or leasing surplus local land for affordable housing development in Marin County or any county in California, and other public entities with possible jurisdiction over the Property.

SECTION 5. Because the proposed affordable housing development will meet the requirements of Government Code Section 37364, the City Council adopted Resolution (CC21-51) declaring the Property to be "exempt surplus land" at its regularly scheduled meeting of September 20, 2021.

SECTION 6. In response to the RFQ, EAH Housing submitted qualifications to the City in a timely manner and whereby EAH Housing proposes to ground lease or purchase the Property from the City and develop the Property with 100% affordable rental housing pursuant to Government Code Section 37364.

48 **SECTION 7.** EAH Housing was selected based on a City Council's review of the
49 selection committee's (City Manager, Planning and Building Director, and two members of the
50 Housing Advisory Committee, who are City Council and Planning Commission liaisons) review
51 of their qualifications and responses to interview questions held on September 10, 2021.
52

53 **SECTION 8.** The City is interested in entering into an Exclusive Negotiating Agreement
54 ("ENA", attached hereto as ATTACHMENT 2) to establish the mutually acceptable terms and
55 conditions to guide the process of negotiations for the potential ground lease or sale and
56 development of affordable housing on the Property consistent with Government Code Section
57 37364.
58

59 **SECTION 9.** The ENA does not commit the City to ground lease or sell the Property nor
60 grant approval of any project or development of the Property, but rather allows the City to
61 partner with a Housing Team to work with the community to plan and design for the above-
62 referenced housing.
63

64 **SECTION 10.** The Mill Valley Municipal Code Section 20.80.070(B) establishes the
65 Affordable Housing Trust Fund and on March 16, 2020, City Council approved the Affordable
66 Administrative Guidelines for Housing Trust Fund, whereby the City Council may authorize the
67 use of Trust Fund monies by way of resolution. The City Council desires to authorize the use of
68 Affordable Housing Trust Fund moneys for predevelopment costs for the Property including but
69 not limited to the provision of a predevelopment loan to EAH pursuant to the ENA, as well as
70 environmental review of the proposed project.
71

72 **SECTION 11.** The City Council desires to engage in a robust community outreach
73 process with respect to the potential development of the Property.
74

75 **SECTION 12.** City Council held a public hearing on February 7, 2022, and considered
76 the information presented by staff as well as public testimony.
77

78 **SECTION 13.** The City Council hereby takes the following actions:
79

- 80 A. Finds that the above recitals are true and correct and are incorporated into this
81 Resolution.
82
- 83 B. Authorizes the City Manager to execute an ENA between the City of Mill Valley
84 and EAH Housing in substantially the form attached, with any minor clerical or
85 clarifying changes requested by the City Manager and approved by the City
86 Attorney.
87
- 88 C. Approves the Community Outreach Plan (ATTACHMENT 3) and authorizes staff
89 to move forward with a robust program of community outreach to engage citizens
90 and interested stakeholders. Changes to the Community Outreach Plan schedule
91 that only impact dates and do not result in a less robust outreach and public
92 engagement may be approved by the City Manager.
93

- 94 D. Authorizes and approves the use of Affordable Housing Trust Fund monies for
95 the purposes of funding budgetary terms set forth in the ENA and other
96 predevelopment expenses related to the proposed housing development as
97 approved by the City Manager.
98
- 99 E. That the staff and officers of the City are hereby authorized, jointly and severally,
100 to take any other such actions as they deem necessary or proper to implement this
101 Resolution.
102

103 **SECTION I4.** The City Clerk shall certify as to the adoption of this resolution.
104

105 **PASSED AND ADOPTED** at a regular meeting of the City Council of the City of Mill
106 Valley on the 7th day of February 2022, by the following vote:
107

108 **AYES:**

109 **NOES:**

110 **ABSENT:**

111 **ABSTAIN:**
112

113

114

John McCauley, Mayor

115 ATTEST:

116

117

118 _____
Kelsey Rogers, City Clerk / Management Analyst III

EXCLUSIVE NEGOTIATION AGREEMENT

THIS EXCLUSIVE NEGOTIATION AGREEMENT is dated as of _____, 2022 (“**Effective Date**”), and is entered into by and between the CITY OF MILL VALLEY, a municipal corporation (“**City**”), and EAH INC., a California nonprofit public benefit corporation (“**Developer**”)(collectively, the “**Parties**”).

RECITALS

- A. The City owns certain property located 1 Hamilton Drive (Assessor’s Parcel 030-250-01).
- B. The City desires that a portion of the parcel located at 1 Hamilton Drive---such portion is generally the northern portion of the current parcel more specifically depicted on Exhibit “A”, attached hereto (the “**Site**”)---be developed as a 100 percent affordable housing development.
- C. The City Council of the City of Mill Valley (“**City Council**”) authorized and directed staff to issue a request for qualifications (“**RFQ**”), for an affordable housing project on the Site consisting of 100 percent of the units restricted for rental to very low and low income households at affordable rent on June 21, 2021.
- D. On July 19, 2021 the City of Mill Valley released the RFQ and notified all California Housing Finance Agency certified developers that have notified the California Department of Housing and Community Development of their interest in purchasing or leasing surplus local land for affordable housing development in Marin County or any county in California, and other public entities with possible jurisdiction over the Property, in response to the RFQ EAH Housing submitted qualifications to the City in a timely manner and whereby EAH Housing proposes to ground lease or purchase the Property from the City and develop the Property with 100% affordable rental housing pursuant to Government Code Section 37364.
- E. As noted in the Developer’s statement of qualifications, the EAH Team is deeply experienced and well-capitalized not-for-profit corporation grounded in the belief that attractive, permanently affordable rental housing is the cornerstone to sustainable communities. Founded in Marin County based on the recognition that housing for all is a cornerstone to a fair and just society, the Developer is one of the oldest and most experienced nonprofit housing management and development organizations in the Country,
- F. A selection committee consisting of the City Manager, Planning and Building Director, two members of the Housing Advisory Committee (City Council and Planning Commission liaisons) reviewed statement of qualifications submitted in response to the RFQ and conducted interviews on September 10, 2021
- G. On September 20, 2021, the City Council declared the Site “exempt surplus property” pursuant to Government Code Sections 54221(b) and 54221(f)(1)(A) by way of Resolution CC21-51.
- H. On September 20, 2021, the City Council selected the Developer and directed staff to negotiate an Exclusive Negotiation Agreement (this “**Agreement**”) with Developer for the Site based on the Developers qualifications and the selection committee recommendations, as documented in the September 20, 2021 Staff Report, by way of Resolution CC21-52 .

ATTACHMENT #2

I. The Parties intend to cause the Site to be developed under California Government Code Section 37364, which requires that dwelling units be restricted by regulatory agreement to remain continually affordable to low and moderate income households for the longest feasible time, but not less than 30 years, and that such regulatory agreement shall be recorded in the office of the county recorder in which the housing development is located; such regulatory agreement shall not be subordinated to any deed of trust.

J. City desires to increase the availability of affordable housing within the City by causing the development of the Site with approximately 40 units of rental housing that is 100 hundred percent affordable ("Project").

K. City and Developer desire to negotiate exclusively with each other regarding the potential terms and conditions of a disposition and development agreement ("DDA") between City and Developer for Developer to acquire and develop the Project on the Site, in accordance with the terms and conditions of this Agreement..

1. Negotiation of DDA. During the Negotiation Period (defined in Section 3 herein) and subject to the terms and conditions of this Agreement, both City staff and Developer shall negotiate the potential terms, conditions, covenants, restrictions and agreements of a DDA for the Site and Project. City agrees not to solicit any other proposals from or negotiate with any other person regarding development of the Site during the Negotiation Period. During the Negotiation Period, Developer shall complete all of the actions described in the "**Schedule of Performance**" attached to this Agreement as Exhibit "B," within the time period specified for each such action in the Schedule of Performance. Nothing in this Agreement shall be interpreted or construed to be a representation or agreement by either City or Developer that a mutually acceptable DDA will be produced from negotiations under this Agreement. Nothing in this Agreement shall impose any obligation on either Party to agree to or approve a definitive DDA in the future. Nothing in this Agreement shall be interpreted or construed to be a guaranty, warranty or representation that any proposed DDA that may be negotiated by City staff and Developer will be approved by the City Council of the City.

2. Developer Acknowledgments. Developer acknowledges and agrees that: (a) under this Agreement, City is not committing itself or agreeing to enter into a DDA or undertake any exchange, sale, lease or other transfer of real property, any disposition of any real property interests to Developer, approve the Project or any land use entitlements or undertake any other acts or activities; (b) no provision of this Agreement shall be deemed to be an offer by City, nor an acceptance by City of any offer or proposal from Developer, for City to convey any estate or interest in the Site to Developer or for City to provide any financial or other assistance to Developer for development of the Project or the Site; (c) Developer has not acquired, nor will acquire, by virtue of the terms of this Agreement, any legal or equitable interest in real or personal property from City; (d) further efforts by either Party to perform due diligence, arrange or obtain financing, or carry out other acts in contemplation of the possible acquisition, transfer or development of the Site or the Project shall not be deemed evidence of intent by either Party to be bound by any terms, conditions, covenants, restrictions or agreements relating to acquisition, transfer or development of the Site or the Project. Developer acknowledges and agrees that City's consideration of the Project and DDA is subject to the sole and absolute discretion of the City Council after conducting environmental review and any and all legally required public hearings, public meetings, notices, factual findings and other determinations and procedures required by law.

3. Negotiation Period.

3.1 Duration. The “**Negotiation Period**” shall begin on the Effective Date and shall expire at 5:00 p.m. Pacific Time on September 1, 2023, unless extended pursuant to Section 4 or earlier terminated pursuant to Section 3.2.

3.2 Termination. This Agreement shall terminate upon the earliest to occur of the following events: (a) the expiration of the Negotiation Period; or (b) the occurrence of an Event of Default by Developer under Section 13.1 of this Agreement, unless such breach is expressly waived in writing by the City; or (c) entry into a DDA by both City and Developer.

4. Extension of Negotiation Period. The City Manager shall have the right to extend the Negotiation Period three times for a period of ninety (90) days each (for an for an aggregate total of two hundred and seventy (270) days) provided that each such extension is in writing, and provided, further, that Developer is not in default of its obligations under this Agreement and has completed all of the actions described in the “**Schedule of Performance**” which are required to have be performed by Developer as of such date.

5. Possible DDA Provisions.

5.1 DDA Essential Terms and Conditions. The DDA may include provisions addressing all of the following described subjects:

5.1.1 Site Control. The Site may be purchased or leased from City by Developer, or Developer’s permitted assignee.

5.1.2 DDA Schedule of Performance. A schedule of performance, attached to the DDA, may set forth deadlines for various actions of Developer.

5.1.3 Scope of Development. The Project is proposed by Developer to include approximately 40 affordable housing units serving households at or below 60% of Area Median Income (AMI) with a minimum parking ratio of 1:1, a plan for replacement and relocation of a minimum of 34 public parking stalls, and a plan for replacing the public restroom if the site area is needed for affordable housing development.

5.1.4 Financing Plan. In connection with the negotiations, the Developer shall submit a plan for financing the construction and operation of the Project to the City for review and approval. Such financing plan shall, at a minimum, include an obligation of Developer to apply for federal tax credits, and such other financing as is necessary in Developer’s reasonable discretion to finance the development and operation of the Project, and all such tax credits must be awarded, and tax credit equity committed and available, and all other financing committed, closed and available as conditions to the close of escrow for the sale or lease.

5.1.5 City Financial Assistance. City shall provide up to \$150,000 in the form of a predevelopment loan during the Negotiation Period (the “Predevelopment Loan”) to pay for reasonable documented costs incurred by Developer in completing the tasks required of Developer under this ENA provided the costs are reasonably described in advance in a written budget to be provided by the Developer and approved by the City Manager in writing (“Eligible Expenses”).

Such Predevelopment Loan will bear 0% interest, be evidenced by a promissory note acceptable to City (the “Note”) and will be secured by assignment by the Developer to the City of any work product relating to the Project that have been paid for in

whole or in part using the proceeds of the Predevelopment Loan (the "Work Product"), and the collateral assignment documents and written consents from contractors/architects/engineers and others necessary to effectuate such collateral assignment and assignment to City (upon failure to timely repay the loan) must be acceptable to the City Manager and City Attorney. The Predevelopment Loan shall become due upon the termination of this ENA, or the expiration of this ENA without a DDA being approved and signed; however, the City's sole recourse shall be limited to the Work Product. The City will disburse Predevelopment Loan proceeds to pay for Eligible Expenses on a reimbursement basis, quarterly, and as a condition to the County's disbursement obligation, Borrower will submit a disbursement request package ("Disbursement Request"). Each Disbursement Request shall include any applicable invoice or other documentation indicating the cost to be paid and showing the cost constitutes an Eligible Expense of the Project, dated less than thirty (30) days prior to the date of the Disbursement Request, unless submittal of an older invoice has been approved by the City. It is anticipated that the DDA will provide that the Predevelopment Loan will convert from a predevelopment loan to a below market, 55 year, residual receipts construction/permanent loan secured by the Site (but subordinate to deeds of trust securing any other secured financing necessary for the Project) upon the closing of the Developer's acquisition of the Site pursuant to the terms and conditions of the DDA.

5.1.6 Developer Compliance with Laws. Developer shall comply with the requirements of all applicable City ordinances, resolutions, regulations or other laws or approvals in all aspects (planning, design, construction, noise limits, management, and occupancy) of developing and operating the Project on the Site.

6. License to Enter Site. City authorizes Developer, its contractors, agents and employees to enter the Site during normal business hours for the purpose of performing tests, surveys and inspections, and obtaining data necessary or appropriate to negotiate the DDA or perform investigations related to the Project; provided, however, Developer shall deliver written notice (which may be delivered via electronic mail to _____) seventy-two (72) hours prior to City of any such entry and written evidence of Developer's satisfaction of all insurance requirements of this Agreement prior to entering the Site. Developer shall promptly deliver copies of all written inspection results, tests and reports to the City.

7. Costs and Expenses. Except as set forth in Section 5.1.5 and Section 9 hereof, all fees or expenses of engineers, architects, financial consultants, legal, planning or other consultants or contractors, retained by Developer for any study, analysis, evaluation, report, schedule, estimate, environmental review, planning or design activities, drawings, specifications or other activity or matter relating to the Site or the Project or negotiation or documentation of a future DDA that may be undertaken by Developer during the Negotiation Period, pursuant to or in reliance upon this Agreement or in Developer's discretion, regarding any matter relating to this Agreement, a future DDA, the Site or the Project, shall be the sole responsibility of and undertaken at the sole cost and expense of Developer and no such activity or matter shall be deemed to be undertaken for the benefit of, at the expense of or in reliance upon City. Developer shall also pay all fees, charges and costs, make all deposits and provide all bonds or other security associated with the submission to and processing by the City of any and all applications and other documents and information to be submitted to the City by Developer pursuant to this Agreement or otherwise associated with the Project or the Site.

8. No City Approval. Nothing in this Agreement, nor any comments provided by City staff, nor any failure of City staff to provide comments to any submittal under or pursuant to this Agreement shall: (1) modify or replace any land use entitlement process of either the City applicable to the Project, (2) limit the police power land use jurisdiction of either the City relative

to the Project, (3) constitute an approval of all or any portion of the Project by the City pursuant to the police power land use jurisdiction of either the City or (4) constitute any approval of all or any portion of a future DDA with Developer by the City.

9. CEQA Compliance. The Developer acknowledges that all applicable requirements of the California Environmental Quality Act ("CEQA") must be met in order to execute and deliver the DDA and approve project entitlements allowing development of the Site and that this may require reports or analyses for CEQA purposes. In this regard, the City shall, at the City's cost and expense, undertake an Initial Study of the proposed Project pursuant to Section 15063 of CEQA or other appropriate documentation in order to determine the appropriate environmental documents and procedures that may be necessary to comply with CEQA as to the consideration and potential approval of the DDA by the City Council. The Developer hereby agrees to provide all assistance to the City necessary for it to carry out its obligations under CEQA. The Developer will fully cooperate with the City in the preparation of such analyses and reports.

10. City Due Diligence. City reserves the right to reasonably obtain further information, data and commitments to ascertain the ability and capacity of Developer to purchase, lease, develop and operate the Site or the Project. Developer acknowledges that Developer may be requested to make certain financial disclosures to City, City staff, legal counsel or other consultants, as part of the financial due diligence investigations of City relating to the potential sale of the Site and development of the Project on the Site by Developer and that any such disclosures may become public records. City shall maintain the confidentiality of financial information of Developer to the extent allowed by law, as determined by the City Attorney for the City.

11. Developer Indemnity. Developer shall indemnify, defend and hold harmless City, and the elected and appointed officials, officers, agents and employees of City (individually or collectively, an "**Indemnified Party**") against any and all losses arising out of any claim, liability, loss, damage, demand or cause of action, or any action or other proceeding, whether meritorious or not, arising through Developer, Developer's contractors or employees that relates to or arises out of: (i) property damage or bodily injury or death of any person in connection with this Agreement; (ii) entry upon the Site by Developer, its contractors or employees; (iii) any inspection of the Site by Developer, its contractors or employees; or (iv) the preparation of any report or plans commissioned by Developer; provided, however, that no Indemnified Party shall be entitled to indemnification under this Section 10 for matter caused by such Indemnified Party's gross negligence or willful misconduct or for any matter arising solely from the discovery of any pre-existing condition upon the Site. In the event any action or proceeding is brought against an Indemnified Party by reason of a claim arising out of any loss for which Developer is obligated to indemnify, defend or hold harmless the Indemnified Party, and upon written notice from such Indemnified Party, Developer shall, at Developer's sole expense, answer and otherwise defend such action or proceeding. The provisions of this Section 11 shall survive the expiration or termination of this Agreement.

12. Developer Insurance.

12.1 Types of Insurance. Without in any way limiting Developer's indemnification obligations under this Agreement, subject to the other provisions of this Section 12 and subject to approval by City of the insurers and policy forms, Developer shall obtain and maintain, at Developer's expense, the following insurance throughout the Negotiation Period and shall cause City to be an additional insured thereunder:

12.1.1 Liability Insurance. “**Liability Insurance**” means and refers to commercial general liability insurance against claims for bodily injury, personal injury, death, or property damage occurring upon, in, or about the Site or adjoining streets or passageways, at least as broad as Insurance Services Office Occurrence Form CG0001, with a minimum liability limit of Two Million Dollars (\$2,000,000) for any one occurrence and which may be provided through a combination of primary and excess or umbrella insurance policies. If commercial general liability insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the Site or the general aggregate limit shall be twice the required minimum liability limit for any one occurrence.

12.2 Nature of Insurance. All Liability Insurance and Automobile Liability Insurance policies this Agreement requires shall be issued by carriers that: (a) are listed in the then current “Best’s Key Rating Guide—Property/Casualty—United States & Canada” publication (or its equivalent, if such publication ceases to be published) with a minimum financial strength rating of “A-” and a minimum financial size category of “VII”; and (b) are authorized to do business in the State of California by the State of California Department of Insurance. Developer may provide any insurance under a “blanket” or “umbrella” insurance policy, provided that: (i) such policy or a certificate of such policy shall specify the amount(s) of the total insurance allocated to the Site, which amount(s) shall equal or exceed the amount(s) required by this Agreement; and (ii) such policy otherwise complies with the insurance requirements in this Agreement.

13. Restrictions Against Change in Ownership, Management or Control of Developer; Assignment of Agreement.

13.1 Developer Assignment. City and Developer acknowledge and agree that City is entering into this Agreement with Developer on the basis of the particular experience, financial capacity, skills and capabilities of Developer. This Agreement is personal to Developer and is not assignable without the prior written consent of City, which may be given, withheld or conditioned in City’s sole and absolute discretion. Consent to assignment shall be in writing and may be executed by the City Manager.

13.2 Assignment to Project Partnership. Notwithstanding the foregoing, Developer may assign this Agreement, without City’s consent, to a limited partnership in which Developer or a limited liability in which Developer is the sole member acts as the sole and managing general partner of such limited partnership, subject to all of the following conditions: (i) Developer provides the City with at least ten (10) days prior written notice of such proposed assignment, (ii) such limited partnership’s sole purpose is development, ownership and operation of the Project on the Site; (iii) such limited partnership expressly assumes all of the obligations of Developer under this Agreement in a written assumption agreement delivered to and reasonably satisfactory to City; and (iv) Developer shall have delivered the LP-1 and partnership agreement to the City. Notwithstanding any assignment of this Agreement, Developer, shall, at all times, be responsible and obligated directly to City for performance of Developer’s obligations under this Agreement.

13.3 Definitions. For the purposes of this Agreement, the term “**Affiliate**” means any person, directly or indirectly, controlling or controlled by or under common control with Developer, whether by direct or indirect ownership of equity interests, by contract, or otherwise.

14. Developer Events of Default and City Remedies.

14.1 Developer Events of Default. The occurrence of any of the following shall constitute an "Event of Default" on the part of Developer under this Agreement:

14.1.1 Schedule of Performance. Failure of Developer to meet a performance milestone by the applicable date contained in the Schedule of Performance, if such failure is not cured within thirty (30) days after written notice of such failure.

14.1.2 Misrepresentation. Any material breach of any representation or warranty made by Developer in this Agreement that is not cured within thirty (30) days after written notice from City to Developer of such breach.

14.1.3 Unauthorized Assignment. Any assignment or attempted assignment by Developer in violation of Section 12.

14.1.4 Insurance. Failure of Developer to procure or maintain any of the insurance coverage required by this Agreement resulting in a lapse in required insurance coverage.

14.2 City Remedies. If there is an Event of a Default by Developer, City may, in City's sole and absolute discretion, terminate this Agreement by delivering written notice of termination to Developer. Upon any such termination, neither Party shall have any further rights or obligations to the other under this Agreement, except obligations that expressly survive termination of this Agreement.

15. Developer Representations and Warranties. Developer represents, warrants and covenants to and for the benefit of City, as of the Effective Date and at all times during the Negotiation Period, as follows:

15.1 Valid Existence; Good Standing; Joint Venture Relationships. Developer is a nonprofit public benefit corporation duly organized and validly existing under the laws of the State of California. Developer has all requisite power and authority to own its property and conduct its business as presently conducted. Developer has made all filings and is in good standing in the jurisdiction of the State of California.

15.2 Authority. Developer has all requisite power and authority to enter into and perform this Agreement.

15.3 No Limitation on Ability to Perform. Neither Developer's articles of incorporation nor any other organizational document regarding Developer in any way prohibits, limits or otherwise affects the right or power of Developer to enter into or perform this Agreement. Developer is not a party to or bound by any contract, agreement, indenture, trust agreement, note, obligation or other instrument that could prohibit, limit or otherwise affect Developer's entry into or performance of this Agreement. To the best of Developer's knowledge, no consent, authorization or approval of, or other action by, and no notice to or filing with, any governmental authority, regulatory body or any other person or entity is required for the due execution, delivery or performance by Developer of this Agreement or any of the terms or covenants contained in this Agreement. There is no pending or threatened suit or proceeding or undischarged judgment affecting Developer before any court, governmental agency, or arbitrator that might materially adversely affect the enforceability of this Agreement, the ability of Developer to perform the transactions contemplated by this Agreement or the business, operations, assets or condition of Developer.

15.4 Valid Execution. The execution and delivery of this Agreement by Developer have been duly and validly authorized by all necessary action of Developer and others. This Agreement will be a legal, valid and binding obligation of Developer, enforceable against Developer in accordance with its terms. Developer has provided to City a written resolution of Developer's Board of Directors authorizing Developer's entry into and performance of this Agreement.

16. Notices. A notice or communication under this Agreement by either Party to the other shall be sufficiently given or delivered, if in writing and delivered by messenger, overnight air courier or registered or certified first class mail with return receipt requested (for U.S. mailings) to the appropriate Party at its address as follows:

In the case of a notice or communication to City:

City Manager's Office
City of Mill Valley
26 Corte Madera Avenue
Mill Valley, CA 94941
Attn: Alan Piombo

With a copy to:

Richards, Watson & Gershon
One Sansome Street, Suite 2850
San Francisco, CA 94104
Attn: Inder Khalsa

And in the case of a notice or communication sent to Developer:

EAH, Inc.
22 Pelican Way
San Rafael, CA 94901
Attn: Bianca L. Neumann, Director Business Development

With a copy to:

Bocarsly Emden Cowan Esmail & Arndt LLP
633 West 5th Street, 64th Floor
Los Angeles, CA 90071
Attn: Nicole Deddens

Any mailing address may be changed at any time by giving written notice of such change in the manner provided above at least ten (10) days prior to the effective date of the change. All notices under this Agreement shall be deemed given, received, made or communicated on the date personal receipt actually occurs or, if mailed, on the delivery date or attempted delivery date shown on the return receipt.

17. General Provisions.

17.1 Amendments. This Agreement may be amended or modified only by a written instrument signed by both City and Developer.

17.2 Severability. If any provision of this Agreement, or its application to any person or circumstance, is held invalid by any court, the invalidity or inapplicability of such provision shall not affect any other provision of this Agreement or the application of such provision to any other person or circumstance, and the remaining portions of this Agreement shall continue in full force and effect, unless enforcement of this Agreement as so modified by and in response to such invalidation would be unreasonable or grossly inequitable under all of the circumstances or would frustrate the fundamental purposes of this Agreement. Without limiting the foregoing, in the event that any applicable federal or state law prevents or precludes compliance with any material term of this Agreement, the Parties shall promptly modify, amend or suspend this Agreement, or any portion of this Agreement, to the extent necessary to comply with such provisions in a manner which preserves to the greatest extent possible the benefits to each of the Parties to this Agreement. However, if such amendment, modification or suspension would deprive City or Developer of the substantial benefits derived from this Agreement or make performance unreasonably difficult or expensive, then the affected Party may terminate this Agreement upon thirty (30) days written notice to the other Party. In the event of such termination, neither Party shall have any further rights or obligations under this Agreement except as otherwise provided herein.

17.3 Non-Waiver. No waiver made by either Party with respect to the performance, or manner or time of performance, or any obligation of the other Party or any condition to its own obligation under this Agreement will be considered a waiver with respect to the particular obligation of the other Party or condition to its own obligation beyond those expressly waived, to the extent of such waiver, or a waiver in any respect in regard to any other rights of the Party making the waiver or any other obligations of the other Party.

17.4 Non-Liability. No member, official, agent or employee of City will be personally liable to Developer, or any successor in interest (if and to the extent permitted under this Agreement), in an event of default by City or for any amount that may become due to Developer or successor or on any obligations under the terms of this Agreement. No director, officer, agent or employee of Developer will be personally liable to City in an event of default by Developer or for any amount that may become due to City or on any obligations under the terms of this Agreement.

17.5 Successors and Assigns; Third Party Beneficiary. This Agreement shall inure to the benefit of and bind the respective successors and assigns of City and Developer, subject to the limitations on assignment by Developer set forth in Section 12. This Agreement is for the exclusive benefit of the Parties to this Agreement and not for the benefit of any other person and shall not be deemed to have conferred any rights, express or implied, upon any other person.

17.6 Governing Law. City and Developer acknowledge and agree that this Agreement was negotiated, entered into and is to be fully performed in the City. City and Developer agree that this Agreement shall be governed by, interpreted under, and construed and enforced in accordance with the substantive and procedural laws of the State of California, without application of conflicts or choice of laws principles.

17.7 Compliance with Law. Developer acknowledges that any future DDA, if approved by City governing body, will require Developer (among other things) to carry out the development of the Project on the Site in conformity with all applicable laws, including all applicable building, planning and zoning laws, environmental laws, safety laws and federal and state labor and wage laws.

18. Interpretation of Agreement. No inference in favor of or against any Party shall be drawn from the fact that such Party has drafted any part of this Agreement. The Parties have both participated substantially in the negotiation, drafting, and revision of this Agreement, with advice from legal and other counsel and advisers of their own selection. A word, term or phrase defined in the singular in this Agreement may be used in the plural, and vice versa, all in accordance with ordinary principles of English grammar, which shall govern all language in this Agreement. The words "include" and "including" in this Agreement shall be construed to be followed by the words: "without limitation." Each collective noun in this Agreement shall be interpreted as if followed by the words "(or any part of it)," except where the context clearly requires otherwise. Every reference to any document, including this Agreement, refers to such document, as modified from time to time (excepting any modification that violates this Agreement), and includes all exhibits, schedules, addenda and riders to such document. The word "or" in this Agreement includes the word "and." Every reference to a law, statute, regulation, order, form or similar governmental requirement refers to each such requirement as amended, modified, renumbered, superseded or succeeded, from time to time. Headings at the beginning of each section or sub-section of this Agreement are solely for the convenience of reference of City and Developer and are not a part of this Agreement. Whenever required by the context of this Agreement, the singular shall include the plural and the masculine shall include the feminine and vice versa. Unless otherwise indicated, all references to sections are to this Agreement. All exhibits referred to in this Agreement are attached to this Agreement, unless otherwise specified.

18.1 Entire Agreement. This Agreement (including the attachments and exhibits) contains all of the representations of and the entire agreement between the Parties with respect to the subject matter of this Agreement. Any prior correspondence, memoranda, agreements, warranties or representations relating to such subject matter are superseded in total by this Agreement. No prior drafts of this Agreement or changes from those drafts to the signed version of this Agreement shall be introduced as evidence in any litigation or other dispute resolution proceeding by either Party or any other person and no court or other body shall consider those drafts in interpreting this Agreement.

18.2 Time for Performance.

18.2.1 Expiration. All performance, expiration or termination dates (including cure dates) in this Agreement (including the attached Schedule of Performance) expire at 5:00 p.m., Pacific Time, on the specified date.

18.2.2 Weekends and Holidays. A date that falls on a Saturday, Sunday or City holiday is deemed extended to the next day on which the City is open for performance of general City functions with regular City personnel.

18.2.3 Days for Performance. All periods for performance specified in this Agreement in terms of days shall be calendar days, and not business days, unless otherwise expressly provided in this Agreement.

18.2.4 Time of the Essence. Time is of the essence with respect to each provision of this Agreement.

18.3 Counterparts. This Agreement may be signed in multiple counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

18.4 Survival. Notwithstanding anything to the contrary in this Agreement, each indemnity obligation under this Agreement shall survive expiration or termination of this Agreement. Further all other obligations under this Agreement that arise and were not satisfied before expiration or termination of this Agreement shall survive any expiration or termination of this Agreement.

18.5 Non-Discrimination. Developer covenants by and for itself and its successors or assigns, and all persons claiming under or through it, and this Agreement is made and accepted upon and subject to the following conditions:

18.5.1 Standards. That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (l) of subdivision (p) of Section 12955, and Section 12955.2 of the Government code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Site nor shall Developer, itself, himself or herself, or any person claiming under or through it, him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, subtenants, sublessees, or vendees in the Site.

18.6 Relationship of the Parties. The subject of this Agreement is a private development with neither Party acting as the agent of the other Party in any respect. None of the provisions in this Agreement shall be deemed to render City a partner in Developer's business, or joint venturer or member in any joint enterprise with Developer.

IN WITNESS WHEREOF, City and Developer have signed and entered into this Agreement as of the Effective Date by and through the signatures of their respective authorized representative(s), as follow:

CITY:

CITY OF MILL VALLEY,
a municipal corporation

By: _____

Print Name: _____

Title: _____

APPROVED AS TO FORM:

By: _____
Inder Khalsa, City Attorney

DEVELOPER:

EAH, INC.,
a California nonprofit public benefit corporation

By: _____
Print Name: _____
Title: _____

EXHIBIT "A"
TO
EXCLUSIVE NEGOTIATION AGREEMENT

Description of the Site

[Attached behind this cover page]

1 Hamilton Road, Mill Valley
Assessor's Parcel 030-250-01
Approximate Site Area of Affordable Housing Parcel

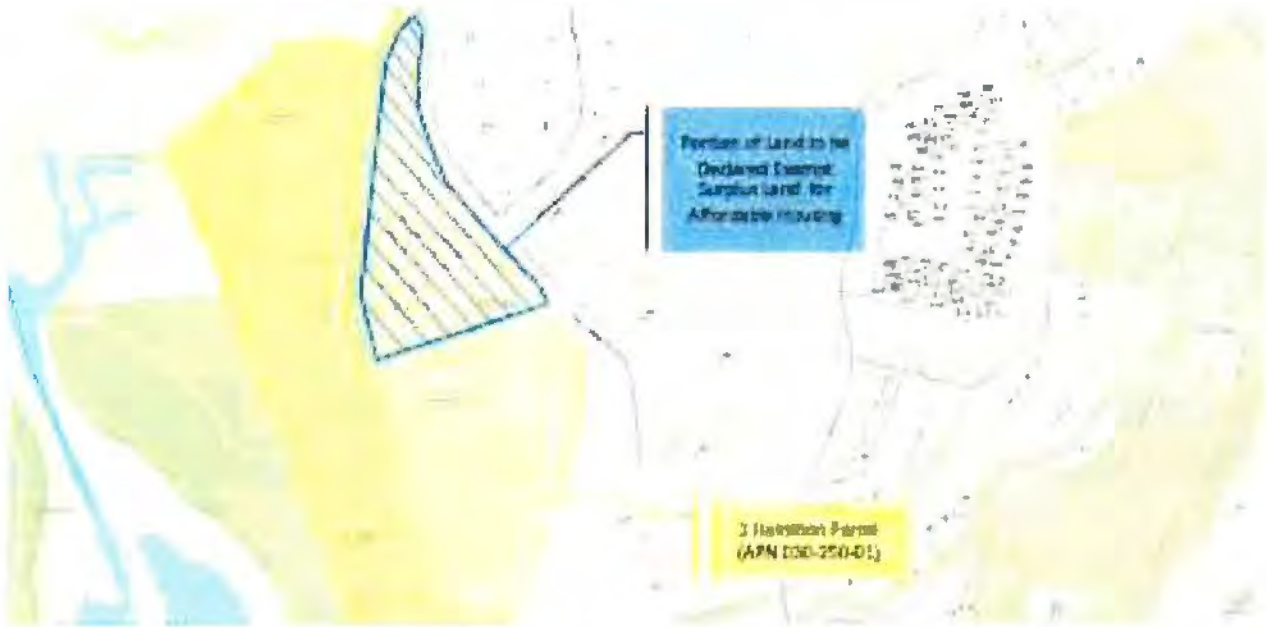


EXHIBIT "B"
TO
EXCLUSIVE NEGOTIATION AGREEMENT

Schedule of Performance

[Attached behind this cover page]

Schedule of Performance

Re: 1 Hamilton Road, Mill Valley

Scope: Exclusive Negotiation Agreement period (February 2022 to March 2023*)

Exclusive Negotiation Agreement

Executed Agreement Feb. 2022

Community Outreach

Community Outreach Plan Feb. 2022

Outreach to Community Groups: Small Targeted Discussions to Identify Community needs Feb. 2022 to Sept. 2022

Community Meeting 1: Introduction to team and project concept Feb. 2022

Community Meeting 2: Interactive Input April 2022

Community Meeting 3: Report out, project changes, and integrations of community input June 2022

Community Meeting 4: Pre-Submittal Design Sept. 2022

Design, Rezoning, and Entitlements

Initial Site Plan and Fit Studies Dec. 2021 to Feb. 2022

Schematic Design Feb. 2022 to July 2022

Pre-Entitlement Package Sept. 2022

Entitlement Submittal Feb. 2023

General Plan Amendment for Rezoning Feb –June 2023

***Environmental**

Environmental Phase 1 Feb. 2022

Geotechnical Reports March 2022

Environmental Phase 2 (if required) April 2022

CEQA and NEPA Approval Jan. 2023 to Aug. 2023

Finance

City Predevelopment Loan <i>(approved with ENA)</i>	Feb. 2022
Financing Concept	March 2022
Financing Plan	June 2022
Land Disposition Agreement	March 2023

* Above assumes a mitigated negative declaration. Should a full EIR be required entitlement process could take up to 24 months. Schedule for Initial Study will be determined in coordination with the selected environmental consultant; overall project schedule will be determined upon completion of an initial study.

Community Outreach & Engagement Plan

Updated: January 14, 2022

Overview

EAH and Van Meters William Pollack (the development team) recognize that community participation is a critical component of the planning process. Providing the opportunity for public input encourages citizens to be invested in the future of their community. The public outreach and engagement plan describes how community members, project partners and stakeholders will be engaged throughout the planning and design process. The outreach and engagement plan serves as a guide for community involvement and is subject to change based on input received.

Approach

PHASE 1: Information Gathering

Identify key stakeholders and document neighborhood and community interests and concerns regarding the development of the 1 Hamilton site. This first phase usually consists of one community meeting to kick off the project, followed by small informal focus group meetings with community stakeholders.

The purpose of this phase is to assess the areas of community interest, and shape outreach materials accordingly.

PHASE 2: The Focused Community Outreach

Engage community residents and stakeholders to participate in design discussions, which include input and feedback on design concepts to refine the site plan and architectural details.

The goal of this phase is to obtain consensus on a preferred site plan and schematic design concept which will be submitted to the City for review and approval.

PHASE 3: Entitlement Package Submittal and Support

Provide on-going support to assist in the development review and approval process. Attend public hearings and document community support for the project.

PHASE 4: Ongoing Community Outreach

EAH Housing staff will continue to reach out to our neighbors long after project approval, from site development, construction, and through full occupancy. We pride ourselves on being an active and supportive partner in the communities where we develop and manage affordable housing. We consider our community outreach program as the first step in a long-term relationship between EAH and our neighbors.

ATTACHMENT #3

Communication Methods

Our methods for communication are adaptive and flexible to reach the broadest segment of the population. Utilizing both analog and digital platforms, the development team will find the means to inform and engage the community in the development process. Dependent on Covid guidelines and community preference, some or all these methods can be utilized.

Analog

Direct Mail: will be sent to residents within a defined catchment. Information will include upcoming community meetings and opportunities to provide input on the proposed development and information on general project updates.

Door to Door: information on the development and events can be delivered on doorsteps. Our development team can visit local businesses, community centers, and churches to provide information on the future development.

Local Newspapers: ads can be placed in local newspapers to inform the community about upcoming meetings and provide general information on the future project and general development updates.

Community Events: the development team can attend local community events, such as street fairs, to engage and inform the community about the future project.

Small Focus Groups: the development team will meet with small local targeted groups, such as the immediate neighbors Friends of Hauke Park, Sustainable Mill Valley, etc. to discuss specific concerns or questions regarding the future development.

In-Person Community Meetings: the development team will have community meetings to publicly discuss the development process and the specific elements of the future development project.

Digital

Direct Email: will be sent to those that sign up for our email list. Information shared will include upcoming community meetings, opportunities to provide input on the proposed development (examples: surveys or planning meetings), and general project updates.

Project Website: will provide general information on the proposed development, including a site map, affordability information, project team and contacts, upcoming events, general development timeline, frequently asked questions, and the ability to sign-up for project updates.

Online Community Groups: information can be shared via local online community forums such as Nextdoor and/or local Facebook groups.

Online Community Meetings: the development team can have community meetings using an online platform to publicly discuss the development process and the specific elements of the future development project.

Planned Community Meetings

The meetings below are the general guide to the types of community meetings we will have and the projected timeline. Additional meetings can be added. More specifically, community meetings 2 & 3 can be an iterative process with multiple rounds of community input and reporting.

At all community meetings, there will be assigned note-takers to capture community comments. Questions and answers will be shared via the development webpage.

Community Meeting 1: Project and Team Introduction

When: March 2022

Location: Mill Valley Community Center (or online*)

Goal: Lay out existing site conditions and opportunities, introduce the project and project team, and collect community questions and concerns.

Format: Formal presentation followed by an open house with stations addressing specific topics

Description:

The project team will give a short formal presentation introducing themselves, the project, and the format for the open house. At each topic station, there will be a subject matter expert and a note-taker. Individuals will be encouraged to visit stations, ask questions and give feedback on the various topics discussed below.

Information Stations. Break out rooms, or informational stations, will be used to collect input and answer questions on the following:

1. Affordable Housing Overview- What is affordable housing, rents, incomes, and how households qualify for affordable housing.
2. Development timeline and process.
3. Replacement of current uses- parking and bathroom relocations options.
4. Conceptual Design- views, massing, and site plan overview.
5. EAH property management and services.
6. Other topics areas, as needed.

*If online breakout rooms will be used in place of stations.

Focus Group Input: Small group meetings

When: Between kick off and Workshop 2

Location: Varies

Goal: Address specific concerns associated with site design and layout. Talk to direct neighbors and take suggestions for further view impact evaluations.

Format: Varies. May include online surveys or meetings on-site with the project team to discuss neighborhood concerns, led by the Architect, VMWP.

Description:

Information gathering to discuss the site layout, including affordable housing opportunities, concerns about view impacts, replacement parking, and circulation, and park restroom. The project team will document expressed concerns and take requests into design considerations.

Community Meeting 2: Initial Concepts

When: April 2022

Location: Mill Valley Community Center (or online*)

Goal: Present initial concept and collect community feedback

Format: A formal presentation followed by a design charrette.

Description:

The development team will present 2-3 concepts for site layout. For each of the concepts, the tradeoff will be presented regarding the number of homes created, parking, and massing. The team will also provide an initial overall replacement plan illustrating options for replacement parking and circulation and relocation of the park restroom. The community will then be asked to participate in a design charrette providing feedback on elements and suggestions for improvements.

The development team will collect all community comments and integrate, where feasible, into the next iteration of the design concept.

*If online breakout rooms will be used for virtual design charrette, with survey questions for design elements.

Community Meeting 3: Project Concept Update

When: June 2022

Location: Mill Valley Community Center (or online)

Goal: Layout the feedback received at the previous meeting and how those suggestions have been integrated into the updated project concepts to establish consensus for the project design concept.

Format: Formal presentation and question and answer session followed by an open house with stations addressing specific elements of the development.

Description:

The development team will present the consensus or preferred option with small sub-options for the development as well as for surrounding potential public improvements to parking and circulation and park restroom. Time will be taken to lay out how the design was arrived at based on the community input from the previous design charrette. Once the formal presentation is completed, community members will be given the opportunity to ask questions in an open forum.

After the open forum, community members will be invited to explore stations addressing specific elements of the project's development to ask questions, provide feedback, and provide solutions. Examples of stations that may be included are parking and traffic, site plan, and/or architectural design (style or optional styles) for the development.

*If online, breakout rooms will be used in place of stations.

Community Meeting 4: Pre-Submittal Design

When: September 2022

Location: Mill Valley Community Center (or online)

Goal: Provide a final opportunity for community comment and prior to preparing entitlement package

Format: Formal presentation and open form question and answer session.

Description:

The development team will present the refined design, which is intended for submittal for design review and the zoning and general plan amendment process. It provides the community an opportunity to see the submitted proposal before the design review and provide final comments to the development team.

Ongoing Small Group Meetings

When: February to September 2022

Location: Various

Goal: Address specific concerns in small group settings to build consensus and support.

Format: Small group meetings in person or via an online platform.

Description:

The development team will continue to work with local organizations to inform and engage them in the development process for the future development at 1 Hamilton Drive.

EXHIBIT B



tel: 916.455.7300 • fax: 916.244.7300
510 8th Street • Sacramento, CA 95814

February 4, 2022

SENT VIA EMAIL (cityclerk@cityofmillvalley.org)

Kelsey Rogers, City Clerk
City of Mill Valley
Mill Valley City Hall
26 Corte Madera Avenue
Mill Valley, CA 94941

**RE: Public Comments to February 7, 2022 City Council Meeting,
Agenda Item 6 re: 1 Hamilton Drive**

Dear Ms. Rogers:

This letter transmits additional comments regarding Agenda Item 6, a proposed Exclusive Negotiating Agreement (“ENA”) with a developer for residential development at 1 Hamilton Drive (“Project”). Our prior letter, dated February 2, 2022, raised concerns that the City’s approval of the ENA commits the City as a practical matter to the Project without first conducting CEQA review in violation of CEQA. (*Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116, 132 (*Save Tara*)). Our further review of surrounding circumstances reinforces this concern.

We reviewed the City’s staff report for Item 6, Housing Element Update, which revealed additional troubling information about the City’s commitment to the Project. Specifically, a comment letter by the Mill Valley Affordable Housing Committee (“MVAHC”) states, “1 Hamilton shows up on the counts but not on the map. However, we are very encouraged that it *clearly shows up as a cast-in-stone commitment* in this chart.” (Item 5 staff report, Attachment 3, p. 2, emphasis added.) While it is unclear what chart is described, MVAHC’s understanding that the City’s commitment is “cast-in-stone” cannot be ignored. These facts bring the present situation even closer to that addressed in *Save Tara*:

Circumstances surrounding City’s approval of the agreements confirm City’s commitment to the 1343 Laurel project. In aid of Laurel Place’s HUD grant application, the city manager told the federal agency City “has approved the sale of the property” and “will commit” up to \$1 million in financial aid. Once the grant was awarded, City’s mayor announced it “will

be used” for Laurel Place’s project, and the City newsletter stated that, using the grant, City and Laurel Place “will redevelop the property.” City officials told residents who opposed the project that while “variations” on the proposal would be entertained, City “must continue on a path that fulfills this obligation” to redevelop the property for senior housing. Similarly, at the May 3, 2004, city council meeting, City’s housing manager stated that while there were “options to consider” regarding project design, options for other uses of the property (as a park, library, or cultural center) had already been ruled out.

(*Id.* at 141–142.)

MVAHC’s understanding of the City’s “cast-in-iron” commitment to the Project is unfortunately reinforced by our ongoing inquiry into the City’s claimed analysis of alternative project sites. The City has repeatedly asserted that it analyzed 75 different City-owned parcels. FOHP members were skeptical because they received information suggesting that the City was trying to limit new affordable housing to the less affluent side of town, east of Camino Alto, where all of the existing affordable housing is located. This prompted us to submit a Public Records Act (“PRA”) request to the City, explaining, “FOHP is concerned about the process and criteria utilized by the City of Mill Valley (‘City’) to seemingly decide upon the 1 Hamilton Drive site, adjacent to Hauke Park, as the City’s preferred location for the Project.”

We have now reviewed 2,068 pages produced by the City in response to our PRA request. Far from dispelling our concerns about an improper analysis for selecting viable sites, the documents produced to date support our concerns. While the City claims that it analyzed in detail 71 different City-owned sites, the City’s records only identify 11 such sites. (See Exhibit 1, memo from Danielle Straude from Janet “Re: Analysis of Tax-Exempt Sites for Affordable Housing Development” dated February 10, 2021 (“Site Analysis Memo”), pp. 7, 18.) The City’s document production does not even identify the remaining 64 sites, much provide detailed analysis of their suitability.

We note the Site Analysis Memo identifies an additional 37 sites “for potential sale.” (Exhibit 1, Site Analysis Memo, p. 19.) The City has never clarified, however, whether these additional 37 sites “for sale” are included in the 75 sites purported analyzed for development. Even if they are included, the total of 48 sites (11 sites for development and 37 sites for sale) falls well short of the claimed 75 sites that were analyzed. In this scenario, 27 sites remain completely undisclosed.

Kelsey Rogers, City Clerk
City of Mill Valley
February 4, 2022
Page 3 of 3

The City's failure to document its analysis of 64 (or 27) of the 75 claimed potential housing sites is consistent with FOHP's concern that 1 Hamilton Drive has been selected for impermissible reasons.

In light of these troublesome developments, the City needs to stop the "bureaucratic and financial momentum" inexorably leading to an unlawful commitment to 1 Hamilton Drive in violation of CEQA. (*Id.* at 130.) Nothing requires the City to rush ahead with the Project at this time in this manner. Indeed, the City is now performing a comprehensive site analysis as part of the Housing Element update as described in the Item 5 staff report. The only legitimate path forward, which would comply with applicable law and restore public confidence in the City's decision-making process, is for the City to follow the process identified for its Housing Element Update.

Very truly yours,

SOLURI MESERVE
A Law Corporation

By:



Patrick M. Soluri

PMS/mre

Attachment: Exhibit 1, February 10, 2021 Site Analysis Memo

cc: John McCauley, Mayor (jmccauley@cityofmillvalley.org)
Jim Wickham, Vice Mayor (jwickham@cityofmillvalley.org)
Urban Carmel, Councilmember (ucarmel@cityofmillvalley.org)
Sashi McEntee, Councilmember (smcentee@cityofmillvalley.org)
Stephen Burke, Councilmember (c/o cityclerk@cityofmillvalley.org)
G. Inder Khalsa, City Attorney (gkhalsa@rwglaw.com)

EXHIBIT 1

To: Danielle Straude, Senior Planner, City of Mill Valley
From: Janet Smith-Heimer, The Housing Workshop
Re: Analysis of Tax-Exempt Sites for Affordable Housing Development
Date: 2-10-21

Introduction and Summary of Findings

This memo summarizes an initial analysis of a list of approximately 75 parcels of land owned by the City of Mill Valley, for the purposes of identifying a short list of parcels suitable for potential affordable housing development. In addition, the analysis for this memo included a review of all other identifiable property tax-exempt parcels located within City limits (e.g., owned by Marin Open Space, Marin Municipal Water District, several religious organizations, etc.). The source for identifying tax-exempt parcels, the County Assessor's database, lists all land parcels in Mill Valley by identifying number, size, owner, and tax-exempt or taxable status.

The analysis of publicly-owned/tax-exempt land parcels was commissioned by the City of Mill Valley, and prepared under the guidance of City staff and the Housing Advisory Committee. Following discussion of this initial analysis, The Housing Workshop will conduct an in-depth financial analysis of potential housing projects on two of the best-suited sites to demonstrate feasibility and facilitate potential next steps by the City.

Purpose of the Analysis

This initial study phase was conducted with two objectives: to identify City-owned or other tax-exempt parcels that could be developed into affordable housing, and to identify any parcels that could potentially be monetized (e.g., sold or leased) by the City to private parties to raise local funds that could help subsidize affordable housing projects. The review of City-owned properties aligns well with policy initiatives promoted by housing policy experts as well as the State of California, to leverage publicly-owned land assets to address the current housing crisis. This memorandum does not outline or analyze housing affordability issues in Mill Valley; several key resources to further explore those issues are referenced in Appendix A of this memorandum.

Leveraging publicly-owned land assets by making them available, typically at reduced or no cost to a non-profit affordable housing developer, is a direct method of subsidizing and creating this type of development, which otherwise faces major challenges in acquiring developable land and

raising sufficient funding to build new units. In other words, eliminating the time and cost of acquiring land (because it is contributed by a city or public agency to a project), immediately reduces the need for funding by 20 to 40% of total project cost, depending on the cost of that land. This concept, sometimes called “land write-down,” was used very successfully throughout California for decades through local redevelopment agencies tasked with funding new affordable housing projects. Nearby examples of this concept can be found in San Rafael and other Marin locations.

Summary of Findings

As detailed in the following memorandum, the initial analysis concluded the following:

- Among the numerous City-owned parcels, just 4 sites were identified for further analysis, including:
 1. Public Safety Building/Hauke Field Parking Lot
 2. Boyle Park Tennis Courts
 3. Portion of Edgewood (aka Mill Valley Reservoir)
 4. Portion of Mill Valley Golf Course along Linda Vista Drive
- The factors affecting this conclusion – parcel size, degree of slope, recreation/open space designations, and environmental constraints – render many of the subject parcels infeasible for multifamily affordable housing development.
- A review of other non-City owned, tax-exempt parcels indicates that there are likely no short-term opportunities to partner with property owners.
- There are limited opportunities to monetize City-owned parcels, due to likely infeasibility of creating retail single family lots matching zoning requirements for parcel size. Three parcels that may yield up to 10 lots in total were identified as potentially saleable, but require further analysis to determine their marketability and value. It should also be noted that raising funds for potential use as subsidy in future projects does not directly resolve the lack of available project development sites.

Next steps in the study process will include preparing a financial analysis for 2 of the 4 sites identified as having near-term development potential for affordable housing. If these sites “pencil,” The Housing Workshop will recommend a series of future actions to undertake City-sponsored affordable housing development on those sites.

Affordable Housing Development Challenges in Mill Valley

There are several key development constraints facing Mill Valley's publicly-owned parcels, all of which were converted into criteria to apply to the list of parcels for the analysis. These are summarized below.

Current Zoning Designations

Mill Valley owns numerous tracts of land used for active recreation (e.g., ballfields, tennis courts) along with extensive networks of trails, gardens, public parks, and designated open space areas with heritage trees. These recreation/open space lands are treasured by residents, and are considered important parts of Mill Valley's quality of life.

The community valuing of recreation/open space, and the balancing of potential development versus conservation for recreation/open space, have long been codified in the City's General Plan land use and zoning designations. The balancing of competing goals, such as development versus recreation/open space, is a tension that occurs in every city in the Bay Area. This current analysis does not seek to alter these land use designations; the work conducted every 8 years to prepare the City's Housing Element Update is meant to address those larger policy questions.

Criteria Used in Analysis. With a few exceptions as described later in this memorandum, the City-owned sites analysis considered a current zoning designation of Open Space as a given, thereby not permitting any new multifamily housing development. The few exceptions described later in this memorandum represent potential building sites located within larger open space areas, sited to be on frontage roads so as to not disturb recreation/open space enjoyment.

Parcel Size and Development Density

In Mill Valley, even though the City owns parcels of various sizes throughout the city, these assets are not easily identifiable on the ground. Mill Valley, with its desirable location, climate, and lifestyle, has long been “built-out,” meaning no obvious tracts of undeveloped land await development. The downtown layout, primarily in a historic village pattern, further limits development opportunities on publicly-owned parcels.¹

A review of Mill Valley’s zoning designations indicates that the City’s most dense category of residential development caps out at 29 dwelling units per acre, with these opportunities generally located in the downtown center. This density typically translates into a 3-story multifamily building with surface parking.

For 100% affordable housing projects (including housing for very low, low, and moderate income households), the California Density Bonus Law (found in California Government Code Sections 65915 – 65918) provides developers with a substantial “density bonus” of an 80% increase in density. For Mill Valley’s current most dense residential zone category, this would yield projects with a density of 52 units per acre (1.8 X 29).

Almost all affordable rental housing developers seek yield and scale in their projects (in terms of number of units), due to the complexities and cost involved in creating these projects. In Mill Valley, this combination of relatively low maximum allowable density and typical parcel size mean that even with a density bonus, almost all professional organizations will not be able to expend the time and resources necessary to develop on very small parcels.² In addition, even post-development, most affordable housing projects require an on-site property manager living in one of the units, which is generally not sustainable in terms of operating costs in projects with less than 40 units, although exceptions to this rule of thumb can be found for slightly smaller projects if management is shared by the same owner with another small project nearby. The result of these scale and yield considerations means that parcels likely to attract a qualified affordable rental housing developer would need to be at least 0.75 acres (which would yield 39

¹ It should be noted that downtown Mill Valley has numerous examples of privately-owned parcels that are currently underutilized (e.g., aging one-story commercial structures and/or underutilized parking lots). While these parcels were not analyzed directly in this memorandum, they should be reconsidered as potential housing or mixed-use sites during the City’s upcoming Housing Element update process, because downtown infill locations typically create very desirable locations with services for multifamily projects. These kinds of projects also serve to activate streets, bring new shoppers, and contribute to a vibrant village center.

² Some for-profit developers of market-rate housing are able to develop on small parcels, due to the typical high profit margins available in a higher-value area such as Mill Valley. Yield and scale affect these two housing segments differently.

units per acre if zoned for 29 units and the maximum density bonus were applied).

Criteria Used in Analysis: Due to the resulting infeasibility of affordable housing development on small parcels, City-owned parcels less than 0.75 acres are considered not developable for this purpose. However, separately, some of these smaller sites may have monetary value to raise funds for a project located elsewhere, and are assessed in this memorandum for that purpose.

Degree of Slope

Due to topography, location near sensitive wetlands, areas which experience flooding, and other environmental factors, Mill Valley sites require a fine-grained assessment to determine physical development feasibility. This analysis focuses on two key physical factors: slope and floodplain/floodway status.

Steep slopes adversely affect affordable multifamily development in several ways, all of which combine to increase project costs without an ability to obtain compensation through commonly-used funding sources. Costs rise in steep slope situations because of extra site grading, design challenges, accessibility challenges for people with disabilities, and seismic safety structural mitigations. In addition, often steep slopes face erosion and other constraining soil conditions, all of which also add to project costs. Most affordable housing developers will seek other opportunities elsewhere that do not pose these increased cost risks.³

Criteria Used in Analysis: Sites with an average slope greater than 10% were considered infeasible for affordable housing project development. However, there are a few exceptions noted later in this memorandum, where site visits indicated that flatter building pads may exist among large parcels with otherwise average steeper slopes.

³ It should be noted that these slope-related factors do not necessarily constrain high value new construction townhouse or single-family homes in the same way; these types of buildings can often maximize views and/or incorporate other creative design features on steeply-sloped lots, adding value to offset increased costs.

Floodplain/Floodway Status

Some portions of Mill Valley’s flatter, more developed sections are affected by several waterways which can reach impactful flood stages currently defined by the Federal Emergency Management Agency (FEMA) as having a 1% chance of flooding each year (formerly called “100 year floodplain”). In simple terms, these areas require annual flood insurance premiums, which add to the operating costs in affordable projects. In some subzones of these areas, FEMA recommends architectural and engineering methods to reduce flood damage; while these may add to construction costs, they can sometimes be incorporated without creating project infeasibility (such as raising the dwelling areas above flood levels with parking on the ground floor).

In other floodplain areas, based on waterway hydrology and topography analyses, FEMA designates certain portions as Floodways, which means any building placed on the site needs to be designed so that its structure does not demonstrably impede receding water flow in the event of a flood. In simple terms, this requirement is in place to ensure that floodwaters can flow, unimpeded by structure, causing more damage elsewhere. Building housing structures in floodways is therefore quite difficult to infeasible, and sites in FEMA-designated floodways are not recommended for further consideration by the City of Mill Valley.

Criteria Used in Analysis: Parcels with a FEMA floodplain designation of “AE” or “AO” are considered as possible for development (albeit not ideal), while parcels designated as Floodway are considered not feasible for affordable housing development.

The results of applying the above criteria to the City-owned and other tax-exempt parcels are described in the following section with supporting tables included as Appendices B through D.

Potential City-Owned Affordable Housing Development Sites

The approximately 75 City-owned parcels were evaluated based on criteria outlined above, including a minimum size of at least 0.75 acres and an average slope of 10% or less.

A summary of the resulting “short list” of potentially developable affordable housing sites is shown below. Each of these sites was also visited in-person by The Housing Workshop and evaluated further per other potential site or regulatory constraints, as described below.

Table 1: City-Owned Sites with Potential Feasibility for Multifamily Affordable Rental Housing

Site #	Site Location	APN	Acres	Avg Slope (%)	Zoning	Floodplain (a)	Floodway	# of Units (b)	Notes
1	1 Hamilton Public Safety Building parking lot serving Hauke Field	030-250-01	0.75	10.0%	Open Area (O-A)	No	No	22-39 units	Site size estimated (part of larger parcel). Needs design study to confirm suitable building pad with sufficient distance from Bayland Corridor boundary. Parcel would require subdivision and rezoning.
2	Portion of Boyle Park Tennis courts and part of field behind it	029-212-24, possibly part of another parcel	0.80	< 10%	Open Area (O-A)	No	No	23-41 units	Site size estimated (portion of Boyle park inc. 5 tennis courts and field/parking lot at end of East Drive)
3	Edgewood (MV Reservoir)	046-070-02, 046-061-52	4.37	24.6%	Open Area (O-A)/Single Family (RS)	No	No	29-52 units	Site size and location estimated (part of larger parcel). Review of 1967 grant deed shows covenant to keep as a park. This parcel is relatively large and has some slope areas, so a portion could be removed from covenant w MMWD agreement. Yield estimate assumes 1 buildable acre within larger sloped site.
4	Portion of Mill Valley Golf Course along Vista Linda Drive	029-131-07	45.68	16.5%	Open Area (O-A)	AO	No	22-39 units	Site would be portion along Vista Linda Drive/ edge of golf course. Yield assumes a .75 acre parcel could be identified. May require relocation/redesign of nearby golf hole. Yield may be reduced depending on parcel shape and golf course safety requirements.

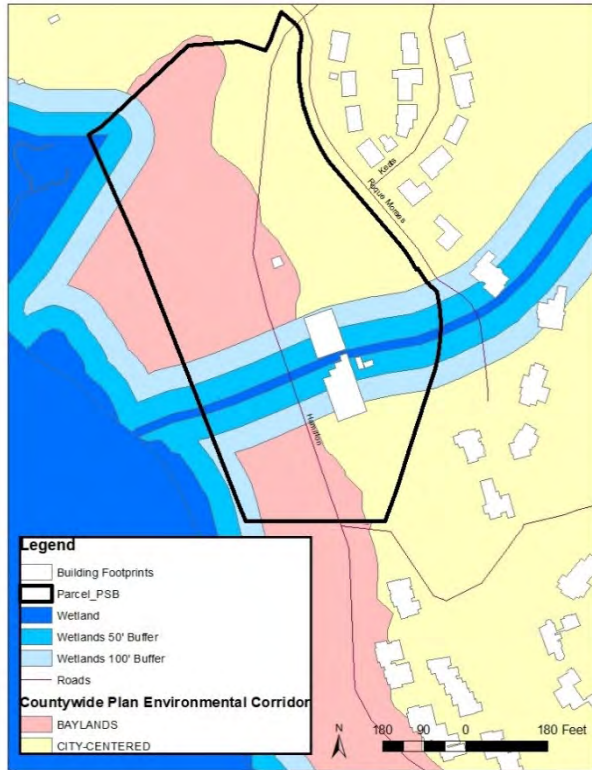
Notes:

a) AE and AO indicate location in FEMA floodplain. AE indicates FEMA has established baseline flood elevation, but a project could be designed to accommodate.

AO indicates shallow sheet flooding without known baseline, but could be established and designed for. Both types would also require flood insurance.

b) Low end of range assumes zoning for 29 units/acre. High end assumes application of state density bonus law (80% bonus for 100% affordable projects), which would yield 52 units/ acre.

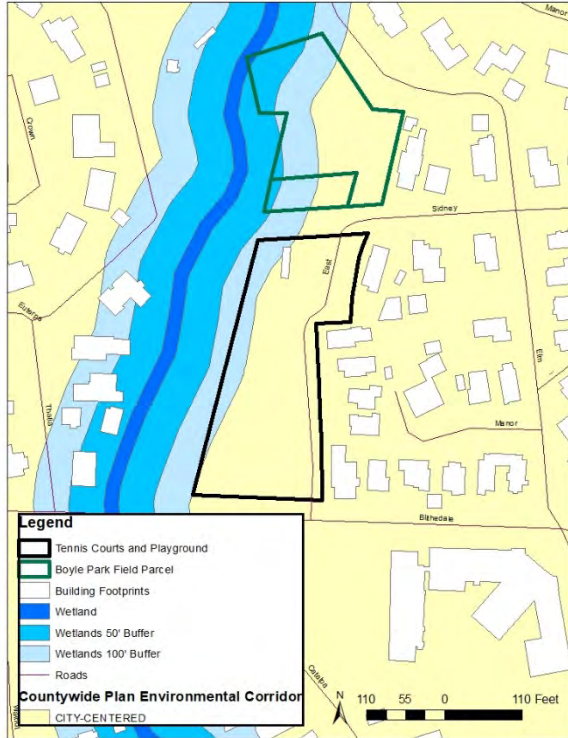
Site 1: Public Safety Building/Hauke Field Parking Lot



Potential 0.75 acre Housing Site

This potential housing site lies adjacent to the City’s Public Safety Building complex, on its northern side. This area currently provides parking and restrooms for recreation fields located nearby. The potential housing site is impacted by its location near the boundaries of the Marin County Baylands Corridor, as described in the County General Plan. This designation identifies uplands adjacent to sensitive wetlands, and requires special biological assessment studies to protect habitat for plants and animals. According to the Marin County General Plan, development sites of between 0.5 and 1 acre require a 30-foot setback from the Baylands boundary. Until further biological and survey studies can be conducted, it is assumed the identified housing site could provide 0.75 acres for development, creating sufficient scale to develop a physically feasible project. Current restrooms and parking area for Hauke Field may need to be relocated elsewhere on the PSB site.

Site 2: Portion of Boyle Park

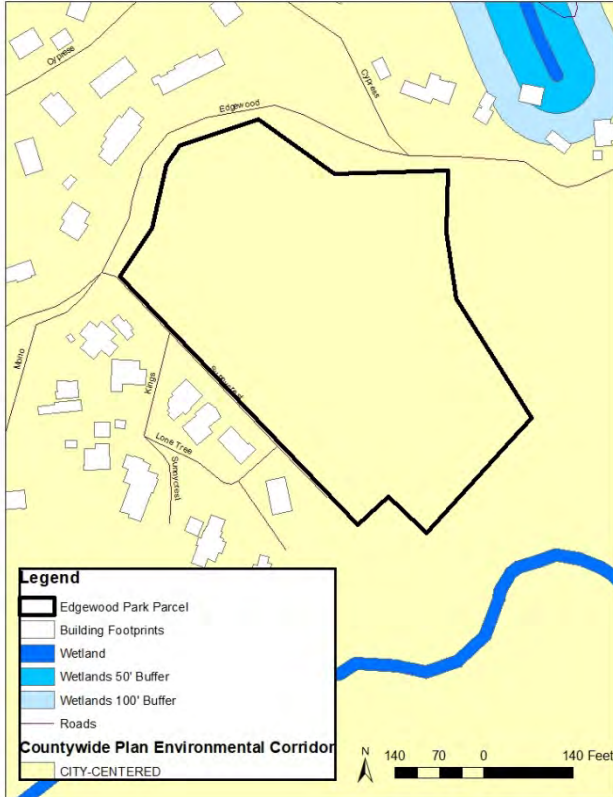


Potential 0.75 acre Housing Site

This site would be subdivided and developed in the portion of Boyle Park containing 5 tennis courts, along E. Blithedale Avenue. While reducing recreational facilities for Mill Valley’s residents is less than ideal, this site is included in this memorandum because it would create a sufficiently-sized and shaped parcel in a pleasant residential neighborhood without prohibitive environmental constraints (e.g., floodplain, sensitive habitat, etc.). From an objective affordable housing development point of view, this is the best of the 4 identified sites. As described in this memorandum, identifying sites with sufficient size and yield, that also do not create extraordinary cost challenges, means that other tradeoffs would need to be made to leverage public lands.

As shown in the map on the left, although not in a floodplain or floodway, the tennis courts are located near sensitive wetlands, and would need to be designed carefully to allow for the medium blue 50 foot buffer. The lost tennis courts could potentially be relocated elsewhere in this part of Mill Valley or designed to be placed on the roof of the new housing project with separate public access provided.

Site 3: Edgewood (aka Mill Valley Reservoir)

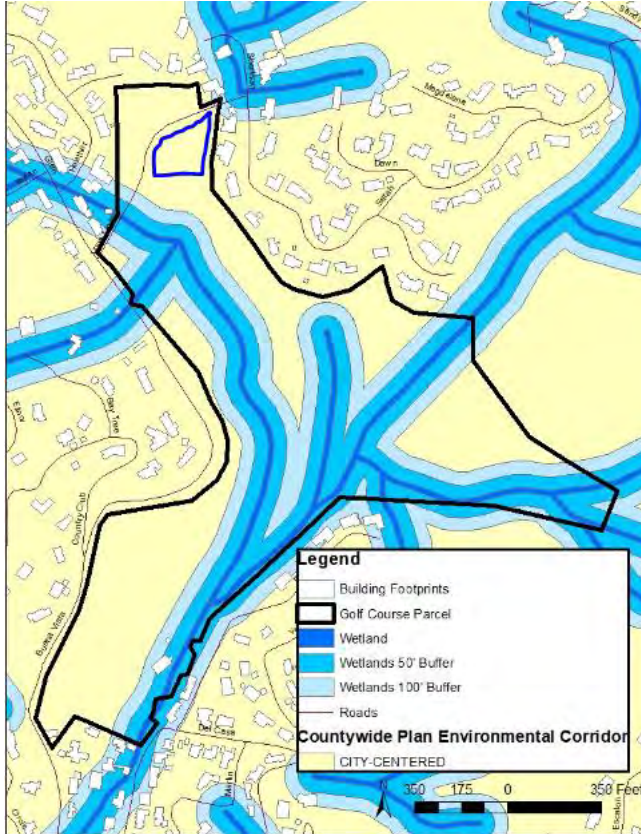


Potential 1 acre Housing Site

The Edgewood parcel contains over 4 acres, with portions containing steep slopes. The site is used as an informal open space area but has not been improved as a public park. Based on topographic map review, it is estimated that a 1-acre or more buildable portion with a feasible slope could be identified. Another development constraint is that this site was deeded by the Marin Municipal Water District to the City in 1967, with a covenant in the recorded deed that the site be maintained by the City and used as a park. However, since this site has not been improved as a park and given the age (50+ years) and nature of the grand deed, it may be possible to amend the deed to remove this covenant for a portion of the site through agreement with the MMWD.

The strategy outlined above has the additional benefit of creating a buildable parcel of 1 acre or more, allowing for a higher unit yield than the other tightly-fitted 0.75 acre sites which limit unit yield with no room to spare. In addition, it may be possible to improve other portions of this site as a park, providing new benefits to the surrounding community in exchange for supporting the 1 acre portion for use as affordable housing.

Site 4: Portion of Mill Valley Municipal Golf Course



Potential 0.75 acre Housing Site

The Mill Valley Municipal Golf Course was purchased by the City from a private owner in the 1930s and has been operated by the City since that time. It has reportedly suffered operating losses in recent years. However, any change in use status of the golf course as a whole will require a more lengthy discussion than the scope of this memorandum, and cannot be addressed here. Thus, as the City considers the future of the 45 acre, 9-hole course, for this memorandum a portion of its greenway buffering along Linda Vista was identified that may be suitable for multifamily affordable housing development in the near term.

It should be noted that the potential housing development site shown above, is across the street along Linda Vista Drive from a recently-proposed public parcel currently used as a playing field, which engendered substantial community resistance to any development. In addition, further design of a potential building site as shown above may impact the adjacent golf hole; research indicated that 9-hole courses typically require 20 to 48 acres of land, so at 45 acres, the Mill Valley course may well be reconfigurable in this section to accommodate the housing site.

City-Owned Sites Considered as Infeasible For Development

Appendix B provides a summary of six additional City-owned sites which were of sufficient size to consider, but have other constraints making them infeasible for near-term multifamily rental housing at affordable levels. These constraints are outlined below.

City Hall/Fire House Parking Lots. The first set of 3 lots are the parking lots and open space surrounding City Hall, including the entry parking area between City Hall and the Mill Valley Market, the back parking lot behind City Hall, and the open space on the far side of the historic fire house adjacent to City Hall. As noted in Appendix B, these parcels are either too small and/or in the case of the back parking lot, designated a Floodway. The table notes that either of the “side” parcels could be developed as a small number (2 to 3) moderate income ownership townhouses, with the most practical site on the open space adjacent to the fire house. This product type does not require an on-site property manager and thus can be developed at a smaller unit yield. These are often more challenging to finance, since many of the commonly-used funding sources such as Low Income Housing Tax Credits do not apply; however, with City-contributed land, there are ways to arrange for this type of housing. In the even the fire house itself were no longer needed, that historic structure could also likely be rehabilitated and converted to possibly 2 more townhouses.

Historic Depot Plaza. This 0.77 acre site is the paved, improved Plaza along with a long, linear parking lot bordering the Plaza area adjacent to and behind the historic Depot in downtown Mill Valley. Although the site is large enough to yield a feasible affordable housing project, it functions as a vital public gathering place, along with much-needed parking for downtown merchants. As such, it would require extensive further study such as a downtown parking study, and likely an urban redesign plan, to replace any public gathering plaza lost to development.

Public Parking Lot Behind D’Angelos. The parking lot behind D’Angelos, accessed from Throckmorton in downtown Mill Valley, has an infeasible configuration due to its linear alley-style parking abutting other buildings. This shape renders the site infeasible for housing of any type.

Community Center Parking Lot. The parking lot adjacent to the Mill Valley Community Center, a portion of which currently contains solar panels, is located partially within or near the Baylands Corridor boundary, meaning that only approximately a 0.5 acre potential development site could be identified. This site size is infeasible for affordable rental housing, as described previously. In addition, the soils on this property are reportedly experiencing substantial subsidence; thus, further soil and biological assessments would need to be conducted to determine if any portion

could be suitable for development. It is likely that a best-case scenario would yield a small developable parcel, which could be used to construct moderate income ownership townhouses.

Public Parking Lot at 411 Miller Avenue. The City-owned parking lot at 411 Miller Avenue offers a good rectangular set of parcels, albeit at an insufficient size for affordable multifamily residential development (smaller than the 0.75 acre threshold). In addition, a substantial portion of the site is located in a FEMA-designated Floodway, rendering new development infeasible. However, due to recent flood improvements in the area, there may be the possibility of requesting a change to the FEMA designation (which may also benefit other parcels that are privately-owned along Miller and adjacent locations such as Sloat Nursery). This would require relatively expensive hydrology studies to demonstrate to FEMA that the current situation has been improved and the Floodway finding in the area no longer applies. This process, including the necessary studies, may be fundable by state or local grants. The City should consult with the Flood Control District to ascertain next steps. If the Floodway designation could be removed, the City-owned portion, with approximately 0.54 acres, would become suitable for moderate income ownership townhouses, which do not require an on-site property manager.

Other City-Owned Parcels

Appendix C shows a summary of dozens of other city-owned parcels deemed infeasible for near-term affordable housing development for one or more of the following reasons:

- Average slopes greater than 10%, with site visits confirming steep slopes throughout parcel
- Small site size below 0.75 acres, limiting yield
- Other prohibitive environmental conditions (see Appendix C)

Potential to Monetize City-Owned Parcels

Among these infeasible-for-development parcels, there were several that may have potential value if offered for sale as a single family lot, as noted in Appendix C. The criteria used to identify salable lots were size and zoning; the parcel must be at least 6,000 square feet (the minimum single family lot size for new construction in Mill Valley) and zoned as some form of residential use. The zoning factor was applied because it is unlikely for retail lot purchasers to undertake a zoning change, especially when most of these parcels are zoned as highly-treasured Open Space.

The value of parcels potentially marketable for single family use involved analyzing sales of single family retail lots in Mill Valley that have occurred over the past 3 years (see Appendix D). As shown, the sales ranged widely, depending on slope (and cost of grading), location, size, and marketing assertions about “approved plans.”⁴ Because the 3 City-owned parcels identified as sufficient in size and zoning to create marketable lots shown in Appendix C are all zoned to require a minimum lot size of 1.5 acres per unit, a total of 10 potential retail lots could be identified on these 3 parcels, with a maximum retail lot value after broker commission and other selling costs was conservatively estimated at up to \$1,000,000 per lot.

This analysis yields a potential total value of up to \$10,000,000, but will very likely decline when more detailed site assessments are conducted to ascertain availability of utilities, identification of building sites amongst the very steep slopes, and other factors impacting marketability and value.

⁴ “Approved plans” described in listing descriptions were not confirmed with the City, and are assumed to contribute only minor additions to value.

Other Tax-Exempt Parcels with Affordable Housing Development Potential

In addition to the direct potential to develop affordable housing on City-Owned parcels, Mill Valley contains numerous parcels owned by other tax-exempt agencies, non-profits, and religious organizations. These parcels were reviewed for size and slope, along with known likelihood of interest in providing land for development.

The following criteria were used to exclude tax-exempt parcels from further consideration:

- Parcels owned by Marin Open Space
- Parcels owned by Marin Municipal Water District
- Parcels owned by public school districts (which may have potential development sites, but should be considered first by the school district)

Remaining non-City owned tax-exempt parcels, described below, are owned by utilities (AT&T) and religious organizations. These parcels may have some longer-term potential for collaboration with the City of Mill Valley for affordable housing development.

Mt. Tamalpais United Methodist Church (410 Sycamore Avenue)



The church provides worship services along with childcare and other community services in a complex of buildings on a relatively large site. While the complex could possibly be envisioned in a reconfigured layout that could incorporate an affordable housing project (a possible 0.75 acre site is outlined in yellow), it is a challenging process, particularly given several environmental constraints including location near the sewage treatment plant making the site potentially unsuitable for

new housing development. In addition, other buildings currently on the site would likely need to be demolished but the functions in them could be incorporated into a housing project (e.g.,

ground floor childcare facility and/or meeting rooms). The leadership of this church may be interested in partnering with the City for housing but does not have near-term plans to undertake such an initiative.

First Church of Christ, Scientist, Mill Valley (279 Camino Alto)

This church sits atop a knoll with substantial land devoted to parking, open space, and



circulation. The building itself, pictured here, is relatively small but with sweeping vistas in keeping with a spiritual center. The site could be potentially reconfigured to place a 0.75 acre housing site on it that would be located beyond the requisite wetland buffer, as shown in yellow outline here. However, this would require new access driveways and reconfigured parking lots. It is not known if the leadership of this institution would be interested in collaborating with the City of Mill Valley.

AT&T Building (300 E. Blithedale)

This site contains an historic Tudor-style 3-story commercial building on a 0.48 acre parcel, which in the past has housed both telephone operations and small commercial tenants. Its current occupancy and use are not known, although it is still owned by AT&T. The building size and condition for potential rehabilitation into affordable housing are not known. Adjacent to the building is another parcel owned by AT&T configured as a parking lot to serve the building; however most of the parking lot lies in a floodway, constraining future development. If the City wished to collaborate on the building site, it or a development partner would need to most likely purchase the site from AT&T at market rates, thereby losing the benefit of leveraging publicly-owned property as a direct subsidy to a project.

Appendix A: List of Plans and Other Resources

Marin Countywide Plan 2007 (County General Plan)

<https://www.marincounty.org/depts/cd/divisions/planning/2007-marin-countywide-plan>

Marin County Housing Element Information (for unincorporated areas of Marin County only)

<https://www.marincounty.org/depts/cd/divisions/housing/housing-element>

Mill Valley 2040 (City of Mill Valley General Plan)

<https://www.cityofmillvalley.org/gov/departments/building/planning/longrangeplannig/default.htm>

City of Mill Valley Housing Element Update 2013-2023 (note: the City will soon be updating the Housing Element for the next 8-year cycle)

<https://www.cityofmillvalley.org/civicax/filebank/blobdload.aspx?BlobID=24590>

About FEMA Flood Zones (portal to many web pages)

<https://www.fema.gov/glossary/flood-zones>

FEMA Information on Changing Flood Zone Maps (relevant for 411 Miller Ave Floodway)

<https://www.fema.gov/flood-maps/change-your-flood-zone>

Additional Explanation of FEMA Flood Zones AE AO, and Floodways Related to Insurance

<https://www.amica.com/en/products/flood-insurance/what-is-an-ae-flood-zone.html>

Appendix B: Infeasible City-Owned Lots Due to Size, Environmental, or Configuration Factors

Site Location	APN	Acres	Avg Slope (%)	Zoning	Flood-plain (a)	Flood-way	# of Units (b)	Notes
30 Corte Madera City Hall Portion of Parking Lot (by Fire Dept)	028-014-06	0.14	5.3%	O-A	AE	No	2-3 townhouses	Small site but could potentially be a few aff townhouse units
26 Corte Madera City Hall Portion of Parking Lot (by MMMarket)	028-014-21	0.19	6.4%	C-D	AE	No	2-3 townhouses	Small site but could potentially be a few aff townhouse units
26 Corte Madera City Hall and Back Portion of Parking Lot	028-014-16	0.49	6.5%	O-A	AE	Yes	N/A	Floodway makes infeasible
Plaza & Parking Lot	028-013-15	0.77	1.3%	Downtown Commercial (C-D)	AE	No	N/A	Site is public plaza plus has long, narrow parking lot, which makes it challenging to design a housing project without eliminating vital downtown space. Reconfiguring developable area by adding portion of private parking lot next door on sunnyside was considered, but that parcel is in Floodway.
Parking Lot behind D'Angelos	028-061-35	0.71	8.1%	Downtown Commercial (C-D)	AE	Yes	N/A	Small street frontage, narrow lot, units would abut other buildings. Very hard to design as infill.
Portion of Com Center parking lot	030-111-09	0.50	2.0%	Community Facilities (C-F)	mixed No/AE	No	7-10 moderate income townhouses	Buildable site is smaller than parking lot due to location of Bayland Corridor boundary and required 50' setback. Site also likely has soil subsidence issues. Replacement parking may also need to be arranged. Needs further analysis.
411 Miller Miller Parking Lot	030-271-70, 030-071-28	0.54	<2.5%	Open Area (O-A) & Commercial (C-N)	AE	Yes	7-10 moderate income townhouses	Site is impacted by existing Floodway designation, but recent improvements have enable a change by FEMA. Would require hydrology studies to demonstrate and obtain change.
Notes:								
a) AE and AO indicate location in FEMA floodplain. AE indicates FEMA has established baseline flood elevation, but project could be designed to accommodate. AO indicates shallow sheet flooding without known baseline, but could be established and designed for. Both types would also require flood insurance.								
b) Assumes townhouse development at approximately 15-18 units per acre..								

Appendix D: Other City-Owned Parcels for Potential Sale

(Includes all City-Owned Parcels > minimum single family lot size of 6,000 square feet)

Location	APN	Acres	Gross Square Feet	Avg Slope (%)	Zoning	Flood-plain (a)	Flood-way	Allowed # of Units	Notes	# of Lots	Per Lot	Total
Camino Alto and Stanton Way . Not maintained by DPW	033-102-18	5.25	228,690	42.0	RSP-5A	No		1 DU/1.5 acres	steep slope	3	\$1,000,000	\$3,000,000
Vasco Court / Corner of Edna Maguire	033-240-15	0.86	37,462	16.3	RSP-2A	No		1 DU/1.5 acres	Does not meet zoning			
Vasco Court / Corner across from Edna Maguire / Creek runs through property/ Bike Path	033-240-01	0.49	21,344	20.0	RSP-2A			1 DU/1.5 acres	Does not meet zoning			
Tenderfoot Trail/Zig Zag Trail. Not maintained by DPW	046-010-25	18.59	809,780	46.2	RSP-10A	No		1 DU/1.5 acres	Trail site			
Corner of Tenderfoot trail. Land Locked/ No Access. Not maintained DPW	046-010-34	0.41	17,644	40.2	RSP-10A			1 DU/1.5 acres	Does not meet zoning			
Marsh/Margarite ROW Creek runs through site two ways.	027-272-01	0.23	9,924	19.4	RS-43	AO		7 DU/acre	Difficult to develop			
Tenderfoot trail. Not maintained by DPW	046-030-29	9.70	422,532	42.2	RS-10A	No		1 DU/1.5 acres	Nested in trails	6	\$1,000,000	\$6,000,000
Fern Canyon. Not maintained by DPW	027-066-40	2.07	90,155	61.1	RS-10A			1 DU/1.5 acres	May be 1 lot. Steep slope.	1	\$1,000,000	\$1,000,000
Next to 226 Rose. Not maintained by DPW	027-252-43	0.49	21,300	72.8	RS-10			7 DU/acre	very steep slope; likely not marketable			
Miller Grove/AE Floodway	029-101-01	11.70	509,865	20.0	O-A	AE	Yes	N/A	Floodway. Not marketable.			
Fern canyon (near old railroad grade). Not maintained by DPW	027-066-50	7.89	343,688	63.9	O-A			N/A	Not marketable due to zoning.			
cascade park (lovell and cascade)	027-106-09	7.40	322,344	24.2	O-A	AE		N/A	Not marketable due to zoning.			
Marsh/Ralston Drive/Blithedale Canyon. Not maintained by DPW	027-033-29	6.80	296,208	36.6	O-A	No		N/A	Not marketable due to zoning.			
Edgewood/Cypress/Rose. Not maintained by DPW	046-320-01	5.47	238,273	62.4	O-A			N/A	Not marketable due to zoning.			
Park/Warner Canyon (Buena Vista/Camelita)	029-192-16	4.99	217,165	11.0	O-A	AE		N/A	Not marketable due to zoning.			
Fern canyon (near old railroad grade). Not maintained by DPW	027-280-03	4.01	174,676	53.7	O-A			N/A	Not marketable due to zoning.			
MonteVista / Tenderfoot trail. Not maintained by DPW	027-162-01	3.84	167,160	49.1	O-A	No		N/A	Not marketable due to zoning.			
tenderfoot trail. Not maintained by DPW	046-030-20	3.22	140,263	39.9	O-A	No		N/A	Not marketable due to zoning.			
Evelyn/Cascade Dam. Not maintained by DPW	046-010-14	3.02	131,551	49.2	O-A	No		N/A	Not marketable due to zoning.			
Golf Club House	029-084-01	2.26	98,446	33.1	O-A	No		N/A	Not marketable due to zoning.			
Old Mill Park (lower)	028-102-12	2.08	90,605	16.4	O-A	AE	Yes	N/A	Not marketable due to zoning.			
MonteVista / Tenderfoot trail. Not maintained by DPW	027-161-26	2.00	87,120	57.5	O-A			N/A	Not marketable due to zoning.			
Old Mill Park (upper near structure/bathrooms)	028-091-09	1.73	75,359	13.6	O-A	AE		N/A	Not marketable due to zoning.			
Cascade/Throckmorton. Not maintained by DPW	027-161-15	1.39	60,600	48.7	O-A	AE		N/A	Not marketable due to zoning.			
Sycamore/Corner of MVMS/MMWD Easement	030-161-12	1.33	58,000	14.8	O-A	No		N/A	Not marketable due to zoning.			
Molino /Cascade (Other side of Old Mill Park). Not maintained by DPW	028-132-09	1.04	45,344	59.4	O-A			N/A	Not marketable due to zoning.			
Cascade/Throckmorton. Not maintained by DPW	027-161-05	1.00	43,512	47.0	O-A	AE		N/A	Not marketable due to zoning.			
MonteVista/Earnscliff Park	027-235-28	0.90	39,282	30.9	O-A	No		N/A	Not marketable due to zoning.			
Norris Memorial Park (Molino/Helens). Not Maintained by DPW	028-161-02	0.65	28,509	30.9	O-A	No		N/A	Not marketable due to zoning.			
Fairway Drive (near Golf Course). Not maintained by DPW. Between RS-10 SFR. Could be split into two lots and sold?	029-161-47	0.59	25,760	34.5	O-A	No		N/A	Not marketable due to zoning.			
Narrow ROW near Azalea/Camino Alto and Pathway. Not maintained by DPW	033-112-01	0.53	23,000	29.4	O-A	No		N/A	Not marketable due to zoning.			
Library and back of/AE Floodplain. Maintained by DPW	028-091-11	0.48	20,757	23.8	O-A			N/A	Not marketable due to zoning.			
Norris Memorial Park (Molino/Helens). Not Maintained by DPW	028-161-01	0.41	17,650	34.2	O-A			N/A	Not marketable due to zoning.			
MonteVista / Tenderfoot trail. Not maintained by DPW	046-030-23	0.39	16,944	46.5	O-A	No		N/A	Not marketable due to zoning.			
Sycamore/ROW/AE Floodplain. 18' wide.	030-101-22	0.27	11,765	10.2	O-A	AE		N/A	Not marketable due to zoning.			
Norris Memorial Park (Molino/Helens). Not Maintained by DPW	028-161-03	0.16	6,825	46.1	O-A			N/A	Not marketable due to zoning.			
Behind 700 East Blithedale/ Roque Mar /AE Floodplain. 47' wide	030-124-11	0.16	7,171	34.9	C-G	AE		29 DU/acre	Too small for cost of building in flood plain unless combined with 700 Blithedale			

Appendix D: Recent Single Family Lot Sales






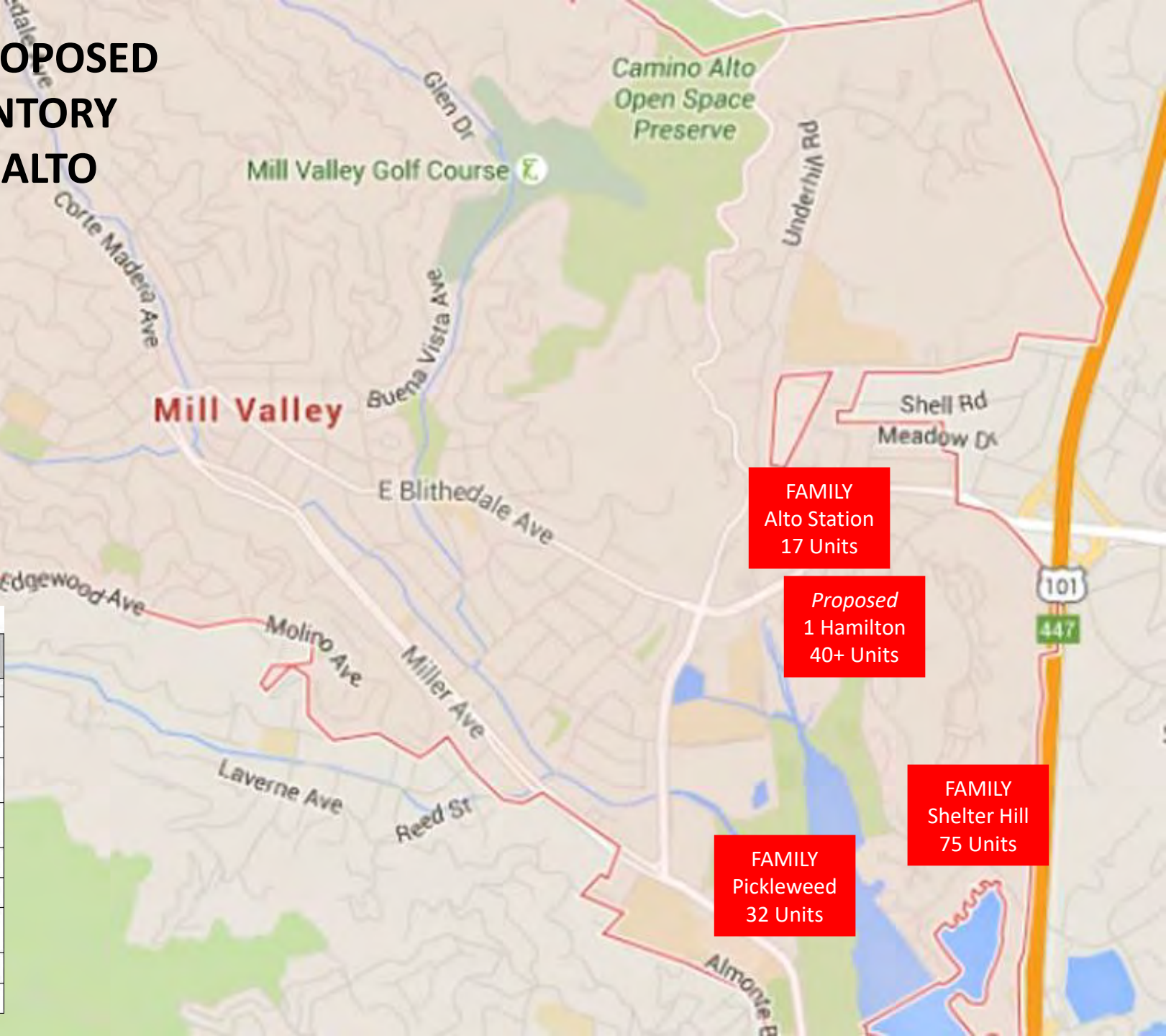
	Address	Acreage	square Feet	Sale Date	Sale Price	Price/Sq. Ft. of Land	Notes
	50 Sandy Lane	1.154	50,268	10/20/2020	\$ 1,250,000	\$ 24.87	1.15 acre parcel above the Mill Valley golf course. Lot features views of the San Francisco Bay and the ridges to the West. Located at the end of a quiet cul de sac with utilities to the lot line. Near trails.
	201 Marion	0.240	10,454	3/24/2019	\$ 450,000	\$ 43.05	Appears to have slope. Site formerly had 1962 house on it (now demolished, foundation visible). Sold previously in 2016 for \$300,000.
	390 N. Ferndale	0.130	5,662	2/24/2019	\$ 559,000	\$ 98.73	Description says site has "approved plans" for 1,800 sf new home. Had former (demolished) 1918 home on it. Note: site size below min lot of 6,000 sf.
	316 W. Blithedale	0.200	8,712	7/25/2018	\$ 1,050,000	\$ 120.52	Sold 4 months earlier for \$800,000 (\$91.83 per sq. ft.). Also sold for 1.05M in 2004.
	321 Loring Avenue	0.132	5,760	6/25/2018	\$ 450,000	\$ 78.13	Description says "approved plans, shovel ready." Note: below min lot size.

EXHIBIT C

MILL VALLEY 2022 CURRENT & PROPOSED ASSISTED FAMILY HOUSING INVENTORY 100% LOCATED EAST OF CAMINO ALTO

Table A.26: Assisted Housing Inventory

Project Name	Year Built	Tenant Type	Total units/ Affordable units	Deed Restriction Source	Potential Subsidy Expiration	Ownership/ Management
Publicly-Assisted Rental Housing						
Homestead Terrace 100 Linden Lane	1969	Senior/ disabled	28	Public housing- HUD	perpetuity	MHA
Kruger Pines 47 North Knoll Road	1971	Senior/ disabled	56	Public housing- HUD	perpetuity	MHA
The Redwoods 40 Camino Alto	1972	Senior/ disabled	149 / 60	HUD Section 231	2028	Non-profit Community Church of Mill Valley
Shelter Hill 37 Miwok Way	1977	Family	75	Refinanced in 2011 – Tax Credits	2066	Non-profit EAH
Camino Alto Apts 260 Camino Alto Court	1983	Disabled	24	HUD Section 202 CDBG, Section 8	2028	Non-profit Mercy Housing
Pickleweed Apts 651 Miller Avenue	1986	Family	32	CHFA bond City Ground-lease	2031	Non-profit BRIDGE Housing
Alto Station Apts 290 Camino Alto Court	1995	Family	17	HOME State RHCP City Ground-lease	2047	Non-profit BRIDGE Housing
Mill Creek Apts 60 Camino Alto	2004	Disabled	9	Section 202 Section 8	2029	Non-profit N Bay Rehab Services
Fireside Apartments (outside City limits)	2009	Family/ Senior	49	Low Income Tax Credit	2064	Non-profit Eden Housing

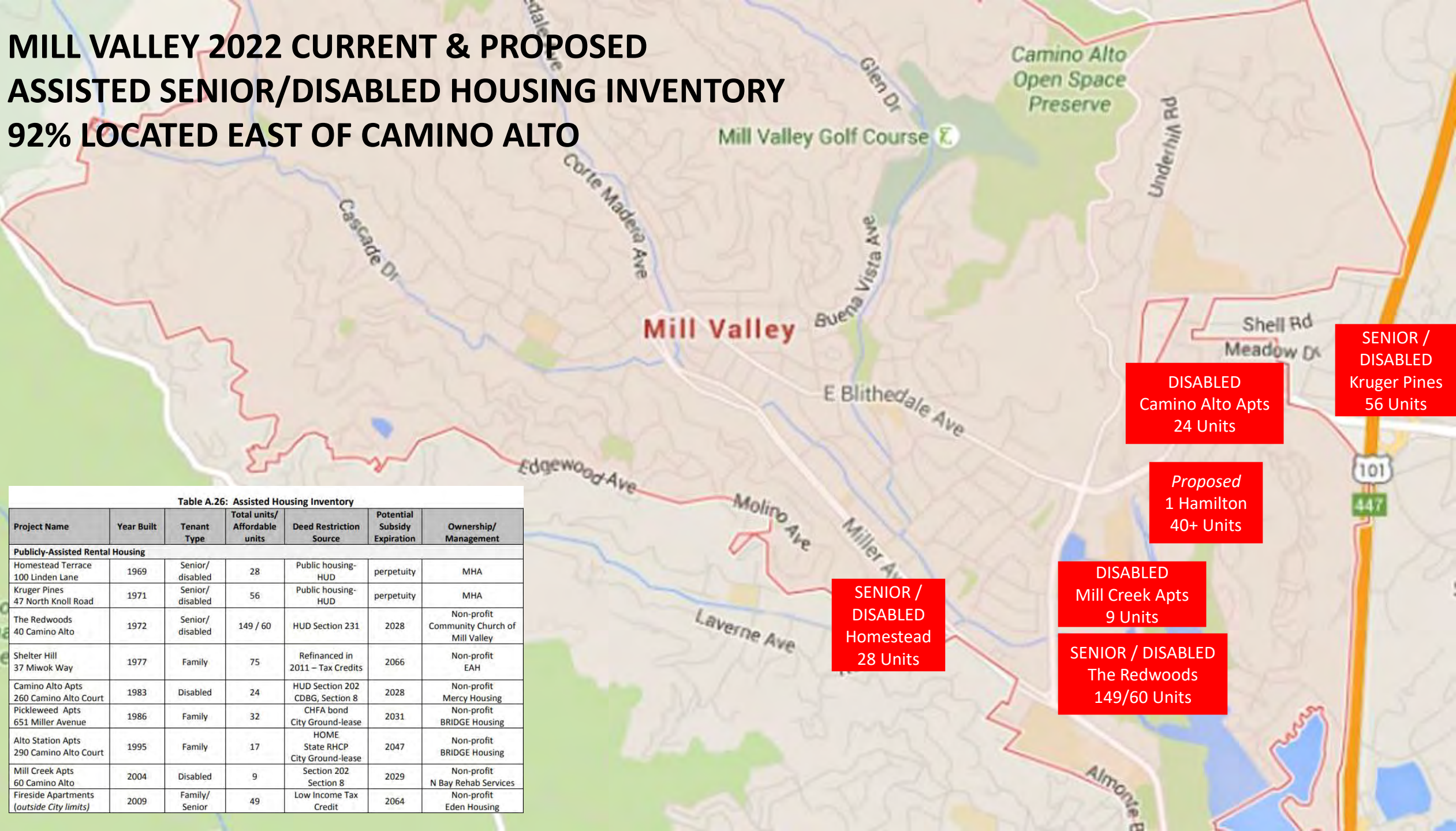


MILL VALLEY 2022 CURRENT & PROPOSED ASSISTED SENIOR/DISABLED HOUSING INVENTORY

92% LOCATED EAST OF CAMINO ALTO

Table A.26: Assisted Housing Inventory

Project Name	Year Built	Tenant Type	Total units/ Affordable units	Deed Restriction Source	Potential Subsidy Expiration	Ownership/ Management
Publicly-Assisted Rental Housing						
Homestead Terrace 100 Linden Lane	1969	Senior/ disabled	28	Public housing- HUD	perpetuity	MHA
Kruger Pines 47 North Knoll Road	1971	Senior/ disabled	56	Public housing- HUD	perpetuity	MHA
The Redwoods 40 Camino Alto	1972	Senior/ disabled	149 / 60	HUD Section 231	2028	Non-profit Community Church of Mill Valley
Shelter Hill 37 Miwok Way	1977	Family	75	Refinanced in 2011 – Tax Credits	2066	Non-profit EAH
Camino Alto Apts 260 Camino Alto Court	1983	Disabled	24	HUD Section 202 CDBG, Section 8	2028	Non-profit Mercy Housing
Pickleweed Apts 651 Miller Avenue	1986	Family	32	CHFA bond City Ground-lease	2031	Non-profit BRIDGE Housing
Alto Station Apts 290 Camino Alto Court	1995	Family	17	HOME State RHCP City Ground-lease	2047	Non-profit BRIDGE Housing
Mill Creek Apts 60 Camino Alto	2004	Disabled	9	Section 202 Section 8	2029	Non-profit N Bay Rehab Services
Fireside Apartments (outside City limits)	2009	Family/ Senior	49	Low Income Tax Credit	2064	Non-profit Eden Housing



**SENIOR /
DISABLED
Kruger Pines
56 Units**

**DISABLED
Camino Alto Apts
24 Units**

**Proposed
1 Hamilton
40+ Units**

**DISABLED
Mill Creek Apts
9 Units**

**SENIOR /
DISABLED
Homestead
28 Units**

**SENIOR / DISABLED
The Redwoods
149/60 Units**

EXHIBIT 6

City of Mill Valley 2023-2031 Housing and Land Use Elements Updates and Zoning Amendments Notice of Preparation

Revised September 15, 2022

The information below has been revised to correct errors in the original Notice of Preparation (NOP) and to incorporate public comments received during the 30-day NOP public comment period (July 21, 2022 through August 22, 2022). Clarifications and minor editions are highlighted in track changes through ~~strike-out~~ and underlined format.

2023-2031 Housing Element Update Overview

The City of Mill Valley (City) is updating its Housing Element in order update the City's housing policies and programs through 2031 and to accommodate the Regional Housing Needs Allocation (RHNA) for the City as determined by the California Department of Housing and Development and the Association of Bay Area Governments. The Housing Element update also requires amendments to the General Plan Land Use Element, as well as the Mill Valley Municipal Code (MVMC), including the Zoning Ordinance (MVMC, Title 20).

Setting/Project Location

The City of Mill Valley is bounded on the east by U.S. Highway 101 and the unincorporated neighborhoods of Strawberry and Alto; on the north by the cities of Corte Madera and Larkspur; on the west by Mount Tamalpais; and on the south by the unincorporated neighborhoods of Homestead and Almonte, and Richardson Bay. Mill Valley and its relationship to surrounding cities and communities are illustrated in [Figure 1, Regional Map](#).

Mill Valley is surrounded by the hillsides and steep ridges of the coastal mountains and the water of Richardson Bay, which form natural edges to urban growth. Many of the ridgelines that create the dominant visual backdrop for the community are now preserved as permanent open space. Much of the bayfront land has been preserved as park and open space, providing important habitat as well as visual and physical access to Richardson Bay and the greater San Francisco Bay beyond. Creeks, marshes, redwood groves, heavily forested and grass-covered hillsides, and chaparral are commonplace. Single-family residential neighborhoods are located in the valleys and on the hillsides,

with commercial and more intensive residential uses clustered on the flat low lands, in close proximity to transit and along the main arterial roadways. The residential and commercial areas, together with the natural setting, create a small-town community character that is cherished by the area’s residents (City of Mill Valley 2013).

General Plan Elements to be Amended

Housing Element

State law requires the City to have and maintain a general plan with specific contents in order to provide a vision for the City’s future, and inform local decisions about land use and development, including issues such as circulation, conservation, and safety. The Housing Element is one of the state-mandated elements of the General Plan. State law specifically requires the City to update the Housing Element of its General Plan by January 15, 2023, while making any changes to other elements of the General Plan needed to maintain internal consistency and undertaking any related changes to the City’s Municipal Code (including the City’s Zoning Ordinance). The City’s Housing Element for the 2015-2023 planning period was adopted in May 2015. In accordance with State law, the eight-year planning period for the updated Housing Element will extend from 2023 to 2031; this is also referred to as the 6th Cycle Housing Element Update. The City is updating its Housing Element to comply with the requirements of State law by analyzing existing and projected housing needs, and updating goals, policies, objectives, and implementation programs for the preservation, improvement, and development of housing for all income categories.

Regional Housing Needs Allocation (RHNA)

The Housing Element Update addresses any changes that have occurred since adoption of the current (2015-2023) Housing Element. These changes include, among others, updated demographic information, housing needs data, and analysis of the availability of housing sites. The Housing Element map of available housing sites is updated to identify sites that could accommodate the City’s Regional Housing Needs Allocation (RHNA) for the 2023-2031 planning period. The final RHNA allocation, broken down by income level, for the City is shown below in [Table 1, Mill Valley 2023-2031 Final RHNA Allocation](#).

Table 1 Mill Valley 2023-2031 Final RHNA Allocation

Income Level	Units
Very Low Income (Less than 50 percent of Area Median Income)	262
Low Income (50 to 80 percent of Area Median Income)	151
Moderate Income (80 to 120 percent of Area Median Income)	126
Above Moderate Income (Above 120 percent of Area Median Income)	326
Total RHNA Allocation	865

SOURCE: ABAG 2021

Community Outreach

Over the last nine months, the City has held four public workshops, conducted two public surveys, held a series of focus group meetings and tabling events, and held several City Council, Planning Commission, and Housing Advisory Committee Meeting debriefs as reflected in [Table 2, Mill Valley Housing Element Update Outreach Events](#). One of the primary goals of the workshop series was to engage the community in a conversation that focused on identifying varying housing-related policy considerations and issues, and methodically developing Mill Valley’s vision and planning framework for addressing regional and local housing needs, and meeting the State-mandated RHNA.

Table 2 Mill Valley Housing Element Update Outreach Events

Type of Outreach	Date	Targeted Outreach/Action	Summary of Outreach
City Council Debrief (in person)	September 1, 2021	Review and approval of Draft Schedule and Outreach Plan	Project Kick-Off: Discuss the proposed Work Plan, including schedule and public outreach for the Housing Element Update.
Survey #1 (online)	September-October 2021	Inform and gather input	Online survey (118 responses) regarding housing needs, goals and interests from the community.
Workshop #1 (online)	September 23, 2021	Inform, listen and gather input	City staff reviewed Housing Element Update requirements and overall process, discussed housing trends and demographics, and reviewed existing housing goals (38 individuals registered).
City Council Debrief (in person)	October 10, 2021	Inform and review comments	Review housing needs and input from the community, including workshop 1 and online survey.
Workshop #2 (online)	November 10, 2021	Inform, listen, and gather input	This workshop focused on the sites analysis. The workshop provided an overview of the requirements for a sites analysis, the overall process and criteria used to evaluate and identify potential locations or sites to accommodate new housing. (64 individuals registered).

Type of Outreach	Date	Targeted Outreach/Action	Summary of Outreach
Survey #2 (online and paper copies available)	January-February 2022	Inform and gather input	Online survey (1,039 responses) regarding strategies for identifying sites and housing programs of interest.
City Council Debrief (in person)	February 7, 2022	Inform and review comments	Review of Workshop 2 and preliminary responses from online survey #2.
Focus Group Meetings and Tabling (online and in person)	January-March 2022	Inform, listen, and gather input	Focus groups to discuss: housing needs; strategies to address RHNA and developing housing programs, including: Mill Valley School District (January 12, 2022); Farmers Market (February 9, 2022); Housing Advocates, including Mill Valley Affordable Housing Committee, Mill Valley Force for Racial Equity and Empowerment and Mount Tam Community Land Trust (February 10, 2022).
Workshop #3 (online)	February 16, 2022	Inform, listen and gather input	City staff reviewed a series of draft scenarios to develop its sites inventory to achieve the City's RHNA allocation (175 individuals registered).
Joint City Council/Planning Commission Meeting (in person)	March 22, 2022	Comment and advise	Joint study session to review the proposed housing strategies and draft sites inventory list to achieve the City's RHNA allocation.
Workshop #4 (online)	April 28, 2022	Inform, listen, and gather input	City staff reviewed existing housing programs and provided an opportunity to discuss new housing policies and programs to address community interests (64 individuals registered).
Housing Advisory Committee Meeting (online)	May 17, 2022	Review, comment, and advise	Review of feedback from Workshop 4 and Draft Chapter 2, Housing Programs (48 individuals registered).

SOURCE: City of Mill Valley 2022

Sites Inventory

The Housing Element Update will identify specific sites appropriate for the development of multifamily housing (including affordable units), and the City would rezone those sites as necessary to meet the requirements of State law. The preliminary sites inventory list of existing and proposed sites that can accommodate development of multifamily housing includes sites that are located throughout Mill Valley, and is subject to refinement based on additional public input and review of the draft Housing Element by City’s Planning Commission and City Council, and the California Department of Housing and Community Development. A summary of the maximum development potential for all sites is included below in [Table 3, Sites Inventory Summary](#). Locations of the potential housing sites are shown on [Figure 2, Sites Inventory Map](#).

Table 3 Sites Inventory Summary

Type of Site	Number of Sites	Number of Units (Anticipated Based on Existing Use without Rezoning)	Number of Units (Maximum Based on Allowable Density After Rezoning)
Vacant Single-Family Zoned Sites	88	88	88
Projected SB 9 Lot Splits	9 10	36 40	40 36
City-Owned Site (1 Hamilton)	1	0 40	50
Underutilized Sites: Commercial and Multi-Family Zoned Sites under ½ acre with Housing Overlay ¹	33 35	138 149	294 328
Opportunity Sites: Commercial Zoned Sites over ½ acre with Housing Overlay ¹	27	258	492
Office Conversions with Housing Overlay	13	65	173
Totals	171 174	585 640	1,133 1,171

SOURCE: City of Mill Valley 2022

NOTE: 1. The City anticipates no change in the existing commercial square footage on each of the opportunity sites with existing commercial uses.

In addition to the Sites Inventory, the City anticipates an additional 160 Accessory Dwelling Units (ADUs) based on the City’s 4-year trend of issuing over 20 new ADU building permits a year. Additional units are also anticipated based on three overlay districts proposed and the rezoning of 300 East Blithedale and the Presidio Neighborhood. See details below.

Land Use Element

The Land Use Element will be amended to redesignate land use designations on the Land Use Map and Land Use Categories Table contained in the General Plan based on proposed rezoning for the parcels and areas discussed below.

Amendments to Land Use/Zoning

The proposed project includes amending the general plan land use designations and redesignating the zoning district for several parcels in Mill Valley in order to create consistent land use and zoning designations and accommodate the City's RHNA allocation. The sites identified by City staff requiring amendments to land use designations and zoning amendments include the following locations as reflected in Figure 2, Sites Inventory and [Figure 3, 300 East Blithedale Ave and Presidio Neighborhood](#).

1 Hamilton Drive

Mill Valley City Council has declared the northern portion of 1 Hamilton Drive (030-250-01) as "exempt surplus land" for the sole purpose of building affordable rental housing on the site. The 1 Hamilton parcel is approximately 11 acres in size and is zoned Open Area (O-A) with a land use designation of Community Facility (C-F) containing the Bayfront and Hauke Park, Public Safety Building (PSB), Hauke Park and PSB parking lots, electric vehicle charging stations, ground-mounted solar panels, and community garden. The surplus land is identified as the northern portion of 1 Hamilton ("the site") and is approximately 1.6 - 1.73 acres in size, pending additional survey, topographical and preliminary site planning required to determine the feasibility of relocating existing facilities that are on the site. In order to build affordable housing on the site, a separate parcel will be created with rezoning and land use amendments required. Zoning and land use amendments are assumed to be similar as those multi-family residences in the surrounding area, which are zoned Multi-Family Residential Bayfront (RM-B) with a land use designation of Multi-family (MFR-2) allowing up to 29 units/acre.

300 East Blithedale Avenue

The 0.5-acre site, located at 300 East Blithedale Avenue, is currently operating as a server building for Comcast inside an existing building. The parcel is currently zoned for single-family use. Amending the General Plan designation and rezoning the property to multi-family would result in a maximum of eight units. [Table 4, 300 East Blithedale Existing and Proposed Conditions](#), presents a breakdown of existing and proposed land use and zoning conditions at the site.

Table 4 300 East Blithedale Existing and Proposed Conditions

	Existing	Proposed
General Plan Land Use Designation	Single Family Residential (SFR-2)	Multi-Family Residential (MFR-1)
Zoning District	Single-Family Residential, minimum lot size of 6,000 square feet (RS-6)	Multi-Family Residential Parkway (RM-P)
Density Range	One (1) dwelling units per acre to seven (7) dwelling units per acre	Nine (9) dwelling units per acre to 15 dwelling units per acre
Total Units (excluding Accessory Dwelling Units permitted by-right under State law)	0	8

SOURCE: City of Mill Valley 2022

Presidio Neighborhood (Properties Currently Zoned RM-3.5)

Currently the Presidio neighborhood, located in close proximity to Downtown between Forrest Street and Millwood Street, consist of 64 parcels in which the Single-Family land use designation in the General Plan does not align with the RM-3.5 zoning designation. As part of the Housing Element Update, the land use and zoning for these properties will be updated to ensure General Plan and zoning consistency. The General Plan land use designation for these properties will be amended from Single Family to “Downtown Residential” and the “RM 3.5” zoning will be modified to “Downtown Residential” with maximum densities increasing from remaining at 15 units/acre to 16 units/acre. [Table 5, Presidio Neighborhood Existing and Proposed Conditions](#), presents a breakdown of existing and proposed land use and zoning conditions at the site.

Table 5 Presidio Neighborhood Existing and Proposed Conditions

	Existing	Proposed
General Plan Land Use Designation	Single Family Residential (SFR-2)	Multi-Family (MFR-1) <u>Downtown Residential (DR-1)</u>
Zoning District	Multi-family Residential minimum lot 3,500 square feet (RM-3.5)	Downtown Residential (DR)
Density Range	Per SFR 2 Land Use: One (1) dwelling units per acre to seven (7) dwelling units per acre Per RM 3.5 Zoning: up to 15 units per acre	Nine (9) dwelling units per acre to 16 15 dwelling units per acre
Units (excluding Accessory Dwelling Units or Duplexes permitted by-right under State Law)	94	15

SOURCE: City of Mill Valley 2022

In the Presidio Neighborhood, assessor data indicates one (1) parcel operating as commercial use; 22 parcels operating as multi-family use and 41 parcels operating as single-family use. Modification

of the zoning designation to Downtown Residential allows all existing uses to remain, and permits the redevelopment and use of property as either single-family or multi-family. The average size parcel in this neighborhood is less than 5,000 square feet. Based on allowable densities ~~and assuming that all parcels convert to a multi-family use, an additional~~ 15 units could be added (excluding Accessory Dwelling and Duplex Units permitted by right under State Law).

Site Inventory Housing Overlays

To accommodate its regional housing numbers and to facilitate the development of housing in Mill Valley, the following three Overlay Zoning Districts and Zoning Map Update will be adopted in conjunction with the Housing Element Update process. As such, the following housing overlays will specifically apply to those properties identified on the City's Sites Inventory list under the categories of office conversion; underutilized "small lot" sites and opportunity sites.

- **Small Lot Housing Overlay:**

The "small lot overlay zone" will apply to those parcels that are less than ½ acre as identified on the sites inventory list.

The following modified standards apply to projects seeking to develop a parcel through this overlay district:

1. reduced parking (1 space per unit for units less than 1,000 square feet);
2. increased height up to 40-feet for buildings being raised to address the floodplain management requirements or to provide higher ceiling heights on the first floor of a mixed-use building;
3. increased density up to 40 units/acre;
- ~~3.4.~~ modified Floor Area as allowed under State Law (SB 478); and
- ~~4.5.~~ exemption to the inclusionary housing requirement for those projects that provide units that are 1,000 square feet or less.

- **Opportunity Site Housing Overlay:** Those parcels identified on the sites inventory that are ½ acre or more may apply for the "opportunity site housing overlay" and Density Bonus as part of the redevelopment of the parcel, which will include the following modified standards:

1. reduced parking (1 parking space for units less than 1,000 square feet);
2. increased height up to 40' for buildings being raised to address the floodplain or to provide higher ceiling heights on the first floor of a mixed use building;
3. revised density standards: minimum density of 20 units/acre and maximum density of 40 units/acre;
4. full residential projects permitted;
5. mixed use projects must have at least 50% of the floor area for residential uses;
6. lot consolidation permitted to facilitate proposed development; ~~and~~

7. modified Floor Area as allowed under State Law (SB 478);

7.8. subject to inclusionary requirements, established in MVMC 20.80, with the following incentives: a) projects subject to the inclusionary regulations must include six or more new units, b) waiving the maximum micro-unit standards in MVMC 20.24.040(B)(1) for those projects that allocate 25% of the inclusionary units as low income, and 3) waiving one affordable inclusionary unit for projects that provide one three-bedroom unit as a low-income inclusionary unit; and

~~8.9.~~ those redevelopment projects that designate 20% of the units as affordable to lower income households are subject to by-right ministerial approval by the Planning Director (not subject to a hearing or discretionary review) as required by state law.

- **Office Conversion Overlay:** The “office conversion overlay zone” will apply to those parcels identified on the sites inventory that currently utilize upper floor space as office space.

The following modified standards apply to projects seeking to develop a parcel through this overlay district:

1. grandfathering parking based on existing parking on site so long as the proposed units are 1,000 square feet or less and the footprint of the building is not expanded;
2. modified density standard, up to 40 units/acre;
3. exemption to the inclusionary housing requirement for those projects that provide units that are 1,000 square feet or less; and
4. ministerial approval (no hearing) based on objective standards to streamline approval.

Other Zoning Code Amendments

Various amendments to code section addressing Commercial Zones (20.36 through 20.48), plus some changes under 20.66 Design Review.

- Modifications to Design Review, as discussed above;
- Removal of Conditional Use Permit for residential use in commercial zoned districts;
- Modification of Development Standards based on state law, including but not limited to State Density Bonus and creating objective standards and guidelines; and
- Modification of allowable uses and development standards based on state law, including but not limited to emergency shelters, residential care facilities and low barrier navigation centers.

Summary of Zoning Map and Land Use Amendments

The proposed project includes amending the Zoning Ordinance as referenced above. In doing so, as reflected in [Table 6, Summary of Zoning Map and Land Use Amendments](#), the following amendments will be made to the Zoning Map and General Plan Land Use Map and Land Use Categories Table.

Table 6 Summary of Zoning Map and Land Use Amendments

Site/Location	Proposed Zoning Amendment	Proposed Land Use Map	Proposed Land Use Density Category
1 Hamilton Drive	Multi-Family Residential Bayfront (RM-B)	Multi-Family Residential (MFR-2)	17 dwelling units per acre to 29 dwelling units per acre
300 East Blithedale Avenue	Multi-Family Residential Parkway (RM-P)	Multi-Family Residential (MFR-1)	Nine (9) dwelling units per acre to 15 dwelling units per acre
Presidio Neighborhood (RM3.5 Zoning District)	Downtown Residential (DR)	Multi-Family Residential (MFR-1)	Nine (9) dwelling units per acre to 15 dwelling units per acre
Small Lot Overlay Zoning District	Overlay district applied to sites identified Table 2 and Figure 2	Overlay district applied to sites identified Table 2 and Figure 2	17 dwelling units per acre to 40 dwelling units per acre
Office Conversion Overlay Zoning District	Overlay district applied to sites identified Table 2 and Figure 2	Overlay district applied to sites identified Table 2 and Figure 2	17 dwelling units per acre to 40 dwelling units per acre
Opportunity Site Overlay Zoning District	Overlay district applied to sites identified Table 2 and Figure 2	Overlay district applied to sites identified Table 2 and Figure 2	20 dwelling units per acre to 40 dwelling units per acre

SOURCE: Mill Valley 2022

Subsequent EIR Approach

Consistent with CEQA Guidelines Section 15162, the EIR will provide subsequent environmental analysis to the 2013 *City of Mill Valley 2040 General Plan Certified Final EIR* (general plan EIR), updating existing analysis where appropriate, and presenting new analysis where necessary. This subsequent EIR will evaluate only the impacts resulting from the amendments to the general plan elements. The subsequent EIR will not evaluate total buildout of the amended General Plan.

CEQA Guidelines section 15146 states that, “The degree of specificity required in an EIR will correspond to the degree of specificity involved in the underlying activity which is described in the EIR.” The underlying activity is adoption of the 2023-2031 Housing Element and associated general plan and zoning amendments. Therefore, the subsequent EIR will evaluate the environmental impacts of the 2023-2031 Housing Element to the greatest degree feasible; however, later environmental review in compliance with CEQA may be required when development proposals

requiring discretionary action are proposed. Later projects may be able to “tier” off of this SEIR, meaning they can rely on the environmental analysis in this document to the extent applicable to their project, limiting environmental analysis to impacts not previously identified, or increases to impacts that were previously identified.

Probable Environmental Effects

Based on a review of the general plan EIR, the following environmental issues have been determined to be adequately addressed in the general plan EIR and will not be addressed further in the subsequent EIR:

- Agricultural and Forestry Resources;
- Cultural Resources (with the exception of Tribal Cultural Resources);
- Geology and Soils (including Paleontological Resources);
- Hazards and Hazardous Materials (with the exception of Sea Level Rise and Wildfire);
- Hydrology and Water Quality; and
- Mineral Resources.

Environmental effects to be addressed in the subsequent EIR will be based on a review of the environmental analysis contained in the general plan EIR and an understanding of current conditions in the city. Probable environmental effects associated with adoption of the 2023-2031 Housing Element and associated updates to the City’s Land Use Element and Zoning Ordinance will be addressed in the subsequent EIR and are briefly discussed below.

Aesthetics

The aesthetics discussion and analysis in the general plan EIR will be utilized in this section, and updated where necessary to address the proposed project. For example, the project may include increasing the allowed heights of buildings. This section will address both project-level and cumulative visual resource impacts.

Air Quality

This section of the subsequent EIR will reflect current air quality analyses, as well as current federal, state, regional, and local regulations. The proposed project could result in an increase in operational criteria air emissions through new vehicle trips generated by additional housing. The proposed project may also increase community health risks and hazards by placing sensitive receptors near existing or planned sources of toxic air contaminants (TACs) or other hazardous emissions.

Biological Resources

The biological resources section of the subsequent EIR will utilize the California Natural Diversity Database (CNDDDB) to determine whether there have been any status changes to special status plant and wildlife species, and whether the general plan EIR adequately addresses sensitive biological resources to current standards.

Energy

The proposed project is presumed to create new development capacity that would result in increased energy demand. The three primary sources of energy demand would likely be fuel use in vehicles, and electricity and natural gas use in buildings. The net change in demand for these types of energy will be modeled in CalEEMod and EMFAC. Because the threshold of significance for energy impacts is qualitative, the impact discussion and analysis will also be qualitative.

Greenhouse Gas Emissions

The City is anticipating that it will adopt and updated climate action plan (CAP) in the summer of 2022. The forthcoming update to the City's will include GHG emission projections that incorporate the new residential development capacity enabled by the Housing Element Update. Consequently, the Housing Element would be consistent with the CAP and GHG reduction measures included in the CAP would be applicable to that new residential development. Consequently, the GHG impact analysis can be streamlined pursuant to CEQA Guidelines section 15183.5. The Housing Element Update GHG impact would be less than significant provided each new future individual project made possible is conditioned to implement applicable GHG reduction measures found in the updated CAP.

In addition, this section of the subsequent EIR will address potential impacts associated with sea level rise. CEQA does not require the evaluation of the environment's impact on a project, but does require an analysis if a project contributes to an environmental effect that could have an effect on a project. The general plan EIR and updated CAP address sea level rise. Existing documentation will be used in this section of the subsequent EIR to present the anticipated flooding impacts of sea level rise, and a qualitative discussion as to how the project could exacerbate these flooding issues.

Noise

This section will address whether the proposed project would result in an increase in the noise levels identified in the general plan EIR with implementation of the proposed project. Cumulative project impacts will be discussed.

Public Services

This section will address whether the proposed project would require new or expanded public services facilities, and whether those facilities would result in significant environmental impacts.

Public services to be addressed include fire protection and emergency medical services, law enforcement, public schools and recreation facilities. Cumulative project impacts will be discussed.

Transportation

The transportation section of the subsequent EIR will address the vehicle miles traveled (VMT) impacts of the project. VMT was not a required component of a CEQA transportation impact analysis when the general plan EIR was prepared.

Tribal Cultural Resources

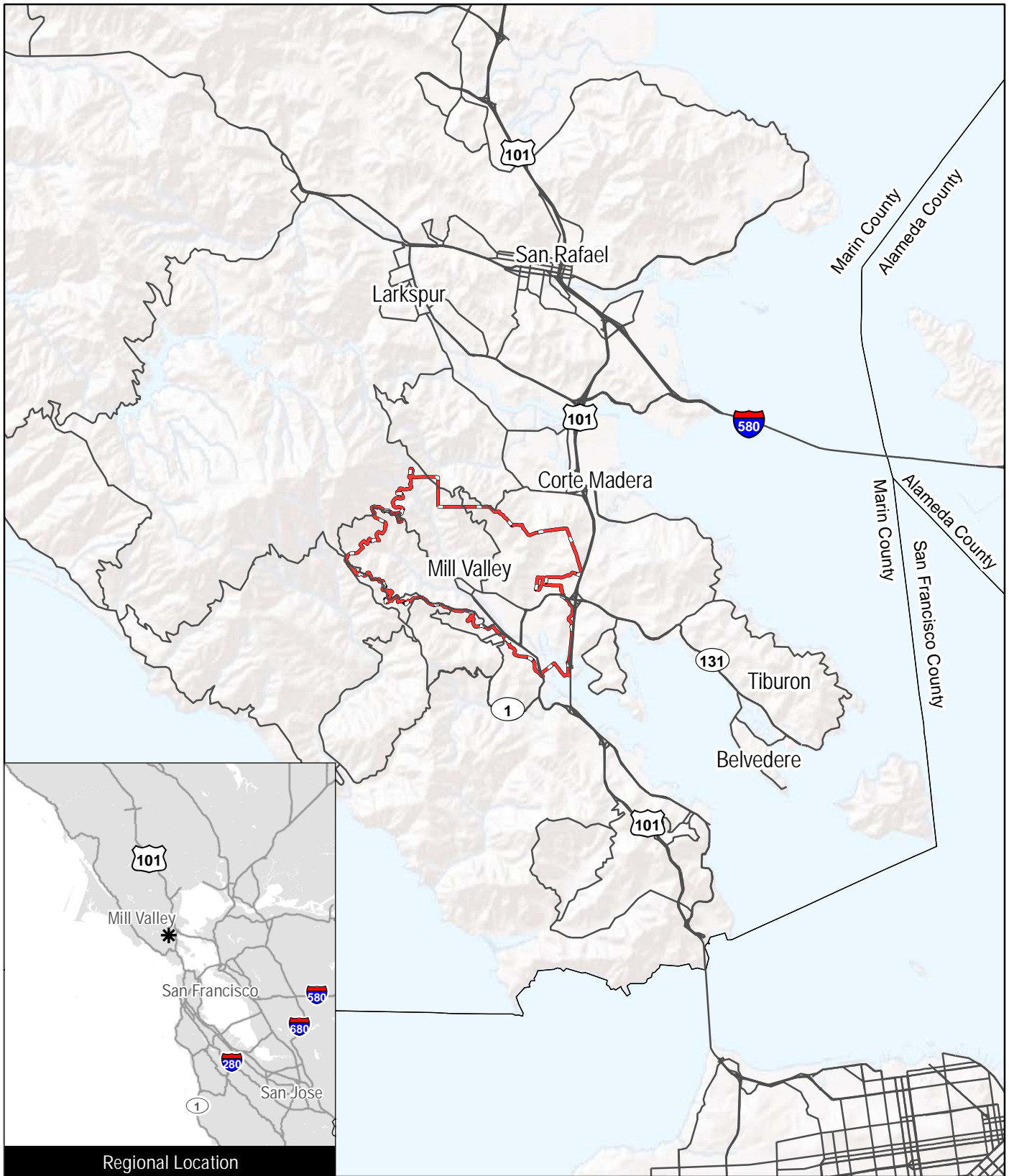
This section of the subsequent EIR will report on the City's SB 18 and AB 52 Tribal Consultation process, which was not a required component of the CEQA cultural resources impact analysis when the general plan EIR was prepared. If consultation does occur, this section will address whether the proposed project may have an adverse change on the significance of a tribal cultural resource.

Utilities and Service Systems

This section will address possible physical changes associated with expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, sufficient water supplies, waste water treatment capacity, and solid waste. Various agencies will be consulted including City of Mill Valley, Marin Municipal Water District, Sewerage Agency of Southern Marin, PG&E, Mill Valley Refuse Service, and the Redwood Landfill. Cumulative project impacts will be discussed.

Wildfire

This section of the subsequent EIR will address whether the project would substantially impair an adopted emergency response plan or emergency evacuation plan; expose people to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire; require installation or maintenance of associated infrastructure that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment; or expose people or structures to significant risks, including downslope of downstream flooding or landslides as a result of runoff, postfire slope instability, or drainage changes. Cumulative project impacts associated with wildfire hazards will also be discussed.



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 City Limits

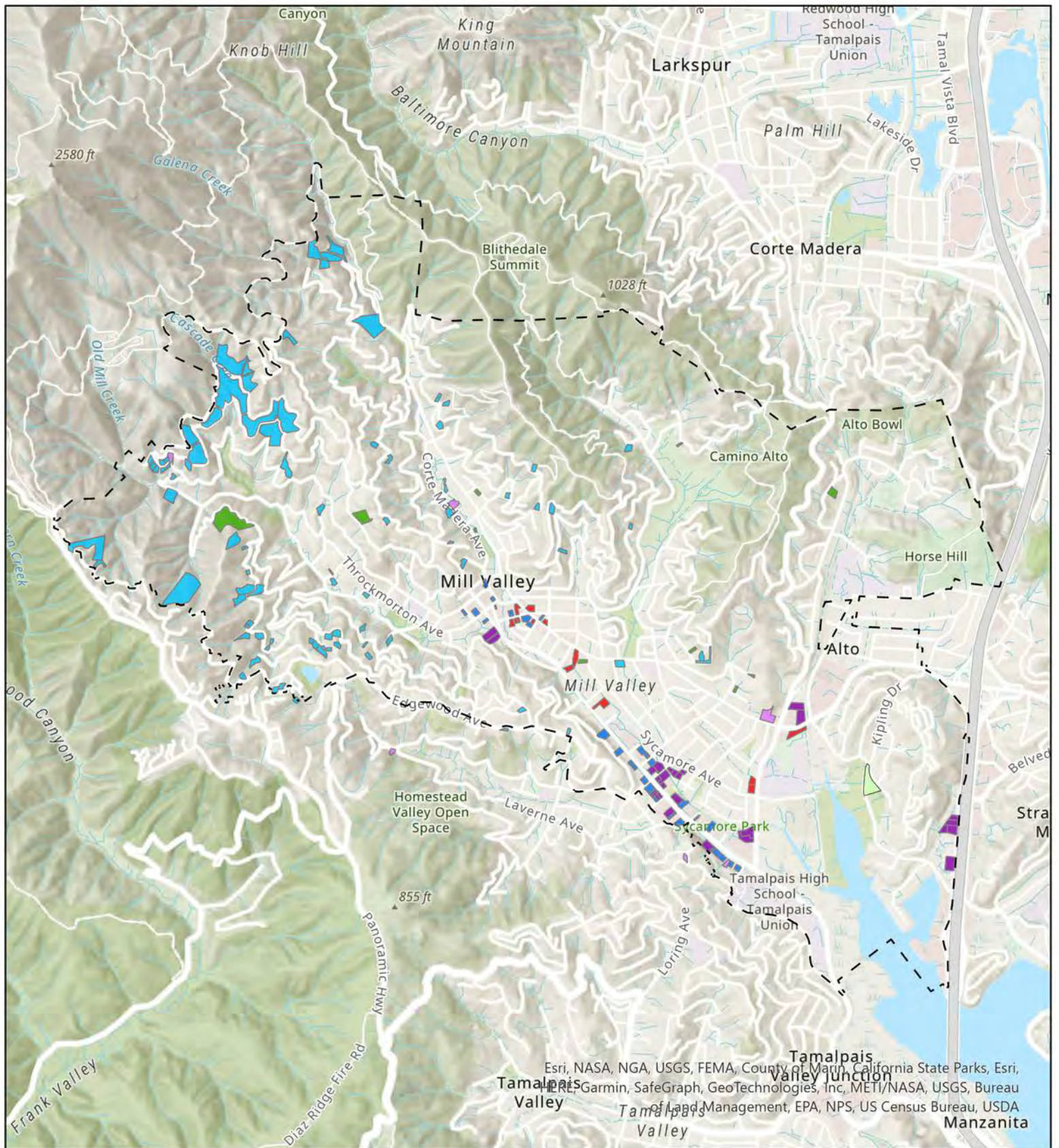
Source: ESRI 2014

Figure 1

Regional Map



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Esri, NASA, NGA, USGS, FEMA, County of Marin, California State Parks, Esri, HERE, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, Bureau of Land Management, EPA, NPS, US Census Bureau, USDA

Table A

Site Category

- City-Owned Site
- Pipeline Projects
- Vacant SF (Not SB9)
- Vacant SF (SB9)

Table B

Site Category

- Office Conversion
- Opportunity Sites (>0.5 acre)
- Underutilized Sites (<0.5 acres)
- City Boundary

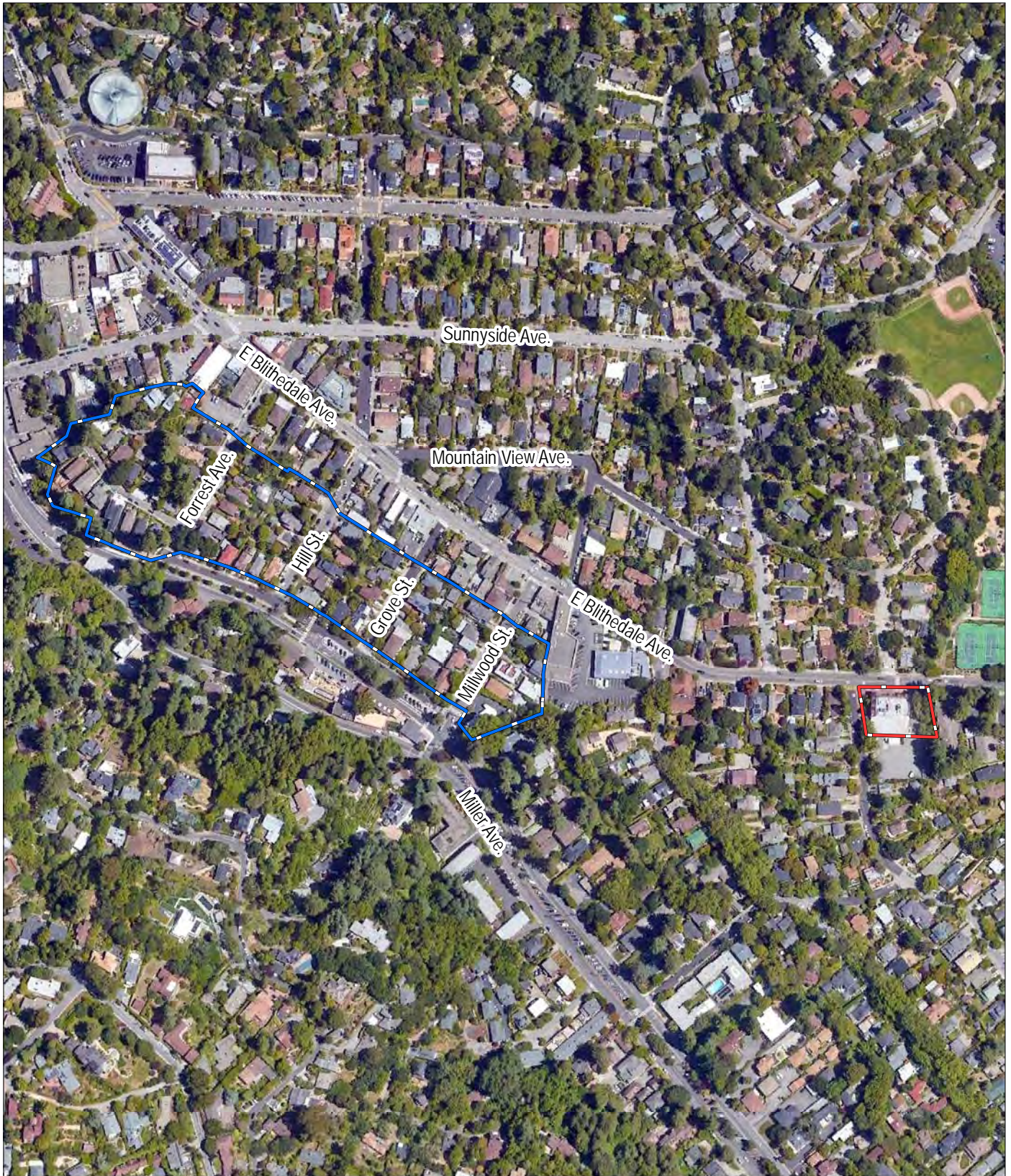


Figure 2

City of Mill Valley

Site Inventory

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0 350 feet



300 E. Blithedale Ave.



Presidio Neighborhood

Source: Marin County GIS 2022, Google Earth 2022

Figure 3



300 East Blithedale Ave and Presidio Neighborhood

City of Mill Valley 2023-2031 Housing and Land Use Element Update and Zoning Amendments NOP

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EXHIBIT 7



NOTICE OF PREPARATION AND NOTICE OF SCOPING MEETING

To: Interested Parties

Date: December 21, 2022

Subject: Notice of Preparation of Draft Environmental Impact Report, City of Mill Valley, 1 Hamilton Drive Affordable Housing Development

Lead Agency: City of Mill Valley

Project Website: www.cityofmillvalley.org/hamilton

NOTICE IS HEREBY GIVEN THAT the City of Mill Valley will be the Lead Agency under the California Environmental Quality Act (CEQA) and will prepare a Draft Environmental Impact Report (DEIR) for the proposed project. This NOP includes a project description and an overview of the potential impacts that will be addressed in the DEIR.

Project Title: 1 Hamilton Drive Affordable Housing Development

Project Applicant: City of Mill Valley

Project Location: City of Mill Valley

The project description, location map, project site diagram, and the potential environmental effects are contained in the attached document.

The purpose of this notice is: (1) to serve as the Notice of Preparation to potential Responsible Agencies, agencies involved in funding or approving the project, and Trustee Agencies responsible for natural resources affected by the project, pursuant to Section 15082 of the CEQA Guidelines; and (2) to advise and solicit comments and suggestions regarding the preparation of the DEIR, environmental issues to be addressed in the DEIR, and any related issues, from interested parties in addition to those noted above, including interested or affected members of the public. The City of Mill Valley requests that any potential Responsible or Trustee Agency responding to this notice do so in a manner consistent with CEQA Guidelines Section 15082(b).

All parties that have submitted their names and mailing addresses will be notified as part of the project's CEQA review process. If you wish to be placed on the mailing list or have any questions or need

Notice of Preparation/Notice of Scoping Meeting
One Hamilton Affordable Housing Project
City of Mill Valley
December 21, 2022

additional information, please contact the person identified below. A copy of the NOP and attachment document is on the City's website (<https://cityofmillvalley.org/>) and is on file at the City Hall offices, located at the address provided below.

Scoping Meeting:

Date: Thursday, January 12, 2023

Time: 6:30 pm

Location: Mill Valley City Hall, 26 Corte Madera Avenue

30-Day NOP Review Period: In accordance with CEQA, should your agency have any comments, it is requested to provide a written response to this NOP within the mandated (minimum of) 30-day NOP review period that will begin December 22, 2022 and end January 27, 2023. Written comments must be received at the address below no later than 5:00 p.m. on January 27, 2023.

Please indicate a contact person in your response and send it to the following contact:

Patrick Kelly, Director of Building & Planning
pkelly@cityofmillvalley.org
City of Mill Valley
26 Corte Madera Avenue
Mill Valley, CA 94941

December 21, 2022

Date


Patrick Kelly, Director of Building & Planning

BACKGROUND: The City of Mill Valley (City) is currently updating its General Plan Housing Element, which aims to achieve goals addressed by the Mill Valley 2040 General Plan (GP) that specifically addresses the challenge of housing supply and affordability by seeking to diversify housing stock to accommodate a range of income levels and lifestyles within the community. The existing (2014-2022) and draft (2023-2031) Housing Element contain policy guidance to explore and identify public-owned parcels to build affordable housing. In 2020, City staff worked with the City’s Housing Advisory Committee to identify potential publicly owned and tax-exempt sites for redevelopment. On September 20, 2021, the City Council took action to: 1) declare a portion of the property located at 1 Hamilton Drive as “exempt surplus land” as required under the California Surplus Land Act (Government Code 54220 et seq.) pursuant to Government Code Section 54221(f)(1)(A) and 2) authorize the City Manager to negotiate and draft an Exclusive Negotiating Agreement (ENA) with EAH Housing for the purpose of negotiating the terms and conditions for the potential ground lease or sale of property and development of affordable rental housing on the northern portion of 1 Hamilton Drive. Figure 1 indicates the location of the project site within the City of Mill Valley and the surrounding region.

On February 6, 2022, the City Council authorized the approval of the ENA and outreach plan to further evaluate relocating existing facilities on the northern portion of 1 Hamilton, including public restrooms, 38 public parking spaces and one electric (EV) charger with two ports or “stations” and further explore building affordable housing on the proposed site.

In March 2022, City staff began working with the EAH Team to advance work as part of the ENA, including supporting EAH as it conducted a series of large public workshops and smaller scale neighborhood meetings. This input led to the formulation of a range of project design options and on- and off-site needed improvements and other suggestions that could benefit the surrounding community.

On September 19, 2022, the City Council directed staff to further consider and evaluate relocating existing facilities (38 parking spaces, restroom facilities and one electric vehicle charging station) to the adjacent Public Safety Building (PSB) parking lot.

On November 30, 2022, City Staff and the EAH Team presented the preliminary site planning and design work to City Council and Planning Commission, with a recommended building concept and site plan for the relocation of existing facilities to the adjacent parking lot as a condition of building and managing affordable housing on the site. Planning Commission and City Council supported the recommendation and Council directed staff to assemble a development review package, which includes the environmental review of the proposed project.

INTRODUCTION: The purpose of an EIR is to inform decision makers and the general public of the environmental effects of a proposed project. The EIR process is intended to provide environmental information sufficient to evaluate a proposed project and its potential for significant impacts on the environment; examine methods of reducing adverse environmental impacts; and consider alternatives to the project.

The 1 Hamilton Drive Affordable Housing Development Project Draft EIR will be prepared and processed in accordance with CEQA and the CEQA Guidelines. In accordance with CEQA, the Draft EIR will include the following:

- Summary of the proposed project and its potential environmental effects;
- Description of the proposed project;
- Description of the existing environmental setting, potentially significant environmental impacts, and mitigation measures;
- Alternatives to the proposed project;
- Cumulative impacts; and
- CEQA conclusions, including: 1) the growth-inducing impacts of the proposed project; 2) any significant environmental effects which cannot be avoided if the project is implemented; 3) any significant irreversible and irretrievable commitments of resources; and 4) effects found not to be significant.

PROJECT LOCATION: The project site is located on the northern portion of the parcel at 1 Hamilton Drive in the City of Mill Valley, situated in Marin County, California. The project site is a triangle shape bounded by Hamilton Drive to the west and northwest and Roque Moraes Drive to the east and northeast. The entire parcel is zoned as Open Area (OA) with the General Plan Land Use designation of Community Facilities (CF). The City's Public Safety Building (PSB) is located adjacent to the project site to the south. Surrounding General Plan Land Use designations include Single Family Residential to the north; Single Family and Multi Family Residential to the south and east; and Community Facilities, including the PSB, community garden, Hauke Park and playing fields to the south and west.

The 1 Hamilton Drive parcel (Accessor Parcel Number: 030-250-01) is owned by the City and is approximately 11 acres in size. The western portion of the parcel is considered Bayland and includes Hauke Park and Bayfront Park. The southeastern portion of the parcel includes the City's PSB and an associated parking lot that serves the administrative offices of the City's Police Department and Fire Station 7, a ground mounted solar array, and a community garden to the south. The project area comprises the northern portion of the parcel and is approximately 1.6 to 1.8 acres in size. The actual size of the project site will be determined based on community input and physical design of the proposed housing. The northern portion of the parcel currently includes vacant land, a public parking lot with 38 parking spaces, one electric vehicle charging station with two ports, and public restrooms.

The project site contains 66 trees including 42 native trees. Tree species on-site include coast live oak, cork oak, Canary Island pine, black locust, blackwood acacia, ash, and California buckeye. Vegetation on the remainder of the site consists of non-native annual grassland. No trees on-site qualify as heritage trees under the City tree ordinance (Chapter 12.04, MVMC). Two seasonal wetlands potentially subject to jurisdiction by the U.S. Army Corps of Engineers and Regional Water Quality Control Board totaling 0.01 acre are located on the project site adjacent to Hamilton Drive.

PROPOSED PROJECT/PROJECT DESCRIPTION: The project includes the development of up to 50 affordable housing units, 65 on-site residential parking spaces, and private outdoor spaces. The project also includes the replacement of the existing public parking lot and restroom facilities currently located in the southwestern corner of the project site. The relocation of these facilities will be accomplished by reconfiguring the PSB parking lot, which will include up to 50 public parking spaces, public restrooms, and electric vehicle charging. The new public restrooms will be located adjacent to the northern side of the PSB. The project site, proposed development footprint, and surrounding land uses are depicted on Figure 2. Proposed project characteristics are described in more detail below.

Replacement of Existing Facilities

The proposed project would reconfigure the Public Safety Building (PSB) parking lot to accommodate up to 50 public parking spaces, public restrooms, and electric vehicle charging as a required condition of approval to develop housing on the project site. The public parking spaces would be configured into a “Lot A” and “Lot B” located on each side of the PSB, as shown on Figure 2.

Approximate Unit Count and Size

Based on site considerations, construction costs and the current financing environment, EAH estimates the number of units required to build on the property is approximately 45 units. This is consistent with the Exclusive Negotiating Agreement (ENA) established with EAH to evaluate the feasibility of building 40-50 affordable rental units on the site. The Draft EIR will analyze 50 units as a conservative measure to evaluate the maximum potential number of anticipated units. The affordable bedroom mix is anticipated to be as follows: 39% 1-bedroom units (approximately 575 square feet); 36% 2-bedrooms (approximately 836 square feet); 25% 3-bedrooms (approximately 1,025 square feet). There is also one dedicated 3-bedroom unit to house the property manager on site.

Residential Parking

The proposed project would provide at least 65 residential parking spaces in a podium style parking garage underneath the proposed housing units. Building affordable housing allows for reduced parking standards through the State Density Bonus Law. Recent changes to the law allow for further reductions; however, the proposed project design provides at least 1 residential parking space per unit. Based on the maximum unit count of 50 units, the proposed parking ratio is approximately 1.3 parking spaces per unit. Visitor parking is not required based on state requirements but is proposed as part of the reconfigured PSB parking lot in association with general public parking.

Entry to Residential Parking Garage

The proposed entry to the residential parking garage connects to the proposed public parking Lot B to reduce curb cuts along Hamilton Drive.

Visitor Parking and Parking Management

The City is recommending creating time-limited parking restrictions (e.g., 4-hour limit) for the public parking spaces in Parking Lots A and B depicted in Figure 2 that are adjacent to the proposed housing

site on Hamilton Drive. This will allow for the turnover of parking regardless of use and will address concerns about extended residential and/or visitor parking in the public parking area.

Building Footprint, Massing and Location

The proposed building footprint for the housing development is located on flat and level areas of the site in order to minimize the amount of necessary grading. The maximum anticipated gross building area is approximately 66,000 square feet.

Conceptual design refinements are currently underway and are expected to be completed by the time the DEIR is circulated for public review. At this time, preliminary building designs include a ground floor parking garage (up to 22,000 square feet), with a 3-story podium building (up to 29,000 square feet) that includes residential area (up to 40,000 square feet); common area (up to 2,500 square feet); office space (up to 1,300 square feet); and circulation area (up to 16,500 square feet). The total residential Floor Area anticipated as part of the project is .80 and the maximum height of the structure would be 58 feet at its highest peak, depending on final roof design and podium height. Private outdoor spaces for residents include a front courtyard area, approximately 6,000 square feet in size.

Tree Removal and Replacement

Based upon current site plans, approximately 40 of the trees on-site would be removed in order to construct the proposed project. Approximately 20 of these trees are coast live oaks, having an average size of 13.6 inches diameter at breast height and an average height of 19 feet. The project will be required to obtain a permit to remove trees from the site and comply with all applicable tree replacement or in-lieu fee mitigation requirements.

Project Approvals

The final project application to the City will include:

- Proposed site plans and building designs for Design Review.
- A proposed tentative parcel map to create a separate parcel for the northern portion of 1 Hamilton.
- A request to rezone the newly created parcel from O-A (Open Area) to RM-B (Multi-family Residential-Bayfront) to permit multi-family residential on the property.
- Tree removal permit.
- A long-term ground lease or similar document allowing EAH to construct and manage housing on the site.

RELATIONSHIP TO HOUSING ELEMENT DSEIR: The City is also analyzing the concept of housing on the 1 Hamilton site on a programmatic level in the Draft Subsequent Housing Element EIR (DSEIR). The Housing Element DSEIR is a “program EIR” which analyzes the impacts of the policies laid out in the Housing Element on the City of Mill Valley as a whole, pursuant to CEQA. The Housing Element DSEIR will not include a site-specific, project-level analysis of the proposed 1 Hamilton development or any other site described in the sites inventory, nor is it required to include such an analysis.

Notice of Preparation/Notice of Scoping Meeting
One Hamilton Affordable Housing Project
City of Mill Valley
December 21, 2022

This NOP is for a project-level DEIR that will specifically evaluate the direct and indirect impacts of the proposed 1 Hamilton project. It is anticipated that this project-level DEIR will be circulated for public comment after publication of the Housing Element DSEIR.

PROBABLE ENVIRONMENTAL EFFECTS: An Initial Study providing more detail regarding the anticipated scope of the DEIR will be released on the project website (www.cityofmillvalley.org/hamilton) in January during the scoping period. It is anticipated that the proposed project may have potentially significant environmental effects in the following areas: Aesthetics; Biological Resources; Cultural Resources; Energy; Geology and Soils; Hazards and Hazardous Materials; Land Use and Planning; Noise; Population and Housing; Public Services; Recreation; Transportation; Tribal Cultural Resources; and Utilities and Service Systems. The project is not anticipated to result in potentially significant environmental effects in the following areas: Agriculture and Forestry Resources; Air Quality; Greenhouse Gas Emissions; Hydrology and Water Quality; Mineral Resources; and Wildfire. The level of analysis for these subject areas may be refined or additional subject areas may be analyzed based on responses to this NOP, the Initial Study, and/or refinements to the proposed project. More detail concerning the proposed DEIR analyses is presented below.

Aesthetics

The aesthetics discussion and analysis in the DEIR will evaluate the visual impact of the project with regard to building height, bulk/mass, and viewshed alteration/obstruction. The project will be evaluated for consistency with applicable City design guidelines and other policies related to the protection of views from public corridors.

Biological Resources

This section of the DEIR will evaluate the project's impact on trees, wetlands, and other vegetation at the project site, as well as the project's potential to impact special status plant and wildlife species. A discussion of the potential relevant regulatory agency approvals necessary for project implementation will also be included.

Cultural Resources

This section of the DEIR will evaluate the project's potential to disturb archaeological resources, both known and unknown, at or within the vicinity of the project site.

Energy

The proposed project would create new development capacity that would result in increased energy demand. The three primary sources of energy demand would likely be fuel use in vehicles, and electricity and natural gas use in buildings. The net change in demand for these types of energy will be evaluated. Because the threshold of significance for energy impacts is qualitative, the impact discussion and analysis will also be qualitative.

Geology and Soils

The project site is located on a sloping hillside. This section of the DEIR will evaluate the potential for the project to exacerbate the effects of geologic hazards, such as landslides, soil instability, and seismic ground shaking/surface rupture. In addition, the presence of naturally occurring asbestos on-site will be evaluated and relevant mitigation identified as necessary.

Hazards and Hazardous Materials

The project site is located adjacent to the City of Mill Valley's PSB, which includes fire and police stations and is a staging location for emergency response. This section of the DEIR will evaluate the project's potential impact on adopted emergency response and evacuation plans.

Land Use and Planning

This section of the DEIR will evaluate the project's consistency with adopted land use policies that are applicable to the project and project site. A discussion of project conformance with the City's current Housing Element and draft Housing Element Update will be included.

Noise

This section will address whether the proposed project would result in an increase in noise levels during both construction and future operation in violation of City policies and applicable municipal regulations.

Population and Housing

The DEIR will evaluate the impact of the project on population and housing within the City.

Public Services

This section of the DEIR will address whether the proposed project would require new or expanded public services facilities, such as fire/police protection, schools, parks, and libraries, and whether those facilities would result in significant environmental impacts.

Recreation

This section of the DEIR will address whether the proposed project would require new or expanded recreational facilities and whether the project would adversely affect existing parks and recreational facilities within the City.

Transportation

This section of the DEIR will address the vehicle miles traveled (VMT) impacts of the project as well as the project's consistency with applicable General Plan policies pertaining to City roadway performance criteria, safety, and multi-modal accessibility (pedestrian circulation, bicycle routes).

Notice of Preparation/Notice of Scoping Meeting
One Hamilton Affordable Housing Project
City of Mill Valley
December 21, 2022

Tribal Cultural Resources

This section of the DEIR will describe the City's AB 52 tribal consultation process for the project and evaluate whether the project may result in an adverse change on the significance of a tribal cultural resource.

Utilities and Service Systems

This section will address possible physical changes associated with expanded water, wastewater treatment, stormwater drainage, electric power, natural gas, or telecommunication services at the project site. The ability of existing water supplies, water/wastewater treatment capacity, and solid waste disposal systems to serve the project will be evaluated. Multiple relevant agencies and utilities will be consulted in the preparation of this analysis.



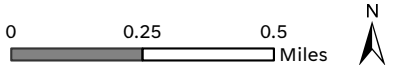
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Sources National Geographic, WRA | Prepared By: kobylarz, 11/11/2022

Figure 1. Regional and Vicinity Map



1 Hamilton Drive
Mill Valley, California



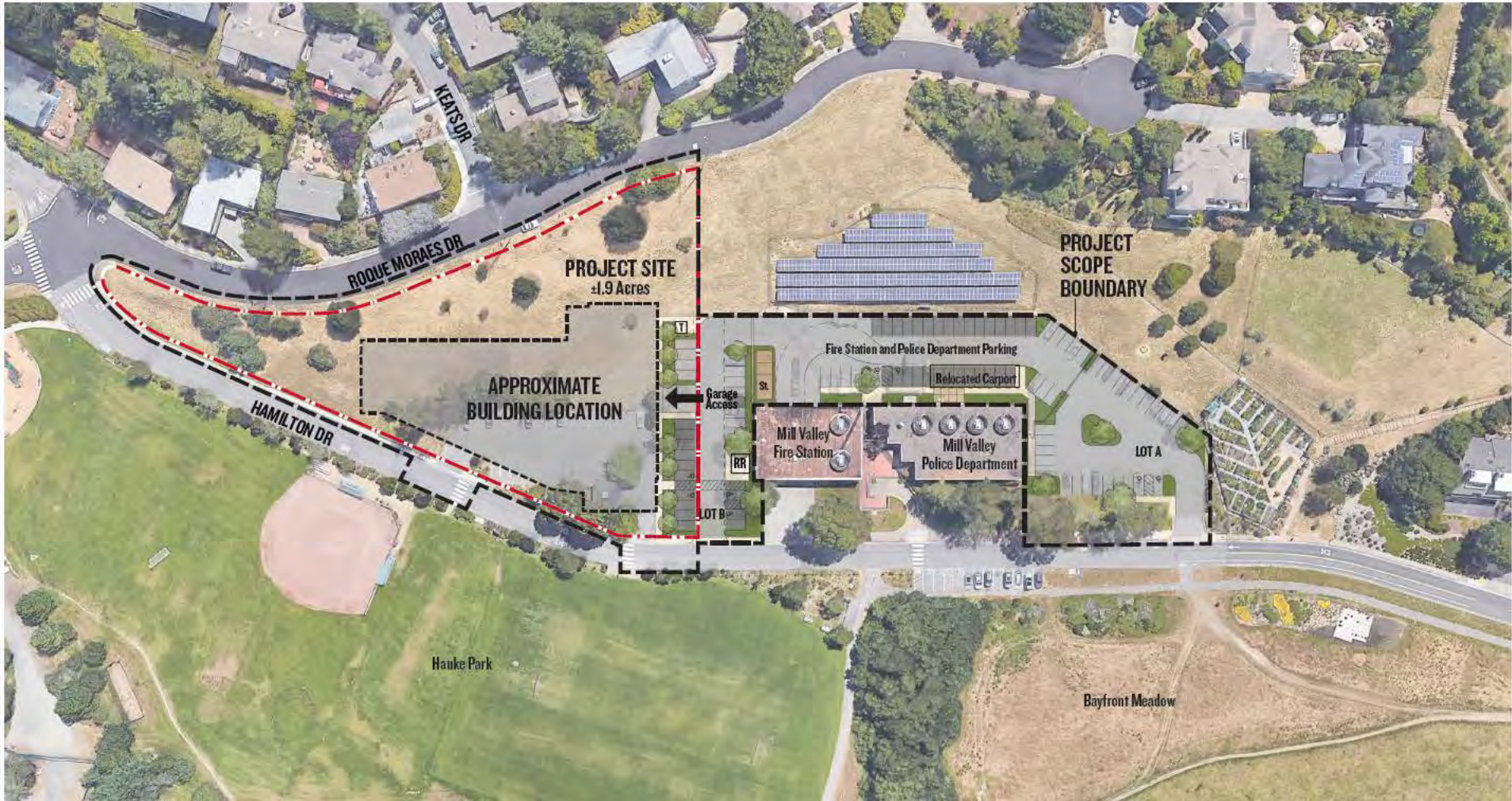


Figure 2. Project Site Plan

1 Hamilton Affordable Housing Development Project
Mill Valley, California



EXHIBIT P

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
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www.hcd.ca.gov



October 2, 2019

MEMORANDUM FOR: Planning Directors and Interested Parties

FROM: Zachary Olmstead, Deputy Director
Division of Housing Policy Development

SUBJECT: **No Net Loss Law**
Government Code Section 65863

The purpose of Government Code Section 65863 (No Net Loss Law), is to ensure development opportunities remain available throughout the planning period to accommodate a jurisdiction's regional housing need allocation (RHNA), especially for lower- and moderate- income households. This memorandum provides guidance on the implementation of Government Code section 65863, including amendments pursuant to Chapter 367, Statutes of 2017 (Senate Bill 166).

Summary of No Net Loss Requirements

- A jurisdiction must maintain adequate sites to accommodate its remaining unmet RHNA by each income category at all times throughout the entire planning period.
- A jurisdiction may not take any action to reduce a parcel's residential density unless it makes findings that the remaining sites identified in its Housing Element sites inventory can accommodate the jurisdiction's remaining unmet RHNA by each income category, or if it identifies additional sites so that there is no net loss of residential unit capacity.
- If a jurisdiction approves a development of a parcel identified in its Housing Element sites inventory with fewer units than shown in the Housing Element, it must either make findings that the Housing Element's remaining sites have sufficient capacity to accommodate the remaining unmet RHNA by each income level, or identify and make available sufficient sites to accommodate the remaining unmet RHNA for each income category.
- A jurisdiction may not disapprove a housing project on the basis that approval of the development would trigger the identification or zoning of additional adequate sites to accommodate the remaining RHNA.

If you have any questions, or would like additional information or technical assistance, please contact the Division of Housing Policy Development at (916) 263-2911.

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Background

Since 1969, California has required that all jurisdictions (cities and counties) adequately plan to meet the housing needs of everyone in the community. California's local governments meet this requirement by adopting Housing Elements as part of their general plan. To demonstrate the availability of land to accommodate future housing development, a Housing Element is required to include an inventory of housing sites, or "adequate sites", with sufficient capacity by income level to accommodate a jurisdiction's RHNA by income category. (Gov. Code, § 65583, subd. (a)(3).)

Example: RHNA By Income Category	
Very Low Income	300 Units
Low Income	260 Units
Moderate Income	250 Units
Above Moderate Income	650 Units
Total RHNA	1,460 Units

To expand the supply of housing, including affordable housing, and to ensure jurisdictions do not take actions to reduce the potential capacity for new development, the Legislature adopted the No Net Loss Law in 2002. The No Net Loss Law ensures that a jurisdiction maintains a sufficient supply of adequate sites in the Housing Element sites inventory throughout the RHNA planning period. This law was amended by Chapter 367, Statutes of 2017 (Senate Bill 166), which requires sufficient adequate sites to be available at all times to meet a jurisdiction's remaining unmet housing needs for each income category. To comply with the No Net Loss Law, as jurisdictions make decisions regarding zoning and land use, or development occurs, jurisdictions must assess their ability to accommodate new housing on the remaining sites in their Housing Element site inventories. A jurisdiction must add adequate sites if land use decisions or development results in a shortfall of sufficient sites to accommodate its remaining housing need for each income category.

What is an adequate site?

Pursuant to Government Code section 65583.2, an adequate site must be available and suitable to accommodate development. Factors include:

- Have infrastructure available or planned to support a housing development.
- Be available to be developed in the planning period. For non-vacant sites, this means that the existing use is not an impediment to additional residential development.
- Be appropriately sized (larger than half an acre and smaller than 10 acres) to accommodate lower income housing.
- For sites accommodating lower income households, the sites must have appropriate zoning as demonstrated by analysis, or by meeting prescribed densities.
- Identify the number of units (capacity) that can be realistically accommodated on the site.

For more information, visit the Department's [Housing Element Building Block Webpage](#).

No Net Loss Law and Charter Cities

Pursuant to Chapter 856, Statutes of 2018 (Senate Bill 1333), the No Net Loss Law applies to all jurisdictions, including charter cities. This requirement was effective on January 1, 2019, and applies to the current and subsequent Housing Element planning periods.

Responsibilities and Requirements Under No Net Loss Law

No Net Loss Law can be divided into three statutory areas of responsibility for jurisdictions to consider when making land-use decisions related to sites and capacity identified in the Housing Element to accommodate the RHNA:

- Maintaining Sites (Government Code section 65863(a))
- Jurisdiction Actions Relating to Zoning (Government Code section 65863(b)(1))
- Approval of Development at a Lower Density (Government Code section 65863(b)(2))

Maintaining Sites

A jurisdiction must ensure their Housing Element sites inventory continues to have capacity at all times to accommodate the RHNA by income group throughout the planning period. This requires a careful accounting of development on the sites identified in the Housing Element and residential projects throughout the jurisdiction. Action by the jurisdiction to modify development standards in a way that would result in a lower density, limit or stop development on sites identified in the inventory, exchange sites in the inventory, or downzone sites would trigger No Net Loss unless the jurisdiction can make the required findings or identify alternative sites.

If, at any time during the planning period, the jurisdiction finds that there is a shortfall of sites to accommodate its remaining RHNA, the jurisdiction must take immediate action to correct the shortfall by amending its Housing Element sites inventory to either include sites previously unidentified with capacity to accommodate the shortfall, or sites that have been rezoned to correct for the shortfall. Failure to do so constitutes a violation of the No Net Loss law. Please note, Housing Element law requires the element to identify sufficient adequate sites to accommodate the RHNA for all income levels. However, many jurisdictions choose to include sites in their Housing Element inventory above and beyond what is required to accommodate RHNA, including sites that are not considered suitable to accommodate RHNA for lower-income households (e.g., sites less than one-half acre or larger than 10 acres). When making findings that the Housing Element continues to accommodate the remaining RHNA, jurisdictions should only consider capacity of sites in the inventory that was determined adequate. Jurisdictions should not consider inadequate or unsuitable sites as adequate or available to accommodate RHNA for the purposes of No Net Loss Law.

The lack of sites to accommodate the jurisdiction's RHNA represents a fundamental alteration to the jurisdiction's ability to meet Housing Element Law. Therefore, the amended inventory must (1) demonstrate sites to address the shortfall meet the adequate site requirements of Housing Element Law, pursuant to Government Code section 65585(b), and (2) be submitted to the California Department of Housing and Community Development (Department) for review to ensure compliance with state Housing Element Law. (Cal. Gov't Code §65580 et seq.) (Housing Element Law).

Helpful Hints



To ensure that sufficient capacity exists in the Housing Element to accommodate the RHNA throughout the planning period, create a buffer in the Housing Element inventory of at least 15 to 30 percent more capacity than required, especially for capacity to accommodate the lower-income RHNA. Jurisdictions can also create a buffer by projecting capacity less than what is allowed from the maximum density to allow for some reductions in density, or rezoning additional sites above what is needed to accommodate the RHNA.



Jurisdictions should keep an updated accounting of development on the sites in the inventory and throughout the jurisdiction to ascertain the impact that development has on accommodating the remaining RHNA. This can be done in any number of ways, but an example of one methodology can be found in the Resources section below, in addition to a program committing to such an update in the Housing Element.



Decisions to Carefully Consider – Development Limitations

No Net Loss Law explicitly states that at no time may a jurisdiction take an action to permit or cause the sites inventory to be insufficient to meet its remaining RHNA without triggering the statute. The only exception is the 180-day timeframe for replacing capacity from the approval of a development at a lower density that results in a shortfall of sites to accommodate the RHNA (see page 8.) Therefore, a jurisdiction should carefully consider the introduction or adoption of development limitations (e.g., development standard limitations, policies or ordinances that affect the development potential of a site, development moratorium). A jurisdiction should carefully examine the effect of these types of actions on development capacity and consult with their legal counsel prior to approval.

Zoning and Development Standard Modifications – Changes in development standards may affect the potential capacity of a site. For example, an increase in parking requirements, reductions in height limitations or lot coverage, new design requirements, or modifications to set-back requirements, all impact the buildable area of a site and could reduce the housing unit potential. Zoning and development standard modifications should be carefully considered to ensure that they do not impact the potential capacity of a site in a jurisdiction's inventory.

Growth Control Ordinances – If a jurisdiction considers adoption of an ordinance or other measure that limits growth or development potential through unit or population caps, or limits where development can occur through the use of buffers, or by phasing development, it must consider the statewide shortage of housing and the requirements of No Net Loss Law. The adoption of one or more of these types of ordinances could prevent a jurisdiction from accommodating its RHNA either by affecting a site in the inventory, or by limiting development as a whole. Proposed growth limiting ordinances should be prudently drafted so as not to impact the accommodation of the remaining RHNA throughout the planning period. Otherwise, implementation of the ordinance may violate No Net Loss Law.

How do growth control ordinances relate to the RHNA?

Government Code section 65302.8 requires findings be made to ensure that a jurisdiction can continue to fulfill requirements of Housing Element Law, including the accommodation of the RHNA. Findings include a description of the following:

- The jurisdiction's RHNA.
- The specific housing programs and activities being undertaken by the jurisdiction to achieve RHNA objectives.
- How the public health, safety, and welfare would be promoted.
- Fiscal and environmental resources available to the local jurisdiction.

Moratoriums – Pursuant to Government Code section 65858, jurisdictions may adopt a 45-day interim ordinance prohibiting any uses, including housing, that may be in conflict with a contemplated general plan, specific plan, or zoning proposal. This applies to a general plan, specific plan, or zoning proposal that the legislative body, planning commission or the planning department is considering, studying, or intends to study within a reasonable time. While the ordinance may be extended for other uses, a moratorium on the development of multifamily housing cannot be extended unless specific findings are made. In addition, regardless of its duration, a moratorium that affects sites in the Housing Element inventory may be in conflict with the No Net Loss Law, as the law requires a jurisdiction to maintain capacity at all times to accommodate the RHNA. A jurisdiction should consult counsel prior to enacting a moratorium on housing.

Jurisdiction Actions

Jurisdiction actions include downzoning or other actions taken by a jurisdiction to reduce a parcel's allowable residential density. This can be done through a change in zoning or an imposition of density limitations that preclude that ability to achieve densities assumed in the Housing Element sites inventory. If the parcel to be downzoned is identified in the Housing Element, a jurisdiction must make written findings, supported by substantial evidence, that:

- The reduction is consistent with the jurisdiction's adopted general plan, including the Housing Element. For example, this finding could be made if downzone does not change the land use and zoning designation.
- The remaining sites identified in the Housing Element are adequate to meet the requirements of Section 65583.2 and to accommodate the jurisdiction's remaining share of the RHNA for the planning period. The finding must include a quantification of the remaining unmet need for the jurisdiction's RHNA at each income level and the remaining capacity of sites identified in the Housing Element to accommodate that need by income level.

If a jurisdiction cannot make these findings, it may take action to reduce the residential density of a parcel only if it identifies or rezones additional sufficient adequate sites with an equal or greater residential density in the jurisdiction so that there is sufficient residential unit capacity appropriate to accommodate the RHNA by income level. Actions to identify additional sites or rezone must occur before or concurrently with any action or approval to reduce a parcel's density. Sites identified or rezoned must meet the following criteria:

- Must be considered an adequate site pursuant to the requirements of Government Code section 65583.2.
- If the capacity to be replaced was on a site that was zoned by-right pursuant to Government Code section 65863.2 (h) and (i), then the replacement site must also satisfy those requirements.

As these actions taken by the jurisdiction represent a fundamental alteration to the Housing Element, the Housing Element sites inventory must then be amended and, pursuant to Government Code section 65585(b), be submitted to the Department for review to ensure the compliance with state Housing Element Law, prior to, or concurrently with, any action or approval to reduce a parcel's density.

Helpful Hints



If unsure as to whether new sites identified or rezoned will meet Housing Element adequate sites requirements, contact the Department's Housing Policy Division for a Housing Element reviewer to provide technical guidance.



Rezoned sites may include sites previously identified in the sites inventory that are rezoned to a higher density zoning designation than identified in the sites inventory.



Decisions to Carefully Consider – Changes to Zoning

General Plan Updates – Sometimes land use inconsistencies arise during a general plan update when undertaken separately from the Housing Element. A jurisdiction updating the land use element of the general plan must consider the sites inventory of the Housing Element. If sites identified in the Housing Element site's inventory will be downzoned as part of the general plan update, other sites must be identified or rezoned to accommodate the resulting shortfall of capacity. Under state law, the land use element must be consistent with the Housing Element, and if the land use element does not permit the density in the Housing Element, the Housing Element or land use element must be amended to achieve consistency.

Approval of Development at a Lower Density

A jurisdiction must make written findings or identify additional site capacity if a development is allowed with a lower density than what was assumed in the sites inventory of the Housing Element. A lower residential density sometimes results from a jurisdiction either approving a development with residential units less than what was assumed for the site or affordable to a different income category than the site was assumed to accommodate. Lower residential density could also result from another use, such as commercial being approved on a site identified in the inventory for housing regardless of what the zoning allows.

What constitutes a “lower-density”?

For jurisdictions with an adopted Housing Element found in compliance with Housing Element Law:

- Fewer units will be developed on the site than projected in the sites inventory (capacity) or program of the Housing Element.

For jurisdictions out of compliance with Housing Element Law:

- A density that is lower than 80 percent of the maximum allowable residential density for that parcel, or 80 percent of the maximum density required by Government Code section 65583.2(c)(3), whichever is greater. For more information on default densities, please see the [Department’s Building Block website](#).

At the time of approval, the following written findings must be made, and supported by substantial evidence in the record:

- Remaining sites identified in the Housing Element are adequate to meet the jurisdiction’s remaining RHNA for the planning period by income category.
- The findings should include a quantification of the remaining unmet need for the jurisdiction’s RHNA at each income level and the remaining capacity of sites identified in the Housing Element, to accommodate that need by income level.

If the approval of a development at a lower residential density results in the remaining sites capacity becoming inadequate to accommodate the RHNA by income category, a jurisdiction has up to 180 days from the approval to identify, or rezone, “sufficient additional, adequate, and available sites” to accommodate the remaining RHNA for each income category. Sites identified or rezoned must meet the following criteria:

- Must be considered an adequate site pursuant to the requirements of Government Code section 65583.2.
- If the capacity to be replaced was on a site that was zoned by-right pursuant to Government Code section 65863.2 (h) and (i), then the replacement site must also satisfy those requirements.

A jurisdiction must report in the jurisdiction’s Annual Progress Report (APR) any sites that have been identified or rezoned to accommodate the resulting shortfall due to the approval of a development at a lower density. APRs are required to be sent to the Department by all jurisdictions by April 1, pursuant to Government Code section 65400. For more information on completing this section of the APR, see the [Department Webpage](#) and select “Annual Progress Reports.”

Who makes the findings?

The body that “takes action or approves” the jurisdiction action to reduce a parcel’s density or approve a development at a lower density would make the findings. For example, if a zoning administrator approves a development at a lower density, as part of the approval, the administrator would include the appropriate findings. For instance, if the development approval is ministerial under the Streamlined Ministerial Approval Process (SB 35, 2017), the findings should be included as part of the plan review and approval. If the City Council is approving a zone change, it must include the findings in the resolution adopting the zone change.

Helpful Hints



The jurisdiction has only 180 days to complete any rezoning needed to accommodate a shortfall of adequate sites to accommodate the RHNA due to the approval of a development at a lower density. To ensure the rezones can be completed on time, it is recommended that the jurisdiction begin the rezone process early in the development application approval process.



Jurisdictions may post the sites inventory on their website with the capacity estimates from the Housing Element for developers to reference when considering projects on sites identified in the Housing Element.



Decisions to Carefully Consider – Development Approval

Jurisdictions out of compliance with state Housing Element Law - No Net Loss Law provisions related to approving a lower density development applies to all jurisdictions regardless of Housing Element compliance status. A jurisdiction that has not adopted a Housing Element within 90 days of the due date, or has a Housing Element out of compliance, must still comply with No Net Loss requirements, even though they may not have a Housing Element Law compliant sites inventory. If the jurisdiction does not have a current sites inventory to compare the project unit count, the determination of lower density would be required for all new housing development.

Denying an application - A jurisdiction may not deny a housing development application on the basis that approval of the development would trigger the identification, or zoning, of additional adequate sites to accommodate the remaining RHNA.

However, since the term “housing development” is used in the statute, it does not prevent a jurisdiction from denying a non-residential development on an identified site if it would trigger the identification, or rezoning, of additional adequate sites.

Requests for developer assistance with complying with No Net Loss Law – While the jurisdiction is solely responsible for compliance with No Net Loss Law, under limited circumstances the statute does allow a jurisdiction the option to require the applicant to assist the jurisdiction in meeting these provisions. Specifically, requests can be made if an applicant’s initial development application requests a residential density that results in the remaining sites in the sites inventory being insufficient to accommodate it remaining RHNA. A jurisdiction cannot require developer assistance if the subsequent approval process results in a reduction of units.

Types of assistance required could include help with the identification of additional sites for potential rezones or community outreach. However, requests should be balanced with the potential impact on the overall viability of the project. Overly burdensome requirements may make a development project financially infeasible and could, in effect, constitute a denial of the project or may violate the Housing Accountability Act (Government Code section 65589.5.)

California Environment Quality Act (CEQA)

The act of identifying or making available additional adequate sites, in and of itself, to comply with the statutory requirements to accommodate the remaining unmet RHNA, does not trigger a CEQA review. However, if making available additional adequate sites requires an increase in density, a rezone, or other actions that constitute a “project” under CEQA, a CEQA analysis would be required.

When approving a site at a lower residential density, the possibility of a CEQA analysis should be considered since the CEQA review must be completed within the 180-day timeline to identify and rezone additional, adequate sites to accommodate the remaining RHNA by income category. The failure to complete a timely CEQA analysis would render the additional sites inadequate to accommodate the remaining unmet RHNA. This would be a violation of No Net Loss Law and could also render the Housing Element out of compliance with state Housing Element Law.

Failure to Comply with No Net Loss Law

In addition to violating of the No Net Loss Law, the failure to ensure that there are sufficient adequate sites to accommodate the unmet RHNA by income category throughout the entire planning period is also a violation of the Housing Element Law. This is because the Housing Element will also fail to identify adequate sites to accommodate the RHNA by income category. As a result, pursuant to Government Code section 65585 (i) and (j), the Department may revoke a jurisdiction’s Housing Element compliance and/or refer the violation to the Attorney General. In addition, a third party may file an action to challenge the jurisdiction in court.

Resources

Identifying Your Remaining RHNA and Maintaining Capacity

A jurisdiction should implement an ongoing, project-by-project evaluation of each approved residential development to ensure that sufficient adequate site capacity is available to accommodate the remaining RHNA by income category throughout the planning period. This evaluation could also be used to complete the APR required to be sent to the Department by April 1 of each year.

The evaluation procedure could utilize a spreadsheet or tool, such as the No Net Loss Capacity Calculation Tool below, to subtract the number of residential units in each approved development from the RHNA to determine the remaining unmet RHNA by income category. The total number of approved units by income category could then be subtracted from the Housing Element's sites inventory site capacity by income category to determine the remaining site capacity.

No Net Loss Capacity Calculation Tool Example

Step 1: Determine remaining RHNA

- Identify the reported RHNA from permitted projects as reported in the Housing Element Annual Progress Report (Table B of the Annual Progress Report). If the jurisdiction has not yet completed those reports for the planning period, please go to the [Departments Webpage](#) and select "Annual Progress Reports."
- Identify any projects from the planning period that have received their approvals/entitlements and are anticipated to pull their building permits.
- Identify the number of units permitted or that have been approved/entitled in the current reporting year (including accessory dwelling units and other alternatives under Government Code section 65583.1.)
- Calculate the remaining RHNA to date.
- If determining potential No Net Loss capacity of a proposed development, subtract the units from the proposed development to get the remaining RHNA resulting from the proposed project.

Example:

City A has an application for a market rate project for 75 high-end multifamily apartments. This project is being proposed on a site identified in the inventory as having the ability to accommodate a portion of its very low- and low-income RHNA.

Table A: Remaining RHNA

	Very Low-Income	Low-Income	Moderate-Income	Above Moderate-Income
RHNA	300	260	250	650
Year	Reported Progress			
2014	-5	-15	-2	-50
2015			-5	-100
2016	-25	-25	-20	-60
2017				-250
2018	-15	-60	-25	-75
Project Name/APN	Projects approved/entitled anticipated to pull permits			
Siempre Verde 001-256-2154, -57				-4
Project Name/APN	Current Year Progress			
Hightop Condos 001-256-5574		-7		-75
Sunflower Apt 001-256-4475	-25	-50		
	Remaining RHNA To Date			
	230	103	198	36
Project Name/APN	Proposed Project RHNA			
Magnolia Luxury Apt 001-256-4472				-75
	Remaining RHNA with Proposed Development			
	230	103	198	0

Step 2: Determine remaining capacity from the Housing Element sites inventory*

- Identify the total site capacity from the Housing Element by income category.
- List the capacity estimated in the Housing Element for an accessory dwelling unit (ADU), or other alternative site capacity methodology.
- List the capacity by income category as identified in the Housing Element inventory for each site identified in the inventory that has an approved/entitled or permitted project in the planning period (identified in the previous table).

Some projects will be developed on sites not identified in the Housing Element. These sites should not be included in the table below, as their capacity was not anticipated to accommodate a portion of the RHNA. They are included in the previous calculation to determine the remaining RHNA. As a result, the additional capacity from these projects can help mitigate loss in capacity from other projects, depending on their affordability.

- For each site rezoned that was identified in the Housing Element (but does not include a project per above) identify the adjusted capacity by income as result of the zone change.
- Calculate the remaining available capacity.
- Subtract the capacity identified in the inventory for the proposed development or rezone to calculate the remaining capacity in the sites inventory by income level.

Example Continued:

Table B: Remaining Capacity*

	Very Low-Income	Low-Income	Moderate-Income	Above Moderate-Income
Capacity from sites	325	370	260	800
Capacity from ADU or other alternative site capacity methodology	15	10		
Project Name/APN	Sites Inventory RHNA from Approved/Entitled or Permitted Project			
001-256-4758- 868				-160
001-256-5631	-25	-25		
001-256-5270 - 330				-60
Dell Webb Master Plan				-250
002-40526-7785	-50	-75		
002 -526 -7788			-15	
001-256-5575	-25	-155		
APN	Capacity changes due to rezone			
003-578-7584 (downzone to open space)			-30	
	Remaining Sites Inventory Capacity to Date			
	240	125	215	330
APN	Sites Inventory Capacity from Development or Rezone			
Magnolia Luxury Apt 001-256-4472		-75		
	Remaining Sites Inventory Capacity with Proposed Development or Rezone			
	240	50	215	330

* Note: For most 5th cycle Housing Elements, jurisdictions will need to make assumptions on capacity by income category based on density and the analysis provided in the Housing Element, since the 5th cycle sites are not required to be identified by income category. However, for the 6th and subsequent cycles, sites will be required to identify capacity by income level. Some jurisdictions have chosen to combine low and very low- income RHNA for purposes of calculating site capacity, which should be reflected in supporting charts.

Step 3: Compare remaining RHNA with remaining sites inventory to determine if additional capacity will be needed.

- Input the remaining RHNA from Table A. (If this calculation is due to a proposed development, enter the remaining RHNA from the line “Remaining RHNA with Proposed Development”.)
- Input the remaining sites inventory capacity with a proposed development or rezone.
- Calculate the No Net Loss potential by subtracting the available capacity from the remaining RHNA. If the result is negative, there is a net loss in capacity, and the difference must be accommodated pursuant to No Net Loss Law.

Example:

Approval of the Magnolia Luxury Apartments would result in a net capacity loss of 53 units. City A would have to rezone or identify additional capacity for at least 53 low-income units.

Table C: No Net Loss Calculation

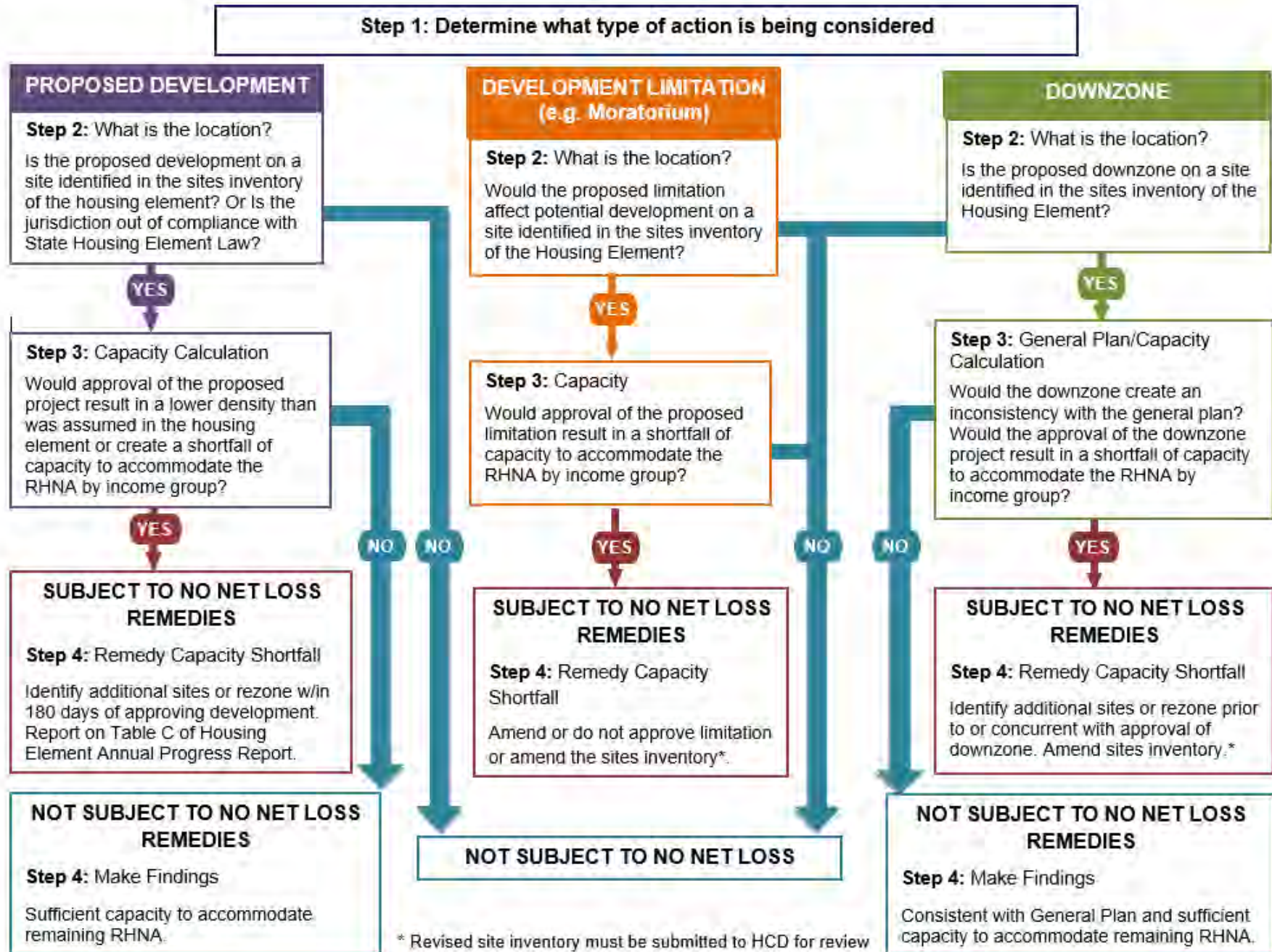
	Very Low-Income	Low-Income	Moderate-Income	Above Moderate-Income
Remaining Capacity (Table B)	240	50	215	330
Remaining RHNA (Table A)	230	103	198	0
No Net Loss Calculation	+10	-53	+17	+330

Please note: There may be many unique circumstances that do not fall neatly into the above example. This calculation tool is meant to be a framework to help jurisdictions think about the best way to identify potential No Net Loss situations.

No Net Loss Law Decision Flow Chart

The following flow chart is intended to help visualize how to determine if a project or a decision would be subject to No Net Loss Law and its remedies. Jurisdictions should consult with legal counsel prior to final determination on whether a project or decision triggers No Net Loss requirements.

No Net Loss Law Decision Flow Chart



Sample Housing Element Program

Sample Program: No Net Loss of Residential Capacity to Accommodate the RHNA by Income Category (Government Code section 65863)

To ensure sufficient residential capacity is maintained to accommodate the RHNA for each income category, within one year of adoption of the Housing Element, develop and implement a formal, ongoing (project-by-project) evaluation procedure pursuant to Government Code section 65863. The evaluation procedure will track the number of extremely low-, very low-, low-, moderate-, and above moderate-income units constructed to calculate the remaining unmet RHNA. The evaluation procedure will also track the number of units built on the identified sites to determine the remaining site capacity by income category and will be updated continuously as developments are approved.

No action can be taken to reduce the density or capacity of a site (e.g., downzone, moratorium), unless other additional adequate sites are identified prior to reducing site density or capacity.

If a development is being approved on an identified site at a lower density than what was assumed for that site identified in the Housing Element, additional adequate sites must be made available within 180 days of approving the development. A program to identify the replacement sites, and take the necessary actions to make the site(s) available and ensure they are adequate sites, will be adopted prior to, or at the time of, the approval of the development.

Time Frame: Within six months of adoption of the Housing Element, develop and implement a formal ongoing evaluation procedure pursuant to Government Code section 65863.

Subsequent to adopting an evaluation procedure, monitor rezones and development of residential units, and update Housing Element sites inventory. Housing Element sites inventory is posted on the Planning Department's website and will be updated at least once a year.

At least annually, update the sites inventory in conjunction with Housing Element Annual Reports pursuant to Government Code section 65400, as necessary.

Responsibility: Community Development Department

Funding Source: General Fund

No Net Loss Law Statute (Government Code Section 65863)

65863.

(a) Each city, county, or city and county shall ensure that its housing element inventory described in paragraph (3) of subdivision (a) of Section 65583 or its housing element program to make sites available pursuant to paragraph (1) of subdivision (c) of Section 65583 can accommodate, at all times throughout the planning period, its remaining unmet share of the regional housing need allocated pursuant to Section 65584, except as provided in paragraph (2) of subdivision (c). At no time, except as provided in paragraph (2) of subdivision (c), shall a city, county, or city and county by administrative, quasi-judicial, legislative, or other action permit or cause its inventory of sites identified in the housing element to be insufficient to meet its remaining unmet share of the regional housing need for lower and moderate-income households.

(b) (1) No city, county, or city and county shall, by administrative, quasi-judicial, legislative, or other action, reduce, or require or permit the reduction of, the residential density for any parcel to, or allow development of any parcel at, a lower residential density, as defined in paragraphs (1) and (2) of subdivision (g), unless the city, county, or city and county makes written findings supported by substantial evidence of both of the following:

(A) The reduction is consistent with the adopted general plan, including the housing element.

(B) The remaining sites identified in the housing element are adequate to meet the requirements of Section 65583.2 and to accommodate the jurisdiction's share of the regional housing need pursuant to Section 65584. The finding shall include a quantification of the remaining unmet need for the jurisdiction's share of the regional housing need at each income level and the remaining capacity of sites identified in the housing element to accommodate that need by income level.

(2) If a city, county, or city and county, by administrative, quasi-judicial, legislative, or other action, allows development of any parcel with fewer units by income category than identified in the jurisdiction's housing element for that parcel, the city, county, or city and county shall make a written finding supported by substantial evidence as to whether or not remaining sites identified in the housing element are adequate to meet the requirements of Section 65583.2 and to accommodate the jurisdiction's share of the regional housing need pursuant to Section 65584. The finding shall include a quantification of the remaining unmet need for the jurisdiction's share of the regional housing need at each income level and the remaining capacity of sites identified in the housing element to accommodate that need by income level.

(c) (1) If a reduction in residential density for any parcel would result in the remaining sites in the housing element not being adequate to meet the requirements of Section 65583.2 and to accommodate the jurisdiction's share of the regional housing need pursuant to Section 65584, the jurisdiction may reduce the density on that parcel if it identifies sufficient additional, adequate, and available sites with an equal or greater residential density in the jurisdiction so that there is no net loss of residential unit capacity.

(2) If the approval of a development project results in fewer units by income category than identified in the jurisdiction's housing element for that parcel and the jurisdiction does not find that the remaining sites in the housing element are adequate to accommodate the jurisdiction's share of the regional housing need by income level, the jurisdiction shall within 180 days identify and make available additional adequate sites to accommodate the jurisdiction's share of the regional housing need by income level. Nothing in this section shall authorize a city, county, or city and county to disapprove a housing development project on the basis that approval of the housing project would require compliance with this paragraph.

(d) The requirements of this section shall be in addition to any other law that may restrict or limit the reduction of residential density.

(e) This section requires that a city, county, or city and county be solely responsible for compliance with this section, unless a project applicant requests in his or her initial application, as submitted, a density that would result in the remaining sites in the housing element not being adequate to accommodate the jurisdiction's share of the regional housing need pursuant to Section 65584. In that case, the city, county, or city and county may require the project applicant to comply with this section. The submission of an application for purposes of this subdivision does not depend on the application being deemed complete or being accepted by the city, county, or city and county.

(f) This section shall not be construed to apply to parcels that, prior to January 1, 2003, were either (1) subject to a development agreement, or (2) parcels for which an application for a subdivision map had been submitted.

(g) (1) If the local jurisdiction has adopted a housing element for the current planning period that is in substantial compliance with Article 10.6 (commencing with Section 65580) of Chapter 3, for purposes of this section, "lower residential density" means the following:

(A) For sites on which the zoning designation permits residential use and that are identified in the local jurisdiction's housing element inventory described in paragraph (3) of subdivision (a) of Section 65583, fewer units on the site than were projected by the jurisdiction to be accommodated on the site pursuant to subdivision (c) of Section 65583.2.

(B) For sites that have been or will be rezoned pursuant to the local jurisdiction's housing element program described in paragraph (1) of subdivision (c) of Section 65583, fewer units for the site than were projected to be developed on the site in the housing element program.

(2) (A) If the local jurisdiction has not adopted a housing element for the current planning period within 90 days of the deadline established by Section 65588 or the adopted housing element is not in substantial compliance with Article 10.6 (commencing with Section 65580) of Chapter 3 within 180 days of the deadline established by Section 65588, "lower residential density" means any of the following:

(i) For residentially zoned sites, a density that is lower than 80 percent of the maximum allowable residential density for that parcel or 80 percent of the maximum density required by paragraph (3) of subdivision (c) of Section 65583.2, whichever is greater.

(ii) For sites on which residential and nonresidential uses are permitted, a use that would result in the development of fewer than 80 percent of the number of residential units that would be allowed under the maximum residential density for the site parcel or 80 percent of the maximum density required by paragraph (3) of subdivision (c) of Section 65583.2, whichever is greater.

(B) If the council of governments fails to complete a final housing need allocation pursuant to the deadlines established by Section 65584.05, then for purposes of this paragraph, the deadline pursuant to Section 65588 shall be extended by a time period equal to the number of days of delay incurred by the council of governments in completing the final housing need allocation.

(h) An action that obligates a jurisdiction to identify and make available additional adequate sites for residential development pursuant to this section creates no obligation under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) to identify, analyze, or mitigate the environmental impacts of that subsequent action to identify and make available additional adequate sites as a reasonably foreseeable consequence of that action. Nothing in this subdivision shall be construed as a determination as to whether or not the subsequent action by a city, county, or city and county to identify and make available additional

adequate sites is a “project” for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(i) Notwithstanding Section 65803, this section shall also apply to a charter city.

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
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June 10, 2020

MEMORANDUM FOR: Planning Directors and Interested Parties

FROM: Megan Kirkeby, Acting Deputy Director
Division of Housing Policy Development

SUBJECT: **Housing Element Site Inventory Guidebook
Government Code Section 65583.2**

The housing element of the general plan must include an inventory of land suitable and available for residential development to meet the locality's regional housing need by income level. The purpose of this Guidebook is to assist jurisdictions and interested parties with the development of the site inventory analysis for the 6th Housing Element Planning Cycle and identify changes to the law as a result of Chapter 375, Statutes of 2017 (AB 1397), Chapter 958, Statutes of 2018 (AB 686), Chapter 664, Statutes of 2019 (AB 1486), and Chapter 667, Statutes of 2019 (SB 6). The Guidebook should be used in conjunction with the site inventory form developed by the California Department of Housing and Community Development (HCD). These laws introduced changes to the following components of the site inventory:

- Design and development of the site inventory (SB 6, 2019)
- Requirements in the site inventory table (AB 1397, 2017 AB 1486, 2019)
- Capacity calculation (AB 1397, 2017)
- Infrastructure requirements (AB 1397, 2017)
- Suitability of nonvacant sites (AB 1397, 2017)
- Size of site requirements (AB 1397, 2017)
- Locational requirements of identified sites (AB 686, 2018)
- Sites identified in previous housing elements (AB 1397, 2017)
- Nonvacant site replacement unit requirements (AB 1397, 2017)
- Rezone program requirements (AB 1397, 2017)

The workbook is divided into five components: (Part A) identification of sites; (Part B) sites to accommodate the lower income RHNA; (Part C) capacity analysis; (Part D) non-vacant sites; and (Part E) determination of adequate sites.

If you have any questions, or would like additional information or technical assistance, please contact the Division of Housing Policy Development at (916) 263-2911.

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BACKGROUND AND PURPOSE

Housing Element Site Inventory Requirements

Scarcity of land with adequately zoned capacity is a significant contributor to increased land prices and housing development costs. A lack of adequately zoned sites exacerbates the already significant deficit of housing affordable to lower income households. An effective housing element provides the necessary conditions for conserving, preserving and producing an adequate supply of housing affordable at a variety of income levels and provides a vehicle for establishing and updating housing and land-use strategies to reflect changing needs, resources, and conditions. Among other things, the housing element establishes a jurisdiction's strategy to plan for and facilitate the development of housing over the five-to-eight year planning period by providing an inventory of land adequately zoned or planned to be zoned for housing and programs to implement the strategy.

The purpose of the housing element's site inventory is to identify and analyze specific land (sites) that is available and suitable for residential development in order to determine the jurisdiction's capacity to accommodate residential development and reconcile that capacity with the jurisdiction's Regional Housing Need Allocation (RHNA). The available and suitable sites are referred to as "adequate sites" throughout this Guidebook. The site inventory enables the jurisdiction to determine whether there are sufficient adequate sites to accommodate the RHNA by income category. A site inventory and analysis will determine whether program actions must be adopted to "make sites available" with appropriate zoning, development standards, and infrastructure capacity to accommodate the new development need.

Sites are suitable for residential development if zoned appropriately and available for residential use during the planning period. If the inventory demonstrates that there are insufficient sites to accommodate the RHNA for each income category, the inventory must identify sites for rezoning to be included in a housing element program to identify and make available additional sites to accommodate those housing needs early within the planning period.

Other characteristics to consider when evaluating the appropriateness of sites include physical features (e.g., size and shape of the site, improvements currently on the site, slope instability or erosion, or environmental and pollution considerations), location (e.g., proximity to and access to infrastructure, transit, job centers, and public or community services), competitiveness for affordable housing funding (e.g., Low Income Housing Tax Credit scoring criteria), and likelihood or interest in development due to access to opportunities such as jobs and high performing schools¹. When determining sites to include in the inventory to meet the lower income housing need, HCD recommends that a local government first identify development potential in high opportunity neighborhoods. This will assist the local government in meeting its requirements to affirmatively further fair housing and ensure developments are more competitive for development financing.

¹ Please Note: Significant increases in the housing capacity of the residential land inventory of the housing element could also warrant planning for updating of other elements, including the land use, safety, circulation elements and inclusion of an environmental justice element or environmental justice policies. The housing element must include a program describing the means by which consistency will be achieved with other general plan elements and community goals (GC 65583(c)(8)).

SITE INVENTORY GUIDEBOOK FRAMEWORK

The following is a Guidebook designed to assist a jurisdiction through the site inventory analysis required by Housing Element Law. Use of the Guidebook is not required for a determination of compliance by HCD. The Guidebook is intended to facilitate the jurisdiction in determining if adequate sites are available by income category to accommodate the jurisdiction's share of the RHNA or if rezoning or other program actions are needed. Areas of the law that are newly added since the beginning of the 5th housing element cycle are marked with the designation ***NEW***.

Guidebook Structure

PART A: IDENTIFICATION OF SITES

General characteristics of suitable sites identified in the inventory, including zoning, infrastructure availability, and environmental constraints, among others.



PART B: SITES TO ACCOMMODATE LOW AND VERY LOW- INCOME RHNA

Analysis to determine if sites are appropriate to accommodate the jurisdiction's RHNA for low- and very low-income households.



PART C: CAPACITY ANALYSIS

Description of the methodology used to determine the number of units that can be reasonably developed on a site.



PART D: NONVACANT SITES

Analysis to determine if nonvacant sites are appropriate to accommodate the jurisdiction's RHNA.



PART E: DETERMINATION OF ADEQUATE SITES

After consideration of the above analysis and any alternate methods to accommodate RHNA, the determination of whether sufficient sites exist to accommodate RHNA or if there is a shortfall requiring a program to rezone additional sites.

PART A: IDENTIFICATION OF SITES

Step 1: Identification of Developable Sites

Government Code section 65583.2(a)

Generally, a site is a parcel or a group of parcels that can accommodate a portion of the jurisdictions RHNA. A jurisdiction must identify, as part of an inventory, sites within its boundaries (i.e., city limits or a county's unincorporated area)² that could have the potential for new residential development within the eight- or five-year timeframe of the housing element planning period.

Types of sites include:

- Vacant sites zoned for residential use.
- Vacant sites zoned for nonresidential use that allow residential development.
- Residentially zoned sites that are capable of being developed at a higher density (nonvacant sites, including underutilized sites).
- Sites owned or leased by a city, county, or city and county.
- Sites zoned for nonresidential use that can be redeveloped for residential use and a program is included to rezone the site to permit residential use.

Pending, approved, or permitted development:

Projects that have been approved, permitted, or received a certificate of occupancy since the beginning of the RHNA projected period may be credited toward meeting the RHNA allocation based on the affordability and unit count of the development. For these projects, affordability is based on the actual or projected sale prices, rent levels, or other mechanisms establishing affordability in the planning period of the units within the project (See Part E). For projects yet to receive their certificate of occupancy or final permit, the element must demonstrate that the project is expected to be built within the planning period.

Definition of Planning Period: The “Planning period” is the time period between the due date for one housing element and the due date for the next housing element (Government Code section 65588(f)(1).) For example, the San Diego Association of Governments’ 6th Cycle Planning Period is April 15, 2021 to April 15, 2029.

Definition of Projection Period: “Projection period” is the time period for which the regional housing need is calculated (Government Code section 65588(f)(2).). For example, the San Diego Association of Governments’ 6th Cycle Projection Period is June 30, 2020 to April 15, 2029.

Please note, sites with development projects where completed entitlements have been issued are no longer available for prospective development and must be credited towards the RHNA based on the affordability and unit count of the development. “Completed entitlements” means a housing development or project which has received all the required land use approvals or entitlements necessary for the issuance of a building permit. This

² In some cases, jurisdictions may want to include sites anticipated to be annexed in the planning period. Annexation is considered a rezoning effort to accommodate a shortfall of sites. For more information on annexation please see Part E, Step 3.

means that there is no additional action required to be eligible to apply and obtain a building permit.

Jurisdictions may choose to credit sites with pending projects since the beginning of the RHNA projection period towards their RHNA based on affordability and unit count within the proposed project but must demonstrate the units can be built within the remaining planning period. Affordability must be based on the projected sales prices, rent levels, or other mechanisms establishing affordability in the planning period of the units within the project.

Census definition of a unit: A housing unit is a house, an apartment, a group of rooms, or a single room occupied or intended for occupancy as separate living quarters. Separate living quarters are those in which the occupants do not live and eat with other persons in the structure and which have direct access from the outside of the building or through a common hall. Living quarters of the following types are excluded from the housing unit definition: dormitories, bunkhouses, and barracks; quarters in predominantly transient hotels, motels, and the like, except those occupied by persons who consider the hotel their usual place of residence; quarters in institutions, general hospitals, and military installations, except those occupied by staff members or resident employees who have separate living arrangements.

Student/University Housing: Please be aware, college and university student housing may be considered noninstitutional group quarters and not a housing unit for purposes of meeting the RHNA. According to the census, college/university student housing includes residence halls and other buildings, including apartment-style student housing, designed primarily to house college and university students in group living arrangements either on or off campus. These facilities are owned, leased, or managed by a college, university, or seminary or can be owned, leased, or managed by a private company or agency. Residents typically enter into “by the bed” leases (i.e., single-liability leases). Another distinguishing factor is that the unit is not available for rent to non-students. For further information on whether university housing meets the definition of a housing unit, please contact the Department of Finance at (916) 323-4086.

Exempt entity-controlled sites (state excess sites, military, university, and tribal land)

HCD recognizes that the development of new housing on exempt entity sites (land controlled by exempt federal, state, or tribal entities) can meet a portion of a jurisdiction’s RHNA. However, sites located on land controlled by exempt entities are analyzed differently because the jurisdiction may not have control over the planning, permitting, and decision-making processes of land owned by another public entity.

Sites controlled by exempt entities can be used to accommodate RHNA when documentation can be provided that demonstrates the likelihood that the planned housing will be developed within the current RHNA/housing element cycle. Adequate documentation can vary due to differences in the planning processes on land controlled by exempt federal, state, or tribal entities. The following are examples of documentation that demonstrates the likelihood of housing being developed on sites outside the control of a local government. In each of these examples, the units would have to meet the U.S. Census Bureau (Census) definition of a housing unit:

- Agreement with the entity controlling the land that grants the jurisdiction authority regarding approving, permitting, certifying occupancy, and/or reporting new units to the California Department of Finance.
- Documentation from the entity controlling the land that demonstrates planned housing has been approved to be built within the current RHNA cycle.
- Data pertaining to the timing of project construction and unit affordability by household income category.
- If the site is listed on the Department of General Services Real Estate Excess State Property map located [EO N-06-19 Affordable Housing Development webpage](#).

Step 2: Inventory of Sites

Government Code section 65583.2(b)

Provide a parcel specific inventory of sites that includes the following information for each site:

- ***NEW*** Assessor parcel number(s).
- Size of each parcel (in acres).
- General plan land use designation.
- Zoning designation.
- For nonvacant sites, a description of the existing use of each parcel (See Part D)
- ***NEW*** Whether the site is publicly owned or leased.
- Number of dwelling units that the site can realistically accommodate (See Part C)
- ***NEW*** Whether the parcel has available or planned and accessible infrastructure (Part A: Step 3).
- ***NEW*** The RHNA income category the parcel is anticipated to accommodate (See Part A: Step 5).
- ***NEW*** If the parcel was identified in a previous planning period site inventory (Part B: Step 1).

NEW Please note pursuant to Chapter 667, Statutes of 2019 (SB 6), the site inventory must be prepared using the standards, form, and definitions adopted by HCD. HCD has prepared a form and instructions for this purpose that includes space for the information above and commonly provided optional fields. Starting January 1, 2021, local governments will need to submit an electronic version of the site inventory to HCD on this form along with its adopted housing element.

NEW Pursuant to Chapter 664, Statutes of 2019 (AB 1486), at Government Code section 65583.2(b)(3), if a site included in the inventory is owned by the city or county, the housing element must include a description of whether there are any plans to sell the property during the planning period and how the jurisdiction will comply with the Surplus Land Act [Article 8 \(commencing with Section 54220\) of Chapter 5 of Part 1 of Division 2 of Title 5](#).

Step 3: Infrastructure Availability

Government Code section 65583.2(b)(5)(B)

Determine if parcels included in the inventory, including any parcels identified for rezoning, have sufficient water, sewer, and dry utilities available and accessible to support housing development or whether they are included in an existing general plan program or other mandatory program or plan, including a program or plan of a public or private entity to secure sufficient water, sewer, and dry utilities supply to support housing development on the site in time to make housing development realistic during the planning period. Dry utilities include, at minimum, a reliable energy source that supports full functionality of the

home and could also include access to natural gas, telephone and/or cellular service, cable or satellite television systems, and internet or Wi-Fi service.

If Yes: Provide an analysis in the housing element describing existing or planned water, sewer, and other dry utilities supply, including the availability and access to parcels on the site inventory, distribution facilities, general plan programs or other mandatory program or plan (including a program or plan of a public or private entity to secure water or sewer service) to support housing development on the site. The housing element must include sufficient detail to determine whether the service levels of water delivery/treatment systems and sewer treatment facilities are sufficient and have the capacity to accommodate development on all identified sites in order to accommodate the RHNA. For example, the water supply should be a reliable supply that meets federal and state drinking water standards.

Please note sites identified as available for housing for above moderate-income households can still be in areas not served by public sewer systems.

If No: Include a program in the housing element that ensures access and availability to infrastructure to accommodate development within the planning period. If this is not possible, the site is not suitable for inclusion in the site inventory or in a program of action identifying a site for rezoning.

Step 4: Map of Sites

Government Code section 65583.2(b)(7)

Provide a map that shows the location of the sites included in the inventory. While the map may be on a larger scale, such as the land use map of the general plan, the more detailed the map, the easier it will be to demonstrate the sites meet new requirements pursuant to Chapter 958, Statutes of 2018 (AB 686) as stated below.

Step 5: Determination of Consistency with Affirmatively Furthering Fair Housing

Government Code section 65583.2(a)

NEW Pursuant to AB 686, for housing elements due on or after January 1, 2021, sites must be identified throughout the community in a manner that affirmatively furthers fair housing opportunities (Government Code Section 65583(c)(10)).

Affirmatively Furthering Fair Housing means “taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and fosters inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws. The duty to affirmatively further fair housing extends to all of a public agency’s³

³ Public Agencies include the state, including every state office, officer, department, division, bureau, board, and commission, including the California State University, a city, including a charter city, county, including a charter county, city and county, and a redevelopment successor agency, a public housing authority created pursuant to the Housing Authorities Law, a public housing agency, and any other political subdivision of the state that is a grantee or subgrantee receiving funds provided by the United States Department of Housing and Urban Development (Government Code section 8899.5(a)(2)).

activities and programs relating to housing and community development.” (Government Code section 8899.50(a)(1)).

For purposes of the housing element site inventory, this means that sites identified to accommodate the lower-income need are not concentrated in low-resourced areas (lack of access to high performing schools, proximity to jobs, location disproportionately exposed to pollution or other health impacts) or areas of segregation and concentrations of poverty. Instead, sites identified to accommodate the lower income RHNA must be distributed throughout the community in a manner that affirmatively furthers fair housing. One resource the jurisdiction could use when completing this analysis is the California Tax Credit Allocation/California Department of Housing and Community Development Opportunity Maps, which can be accessed at <https://www.treasurer.ca.gov/ctcac/opportunity.asp>. Particularly, the jurisdiction should consider the barriers and opportunities identified in its assessment of fair housing pursuant to Government Code section 65583(c)(10). HCD plans to release a technical assistance memo to assist jurisdictions in addressing AB 686 requirements in their housing element in the Summer of 2020.

Jurisdictions should also consider integrating this analysis with the requirements of Government Code 65302(h), as added by SB 1000 (Statutes of 2016), which requires the preparation and adoption of an Environmental Justice element or equivalent environmental justice-related policies, objectives, and goals throughout other elements of their general plan, to address the needs of disadvantaged communities. More information on Environmental Justice elements can be found on the [Governor’s Office of Planning and Research Website](#).

Step 6: Sites by RHNA Income Category *Government Code section 65583.2(c)*

NEW Identify which RHNA income category that each site in the inventory is anticipated to accommodate. On the site inventory, specify whether the site or a portion of the site is adequate to accommodate lower income housing, moderate-income housing, or above moderate-income housing. Sites can accommodate units for more than one income category. However, the inventory should indicate the number of units of each income category, and together the total of units attributed to each income category may not exceed total units attributed to the site, so that no unit is designated for more than one income category. This requirement is particularly important because the No Net Loss Law (Government Code section 65863) requires adequate sites be maintained throughout the planning period to accommodate the remaining RHNA by income category. For more information, please consult the HCD’s memo on [No Net Loss Law](#).

HCD Best Practices for selecting sites to accommodate the lower income RHNA:

When determining which sites are best suited to accommodate the RHNA for lower income households, the jurisdiction should consider factors such as:

- Proximity to transit.
- Access to high performing schools and jobs.
- Access to amenities, such as parks and services.
- Access to health care facilities and grocery stores.
- Locational scoring criteria for Low-income Housing Tax Credit (TCAC) Program funding.
- Proximity to available infrastructure and utilities.

- Sites that do not require environmental mitigation.
- Presence of development streamlining processes, environmental exemptions, and other development incentives.

Step 7: Environmental Constraints

Government Code section 65583.2(b)(4)

Provide in the analysis a general description of any known environmental or other features (e.g., presence of floodplains, protected wetlands, oak tree preserves, very high fire hazard severity zones) that have the potential to impact the development viability of the identified sites. The housing element need only describe those environmental constraints where documentation of such conditions is available to the local government. This analysis must demonstrate that the existence of these features will not preclude development of the sites identified in the planning period at the projected residential densities/capacities. This information need not be identified on a site-specific basis. However, local governments will find it beneficial to describe site specific environmental conditions when demonstrating site suitability and realistic buildout capacity of each site, as these types of impediments to building must be considered when determining how many residential units can be developed on the site.

NEXT STEP:

- If the site is selected to accommodate its low or very-low income RHNA, move to Part B: Sites to Accommodate Low and Very-Low Income RHNA.
- If the site accommodates moderate or above-moderate RHNA, move to Part C: Capacity Analysis.

PART B: SITES TO ACCOMMODATE LOW AND VERY LOW- INCOME RHNA

Step 1: *NEW* Sites Used in Previous Planning Periods Housing Elements

Government Code section 65583.2(c)

Determine if the site identified to accommodate the low- and very low-income RHNA pursuant to Part A, Step 6 was used in the previous planning period⁴. Generally, previously identified sites refer to parcels that were identified in a previous housing element's site inventory to accommodate any portion of any income category of the jurisdiction's RHNA, as follows:

For a nonvacant site: Included in a prior planning period's housing element (e.g., 5th cycle housing element)

For a vacant site (see definition of vacant site on page 21): Included in two or more consecutive planning periods (e.g., 5th cycle and 4th cycle housing element)

If Yes: move to Step 1A

If No: move to Step 2

Unusual Circumstances

Sites rezoned or identified for rezoning to accommodate a RHNA shortfall

Previously identified sites can also include sites that were subject to a previous housing element's rezone program but that were ultimately not rezoned. For example: a previous housing element's rezone program to address a shortfall of sites for lower income households committed to rezone four acres to R-4 zoning, and identified five candidate sites for rezoning, A through E, and each site was two acres in size. If the program was completed in the prior planning period and four acres were rezoned, only those sites rezoned are considered "previously identified." However, if none or fewer than four acres were rezoned, all the non-rezoned sites identified as candidate sites would be considered as "previously identified."

Sites rezoned to a higher density as part of a general plan update (not needed to accommodate a shortfall)

Due to updates in the prior planning period to the general plan or other planning activities, such as the creation of a specific plan, some sites previously identified in the housing element may have been rezoned allowing a higher density, and therefore increasing the potential housing capacity of the site. Because the zoning characteristics of this site have changed, it can be considered a new site for the purposes of the housing element inventory. This is only the case if it was not utilized to accommodate a shortfall of sites to accommodate the RHNA.

⁴ Sites in unincorporated areas in a nonmetropolitan county without a micropolitan area are exempt from this step. This includes the unincorporated parts of Alpine, Amador, Calaveras, Colusa, Glenn, Mariposa, Modoc, Mono, Plumas, Sierra, Siskiyou, Trinity.

Step 1A:

Indicate in the housing element site inventory that this parcel was used in a prior housing element planning period.

Step 1B:

Include a program in the housing element requiring rezoning within three years of the beginning of the planning period to allow residential use by right at specified densities (see Step 2) for housing developments in which at least 20 percent of the units are affordable to lower income households. This program can be an overlay on these specific sites. Please be aware that the intent of this requirement is to further incentivize the development of housing on sites that have been available over one or more planning periods. The application of the requirement should not be used to further constrain the development of housing. As such, housing developments that do not contain the requisite 20 percent would still be allowed to be developed according to the underlying (base) zoning but would not be eligible for “by right” processing. However, the jurisdiction would have to make findings on the approval of that project pursuant to No Net Loss Law (Government Code section 65863) and proceed to identify an alternative site or sites pursuant to that law. Sites where zoning already permits residential “use by right” as set forth in Government Code section 65583.2 (i) at the beginning of the planning period would be considered to meet this requirement.

Definition of Use By Right (Government Code section 65583.2 (i))

By right means the jurisdiction shall not require:

- A conditional use permit.
- A planned unit development permit.
- Other discretionary, local-government review or approval that would constitute a “project” as defined in Section 21100 of the Public Resources Code (California Environmental Quality Act “CEQA”).

However, if the project requires a subdivision, it is subject to all laws, including CEQA.

This does not preclude a jurisdiction from imposing objective design review standards. However, the review and approval process must remain non discretionary and the design review must not constitute a “project” as defined in Section 21100 of the Public Resources Code. For example, a hearing officer (e.g., zoning administrator) or other hearing body (e.g., planning commission) can review the design merits of a project and call for a project proponent to make design-related modifications, but cannot exercise judgment to reject, deny, or modify the “residential use” itself. (See *McCorkle Eastside Neighborhood Group v. City of St. Helena* (2019) 31 Cal.App.5th 80.)

For reference, CEQA applies when a governmental agency can exercise judgment in deciding whether and how to carry out or approve a project. This makes the project “discretionary” (CEQA Guidelines, §15357.) Where the law requires a governmental agency to act on a project using fixed standards and the agency does not have authority to use its own judgment, the project is called “ministerial,” and CEQA does not apply. (CEQA Guidelines, §§ 15268(a), 15369.)

Sample Program:

Provide Adequate Sites for Lower Income Households on Nonvacant and Vacant Sites Previously Identified

The City of X will rezone to allow developments by right pursuant to Government Code section 65583.2(i) when 20 percent or more of the units are affordable to lower income households on sites identified in Table A to accommodate the lower income RHNA that was previously identified in past housing elements. Specifically, the City will rezone the nonvacant sites identified on Table A previously identified in the 5th cycle housing element, and the vacant sites identified on Table A as previously identified for both the 5th and 4th cycle housing elements.

Objective: Create opportunity for at least X units of rental housing for lower income households

Responsible Agency: Community Development Department

Timeline: Sites rezoned by (a specific date, no more than three years from the beginning of the planning period)

Funding Source(s): General fund

Step 2: Zoning Appropriate to Accommodate Low- and Very Low- Income RHNA
Government Code section 65583.2(c)(3)

Determine if the zoning on the site is appropriate to accommodate low- and very low-income (termed together as “lower”) housing.

The statute allows jurisdictions to use higher density as a proxy for lower income affordability, as long as certain statutory requirements are met. Parcels must be zoned to allow sufficient density to accommodate the economies of scale needed to produce affordable housing. To make this determination, the statute allows the jurisdiction to either demonstrate that the zoning allows a specific density set forth in the statute (default density)⁵ or to provide an analysis demonstrating the appropriateness of the zoned densities of the site identified to accommodate the lower RHNA.

Step 2A: Does the parcel’s zoning allow for “at least” the following densities?

- For an incorporated city within a nonmetropolitan county and for a nonmetropolitan county that has a micropolitan area: sites allowing at least 15 units per acre.
- For an unincorporated area in a nonmetropolitan county not included in the first bullet: sites allowing at least 10 units per acre.
- For a suburban jurisdiction: sites allowing at least 20 units per acre.
- For a jurisdiction in a metropolitan county: sites allowing at least 30 units per acre.

“At least” means the density range allowed on the parcel by the zone has to include the default density. For example, if a jurisdiction has a default density of 30 units per acre and the zone allows for range of 24 – 35 units per acre, the zoning is considered appropriate to accommodate the RHNA for lower income households. This is different than the program standard outlined in Part E which requires a minimum of a specific density in the allowed

⁵ Sometimes called “Mullin densities” after the author of AB 2348, Statutes of 2004, which originated these requirements.

density range in the zone. To determine the default density for jurisdictions, please refer to [HCD Memorandum: Default Density Standard Option \(2010 Census Update\)](#).

If Yes: Move to Step 3

If No: Move to Step 2B

Step 2B: Can the analysis demonstrate the appropriateness of the zoning to accommodate housing?

Provide an analysis demonstrating how the allowed densities facilitate the development of housing to accommodate the lower income RHNA. The analysis shall include, but is not limited to, factors such as market demand, financial feasibility, and information based on development project experience within a zone or zones, or at densities that accommodate housing for lower income households.

Information gathered from local developers on densities ideal for housing development in the community and examples of recent residential projects that provide housing for lower income households is helpful in establishing the appropriateness of the zone. Other information could include land costs, market demand for various types of affordable housing, and the gap between typical market rents and subsidized rents. It is recognized that housing affordable to lower income households requires significant subsidies and financial assistance. However, for this analysis, identifying examples of subsidized housing projects alone is not sufficient to demonstrate the adequacy of a zone and/or density to accommodate the housing affordable to lower income households. In particular, identification of older project(s) or one-off projects that cannot be easily duplicated is not sufficient to demonstrate a development trend.

The analysis of “appropriate zoning” should not include residential buildout projections resulting from the implementation of a jurisdiction’s inclusionary program or potential increase in density due to a density bonus, because these tools are not a substitute for addressing whether the underlining (base) zoning densities are appropriate to accommodate the RHNA for lower income households. Additionally, inclusionary housing ordinances applied to rental housing must include options for the developer to meet the inclusionary requirements other than exclusively requiring building affordable units on site. While an inclusionary requirement may be a development criterion, it is not a substitute for zoning. The availability of density bonuses is also not a substitute for an analysis, since they are not a development requirement, but are development options over the existing density, and generally require waivers or concessions in development standards to achieve densities and financial feasibility.

If Yes: Move to Step 3

If No: Site is not appropriate to accommodate lower income. Reclassify pursuant to Part A, Step 5.

Housing Overlays

Affordable housing or zoning overlays are a zoning tool that allows jurisdictions to modify existing zoning to allow for or require certain types of residential development, or development at certain densities, on a parcel without modifying the standards of the underlying zoning district. Usually, they have specific requirements and conditions (e.g., a percentage of the development must be deed-restricted as affordable to lower income households for a specific number of years) that must be met in order for a developer to take advantage of the overlay. These are often combined with incentives to encourage developers to utilize the overlay. Jurisdictions use overlays to help promote a specific type of development, and to increase densities without having to go through a rezoning procedure on the actual parcel and can be more useful when issues such as density and affordable housing become contentious. To ensure the overlay is considered zoning and not just a development incentive, the overlay must demonstrate the following:

- There is no additional discretionary action needed above what is required in the base zone (i.e., a conditional use permit or other review) for a developer to take advantage of overlay.
- Development standards are consistent with those needed to allow for the density allowed under the overlay. Development standards for use exclusively in the overlay may be needed in order to ensure maximum allowable densities can be achieved.
- The developer can access State Density Bonus Law in addition to using the densities allowed in the overlay. For example, if the underlying zoning allows a maximum density of 15 units per acre, but the overlay allows a maximum density of 25 units per acre, and if the developer is using the overlay and wants to use State Density Bonus Law, the density bonus is calculated assuming the base density is 25 units per acre.

If the overlay has conditions such as an affordability requirement, incentives should be sufficient and available to make development feasible and more profitable than the underlying zoning.

For an affordable housing overlay, the element should describe affordability threshold requirements to utilize the overlay (i.e., percentage of units and levels of affordability which must be met to develop at the increased densities). Please note, the jurisdiction should talk with for-profit and nonprofit developers to determine an appropriate mix of incomes that make development feasible in their community. For example, a 100 percent affordability requirement may act as a constraint to using the overlay depending on the level of subsidy required per unit and the availability of funding to support the level of affordability or available incentives.

Step 3: Size of Sites

Government Code section 65583.2(c)(2)(A), (B), and (C)

NEW Is the size of the site appropriate to accommodate housing for lower income households?

To achieve financial feasibility, many assisted housing developments using state or federal resources are between 50 to 150 units. Parcels that are too small may not support the number of units necessary to be competitive and to access scarce funding resources. Parcels that are large may require very large projects, which may lead to an over concentration of affordable housing in one location, or may add cost to a project by

requiring a developer to purchase more land than is needed, or render a project ineligible for funding. If the size of the site is smaller than one half acre or larger than 10 acres, the following analysis is required.

If the parcel is more than 0.5 acres or less than 10 acres, is the size of the site automatically considered appropriate to accommodate lower income RHNA?

Not necessarily. If the size of the parcel in combination with the allowable density and accompanying development standards cannot support a housing development affordable to lower income households, further analysis and programs may be needed to demonstrate the suitability of that site to accommodate the portion of the RHNA for lower income households.

Is the size of the parcel under 0.5 acres?

If Yes: Move to Step 3A

Is the size of the parcel over 10 acres?

If Yes: Move to Step 3B

If No to Both: Move to Part C: Capacity Analysis

Step 3A: Sites smaller than 0.5 acres

A parcel smaller than one half acre is considered inadequate to accommodate housing affordable to lower income households, unless the housing element demonstrates development of housing affordable to lower income households on these sites is realistic or feasible. While it may be possible to build housing on a small parcel, the nature and conditions (i.e., development standards) necessary to construct the units often render the provision of affordable housing infeasible. The housing element must consider and address the impact of constraints associated with small lot development on the ability of a developer to produce housing affordable to lower income households. To demonstrate the feasibility of development on this type of site, the analysis must include at least one of the following:

- An analysis demonstrating that sites of equivalent size were successfully developed during the prior planning period with an equivalent number of lower income housing units as projected for the site.
- Evidence that the site is adequate to accommodate lower income housing. Evidence could include developer interest, potential for lot consolidation, densities that allow sufficient capacity for a typical affordable housing project, and other information that can demonstrate to HCD the feasibility of the site for development. For parcels anticipated to be consolidated, the housing element must include analysis describing the jurisdiction's role or track record in facilitating small lot consolidation, policies or incentives offered or proposed to encourage and facilitate lot consolidation, conditions rendering parcels suitable and ready for consolidation such as common ownership, and recent trends of lot consolidation. The housing element should include programs promoting, incentivizing, and supporting lot consolidations and/or small lot development.
- A site may be presumed to be realistic for development to accommodate lower income housing need if, at the time of the adoption of the housing element, a development affordable to lower income households has been proposed and approved for development on the site.

The housing element must also describe existing and proposed policies or incentives the jurisdiction will offer to facilitate development of small sites. Examples of program incentives for lot consolidation include deferring fees specifically for consolidation, expediting permit processing, providing flexible development standards such as setback requirements, reduced parking or increased heights, committing resources for development of affordable housing on small sites, or increasing allowable density, lot coverage or floor area ratio.

Step 3B: Sites larger than 10 acres

Parcels larger than 10 acres are considered inadequate to accommodate housing affordable to lower income households, unless the housing element demonstrates development of housing affordable to lower income households on such sites was successful during the prior planning period, or there is other evidence that the site is realistic and feasible for lower income housing.

Definition of a Large Site

For purposes of this requirement, “site” means that portion of the parcel designated to accommodate lower income housing needs. For example, a parcel greater than 10 acres in size could have to be split zoned, have an overlay zone with identified boundaries, or be identified in a specific plan that provides for subdivision of the parcel. If the specified boundaries of the site identified to accommodate the RHNA for lower income is less than 10 acres in size, then the large site analysis would not be required. However, the analysis must describe how the development will work on the site, including opportunities and timing for specific-plan development, further subdivision, or other methods to facilitate the development of housing affordable to lower income households on the identified site within the planning period.

To demonstrate the feasibility of development on this type of site, the analysis must include at least one of the following:

- An analysis demonstrating that sites of equivalent size were successfully developed during the prior planning period with an equivalent number of lower income housing units as projected for the site.
- Evidence that the site is adequate to accommodate lower income housing. Evidence 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. The housing element should include programs promoting, incentivizing, and supporting lot splits and/or large lot development.
- A site may be presumed to be realistic for development to accommodate lower income housing need if, at the time of the adoption of the housing element, a development affordable to lower income households has been proposed and approved for development on the site.

Specific Plans, Master Plan, and other Subdivisions

To utilize residential capacity in Specific Plan areas, areas under a Master Plan, or a similar multi-phased development plan, the housing element must identify specific sites by parcel number and demonstrate that the sites are available and suitable for development within the planning period. The analysis should include the following information:

- Identify the date of approval of the plans and expiration date.
- Identify approved or pending projects within these plans that are anticipated in the planning period, including anticipated affordability based on the actual or projected sale prices, rent levels, or other mechanisms establishing affordability in the planning period of the units within the project.
- Describe necessary approvals or steps for entitlements for new development (e.g., design review, site plan review, etc.).
Describe any development agreements, and conditions or requirements such as phasing or timing requirements, that impact development in the planning period.

The housing element must also describe existing and proposed policies or incentives the jurisdiction will offer to facilitate development of large sites. Examples of facilitation include expedited or automatic approval of lot splits or creation of new parcels, waivers of fees associated with subdivision, or expedited processing or financial assistance with the development of infrastructure required to develop the site.

NEXT STEP:

- Move to Part C: Capacity Analysis

PART C: CAPACITY ANALYSIS

Government Code Section 65583.2(c) requires, as part of the analysis of available sites, a local government to calculate the projected residential development capacity of the sites identified in the housing element that can be realistically be achieved. The housing element must describe the methodology used to make this calculation. Jurisdictions have two options to make this calculation.

- Utilize minimum densities (Step 1)
- Utilize adjustment factors (Step 2)

Step1: Utilizing minimum densities to calculate realistic capacity of sites

Government Code section 65583.2(c)(1)

If the jurisdiction has adopted a law, policy, procedure, or other regulation that requires the development of a site to contain at least a certain minimum residential density, the jurisdiction can utilize that minimum density to determine the capacity of a site. For purposes of this analysis, the use of either gross or net acreage is acceptable but should be consistent with the standard the jurisdiction typically uses for determining allowable units for a residential development project. For example:

Site Description	Value
Size of site (Gross acreage)	3 acres
Zoning	Residential Multifamily
Allowable density	20 (required minimum) – 30 dwelling units per acre
Realistic capacity utilizing minimum	3 X 20 = 60 units

Please note, to meet this standard on a zone that allows for multiple uses, the general plan or zoning must require the specified minimum number of residential units on the identified sites regardless of overlay zones, zoning allowing nonresidential uses, or other factors potentially impacting the minimum density. Otherwise, the capacity of the site must be calculated using the factors outlined in Step 2.

Step 2: Utilizing factors to calculate realistic capacity of sites

Government Code section 65583.2(c)(2)

The housing element must describe the methodology used to determine the number of units calculated based on the following factors:

- Land use controls and site improvements requirements,
- ***NEW*** The realistic development capacity for the site,
- ***NEW*** Typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction,
- ***NEW*** The current or planned availability and accessibility of sufficient water, sewer, and dry utilities.

Applicable land-use controls and site improvement requirements

The analysis must consider the imposition of any development standards that impact the residential development capacity of the sites identified in the inventory. When establishing realistic unit capacity calculations, the jurisdiction must consider the cumulative impact of standards such as maximum lot coverage, height, open space, parking, on-site improvements such as sidewalks or easements, and floor area ratios. The analysis should consider any development standards or the cumulative effect of development standards that would limit the achievable density on a site. For example, if a mixed-use zone requires commercial on the ground floor and has a height limit of three stories along with lot coverage and other development standards, the density that can actually be achieved on that site might be less than the maximum allowable density.

The capacity of a site should also be adjusted for areas that cannot be developed due to environmental factors such as hazards, wetlands, or topography that cannot be mitigated. The capacity of sites subject to specific plans, overlays or other modifications of the base zoning should be adjusted to reflect those factors. For purposes of this analysis, it is recommended that the jurisdiction start with the gross acreage and adjust the buildable acreage accordingly to reach net buildable acreage.

Form Based Codes

To estimate capacity for sites in jurisdictions that have adopted form-based codes, the element should describe the relationship between general plan land-use designation and the form-based code and density assumptions used to determine capacity. Specifically, describe where residential development is allowed, how density requirements found within the general plan are incorporated, how the zoning designations under the form-based code relate to the land-use designations of the general plan, identify potential densities, and consider development standards such as bulk, height, and build-to requirements, buildings types, and use requirements. The element could include examples of recently built projects and densities to support the analysis.

Realistic development capacity for nonresidential, nonvacant, or overlay zoned sites

The capacity calculation must be adjusted to reflect the realistic potential for residential development capacity on the sites in the inventory. Specifically, when the site has the potential to be developed with nonresidential uses, requires redevelopment, or has an overlay zone allowing the underlying zoning to be utilized for residential units, these capacity limits must be reflected in the housing element. Factors used to make this adjustment may include the following:

- Performance standards mandating a specified portion of residential development in mixed use or nonresidential zones (e.g., residential allowed only above first floor commercial).
- The likelihood for residential development such as incentives for residential use, market demand, efforts to attract and assist developers, or allowance of 100 percent residential development.
- Local or regional residential development trends in the same nonresidential zoning districts.
- Local or regional track records, past production trends, or net unit increases/yields for redeveloping sites or site intensification. This estimate may be based on the rate at which similar parcels were developed during the previous planning period, with

adjustments as appropriate to reflect new market conditions or changes in the regulatory environment. If no information about the rate of development of similar parcels is available, report the proportion of parcels in the previous housing element's site inventory that were developed during the previous planning period. For example, if past production trends indicate that two out of three similar sites were developed for residential use, and one out of three similar sites was developed for commercial use, an initial estimate of the proportion of new development which is expected to be residential would be two-thirds, i.e., 0.67.

- Local or regional track records, trends, or build out yields for redeveloping sites or site intensification.

In addition, the housing element should include monitoring programs with next-step actions to ensure sites are achieving the anticipated development patterns. The programs should identify modifications to incentives, sites, programs, or rezoning the jurisdiction will take should these strategies not yield the expected housing potential.

Typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction

While using typically built densities to determine realistic capacity has long been an option to be used as an adjustment factor, the statute now requires this factor to be adjusted based on approved project by affordability level. For example, if a site is identified to accommodate the lower income RHNA, it should use project densities for housing affordable to lower income households developed either locally or regionally to determine typical densities⁶. Using this adjustment factor may result in utilizing different capacity methodologies for above moderate-, moderate-, and lower income sites.

Current or planned availability and accessibility of sufficient water, sewer, and dry utilities

The capacity methodology must be adjusted to account for any limitation as a result of availability and accessibility of sufficient water, sewer, and dry utilities (i.e., if the capacity of the site could be limited because a development would have to use a septic system, if there are any septic tank requirements or restrictions that constrain capacity, or limitations on water hook-ups). See Part A, Step 3 for more information on infrastructure requirements.

Example Capacity Calculation

Here is an example of the actual capacity calculation for a particular site in the inventory. The methodology analysis must describe how each of these adjustments was generated per the analysis requirements above. The factors used below are based on the factors outlined in the statute. The percentages and how the factors are applied will vary depending on the unique circumstance in each jurisdiction.

⁶ In using this adjustment factor, because of the use of density bonus, it may be possible that trends demonstrate typical densities higher than the maximum allowable densities, especially for housing affordable to lower income households. On a case-by-case basis, it may be appropriate to utilize increased densities due to density bonuses when determining the adjustment factor in the capacity methodology.

Site Description	
Size of site	2.5 acres
Zoning	Residential Mixed-Use
Allowable density	20 – 45 dwelling units per acre
RHNA affordability	Lower income
Existing Use	Nonvacant, single storefront
Infrastructure availability	Yes, no constraints
Environmental constraints	None known

Capacity Factors	Adjustment	Reasoning
Land Use Controls and Site Improvements	95%	For net acreage due to on-site improvements including sidewalks, utility easement
Realistic capacity of the site	55%	55% adjustment based on past development trends for residential redevelopment in the residential mixed-use zones, and programs to incentivize development in this zone.
Typical densities	95%	Affordable housing projects are built out to almost maximum density
Infrastructure availability	No adjustment	Not applicable, no constraint
Environmental constraints	No adjustment	No known site constraint

Realistic capacity utilizing factors = $(2.5 \times 45)(.95)(.55)(.95) = 56$ units

Realistic Capacity = 56 Units

No Net Loss Law

In estimating realistic capacity on sites in the sites inventory, jurisdictions may want to consider No Net Loss Law. This law was amended by Chapter 367, Statutes of 2017 (Senate Bill 166), which requires sufficient adequate sites to be available at all times throughout the RHNA planning period to meet a jurisdiction’s remaining unmet housing needs for each income category. To comply with the No Net Loss Law, as jurisdictions make decisions regarding zoning and land use, or development occurs, jurisdictions must assess their ability to accommodate new housing in each income category on the remaining sites in their housing element site inventories. A jurisdiction must add additional sites to its inventory if land use decisions or development results in a shortfall of sufficient sites to accommodate its remaining housing need for each income category. In particular, a jurisdiction may be required to identify additional sites according to the No Net Loss Law if a jurisdiction rezones a site or if the jurisdiction approves a project at a different income level than shown in the sites inventory. Lower density means fewer units than the capacity assumed in the site inventory.

To ensure that sufficient capacity exists in the housing element to accommodate the RHNA throughout the planning period, it is recommended the jurisdiction create a buffer in the housing element inventory of at least 15 to 30 percent more capacity than required, especially for capacity to accommodate the lower income RHNA. Jurisdictions can also create a buffer by projecting site capacity at less than the maximum density to allow for some reductions in density at a project level.

NEXT STEP:

- If the parcel is nonvacant, including underutilized sites (see definition of vacant site on page 22), move to Part D: Nonvacant Sites Analysis
- If not, move to Part E: Determination of Adequate Sites

PART D: NONVACANT SITES

Local governments with limited vacant land resources or with infill and reuse goals may rely on the potential for new residential development on nonvacant sites, including underutilized sites, to accommodate their RHNA. Examples include:

- Sites with obsolete uses that have the potential for redevelopment, such as a vacant restaurant.
- Nonvacant publicly owned surplus or excess land; portions of blighted areas with abandoned or vacant buildings.
- Existing high opportunity developed areas with mixed-used potential.
- Nonvacant substandard or irregular lots that could be consolidated.
- Any other suitable underutilized land.

Local governments can meet other important community objectives to preserve open space or agricultural resources, as well as assist in meeting greenhouse gas emission-reduction goals, by adopting policies to maximize existing land resources and by promoting more compact development patterns or reuse of existing buildings.

Definition of a Vacant Site

A vacant site is a site without any houses, offices, buildings, or other significant improvements on it. Improvements are generally defined as development of the land (such as a paved parking lot, or income production improvements such as crops, high voltage power lines, oil-wells, etc.) or structures on a property that are permanent and add significantly to the value of the property.

Examples of Vacant Sites:

- No improvement on the site (other than being a finished lot).
- No existing uses, including parking lots.
- Underutilized sites are not vacant sites.
- Sites with blighted improvements are not vacant sites.
- Sites with abandoned or unoccupied uses are not vacant sites.

If the inventory identifies nonvacant sites to address a portion of the RHNA, the housing element must describe the realistic development potential of each site within the planning period. Specifically, the analysis must consider the extent that the nonvacant site's existing use impedes additional residential development, the jurisdiction's past experience converting existing uses to higher density residential development, market trends and conditions, and regulatory or other incentives or standards that encourage additional housing development on the nonvacant sites.

Step 1: Description of the nonvacant site

Government Code Section 65583.2(b)

As stated in Part A, the site inventory must describe the specific existing use on the site, such as a surplus school site, auto shop, restaurant, single family residence, nursery, etc. Additional details, such as whether the use is discontinued, land to value information, age and condition of the structure, known leases, developer or owner interest, whether the property is currently being marketed, degree of underutilization, etc., are useful for demonstrating the potential for the site to be redeveloped within the planning period (See Step 2).

Step 2: Nonvacant site analysis methodology

Government Code section 65583.2(g)(1)

Provide an explanation of the methodology used to determine the development potential. This methodology can be done on a site-specific basis by utilizing factors (e.g., common ownership, valuation, age, etc.) in common that demonstrate the potential for residential development within the planning period, or a combination of both approaches. The methodology shall consider factors including:

Existing Uses:

Include an analysis that demonstrates the extent to which existing uses may constitute an impediment to additional residential development. Among other things, this analysis includes considerations for the current market demand for the existing use, ***NEW*** an analysis of any known existing leases or other contracts that would perpetuate the existing use or prevent redevelopment of the site for additional residential development, and could include other market conditions that would encourage redevelopment of the property. For example, an analysis might describe an identified site as being developed with a 1960's strip commercial center with few tenants and expiring leases and, therefore, a good candidate for redevelopment, versus a site containing a newly opened retail center, an active Home Depot, the only grocery store in the city, etc. that is unlikely to be available for residential development within the planning period.

Development Trends:

The inventory analysis should describe development and/or redevelopment trends in the community as it relates to nonvacant sites, i.e., the rate at which similar sites have been redeveloped. This could include a description of the local government's track record and specific role in encouraging and facilitating redevelopment, adaptive reuse, or recycling to residential or more intensive residential uses. If the local government does not have any examples of recent recycling or redevelopment, the housing element should describe current or planned efforts (via new programs) to encourage and facilitate this type of development (e.g., providing incentives to encourage lot consolidation or assemblage to facilitate increased residential-development capacity). The results of the analysis should be reflected in the capacity calculation described in Part C, above.

Market Conditions:

Housing market conditions also play a vital role in determining the feasibility or realistic potential of nonvacant sites for residential development. The nonvacant sites analysis should include an evaluation of the impact of local market conditions on redevelopment or reuse strategies. For example, high land and construction costs, combined with a limited supply of available and developable land, may indicate conditions "ripe" for more intensive, compact and infill development or redevelopment and reuse.

Availability of Regulatory and/or other Incentives:

The analysis should describe existing or planned financial assistance, incentives or regulatory concessions to encourage residential development on nonvacant sites. Many local governments develop partnerships with prospective developers to assist in making redevelopment/reuse economically feasible. Examples of these incentives include:

- Organizing special marketing events geared towards the development community.
- Identifying and targeting specific financial resources.
- Allowing streamlined or by right development application processing for infill sites.
- Reducing appropriate development standards.

Absent a track record or development trends to demonstrate the feasibility of a recycling or redevelopment strategy, the housing element should describe existing or planned financial assistance or regulatory relief from development standards that will be provided sufficient to encourage and facilitate more intensive residential development on the identified nonvacant sites.

Step 3: *NEW* Reliance on nonvacant sites to accommodate more than 50 percent of the RHNA for lower income households

Government Code Section 65583.2(g)(2)

Determine if more than 50 percent of the lower income RHNA is on nonvacant sites.

- Calculate the sum of lower income RHNA capacity on vacant sites and other alternatives not related to capacity on nonvacant sites (e.g., accessory dwelling units, vacant sites to be rezoned (see Part E)).
- Subtract that sum from the total lower income RHNA to get the amount of RHNA needed to be accommodated on nonvacant sites.
- Determine if this number is greater than 50 percent of the RHNA.

Example calculation for a jurisdiction with a lower income RHNA of 500:

Adjustment Factor	Number of units
Proposed Lower Income Project	50
Accessory Dwelling Unit Capacity (affordable to lower)	15
Capacity on Vacant Sites	100
Total Capacity (not related to non-vacant sites)	165
RHNA on Nonvacant sites	$500 - 165 = 335$
Percentage of Lower Income RHNA accommodated on Nonvacant sites	$335/500 = 77\%$

If Yes: Move to Step 3A

If No: Move to Step 4

Step 3A:

If a housing element relies on nonvacant sites to accommodate 50 percent or more of its RHNA for lower income households, the nonvacant site's existing use is presumed to impede additional residential development, unless the housing element describes findings based on substantial evidence that the use will likely be discontinued during the planning period. The housing element must include the following:

- As part of the resolution adopting the housing elements, findings stating the uses on nonvacant sites identified in the inventory to accommodate the RHNA for lower income is likely to be discontinued during the planning period and the factors used to make that determination. This can be included in the body or in the recital section of the resolution.

Example: WHEREAS, based on <name factors here (e.g., expiring leases, dilapidated building conditions, etc.)>, the existing uses on the sites identified in the site inventory to accommodate the lower income RHNA are likely to be discontinued during the planning period, and therefore do not constitute an impediment to additional residential development during the period covered by the housing element.

- The housing element should describe the findings and include a description of the substantial evidence they are based on.

In general, substantial evidence includes facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts. An example of substantial evidence would be a nonvacant site with a grocery store and with a building lease expiring in a year, and evidence that the store has entered into a lease to relocate to another site subsequent to the lease expiring.

Examples of substantial evidence that an existing use will likely be discontinued in the current planning period include, but are not limited to:

- The lease for the existing use expires early within the planning period,
- The building is dilapidated, and the structure is likely to be removed, or a demolition permit has been issued for the existing uses,
- There is a development agreement that exists to develop the site within the planning period,
- The entity operating the existing use has agreed to move to another location early enough within the planning period to allow residential development within the planning period.
- The property owner provides a letter stating its intention to develop the property with residences during the planning period.

If multiple sites make up a common existing use and the same factors affect each of the sites, the same findings can be used for each of the sites (e.g., an abandoned shopping mall with sites under common ownership that will not be restored to commercial use located in an area where there is recent residential development). The "substantial evidence" would indicate the existing use will not impede further residential development or that the existing use will be discontinued during the planning period. In this type of situation, use of the same findings for each of the multiple sites would be appropriate.

However, the same finding for multiple sites in a specific area may not be appropriate if their characteristics widely vary. For example, nonvacant sites with differing existing uses and lacking in common ownership, whether contiguous or located in the same general area, may not rely on a generalized analysis. While the sites may be located in an area with common economic issues, individual owners may not wish to sell their property or redevelop their site with residential uses. In addition, each site's existing use, e.g., grocery store, retail shop, parking lot, and offices, may have lease agreements of different lengths of time or the owner may not wish to relocate or redevelop the site with a more intensive residential use. In this type of situation, use of the same findings for the multiple sites would not be appropriate.

Step 4: *NEW* Program and policy requiring replacement of existing affordable units
Government Code Section 65583.2(g)(3)

The housing element must include a program in the housing element and policy independent of the housing element requiring the replacement of units affordable to the same or lower income level as a condition of any development on a nonvacant site consistent with those requirements set forth in Density Bonus Law (Government Code section 65915(c)(3).) Replacement requirements shall be required for sites identified in the inventory that currently have residential uses, or within the past five years have had residential uses that have been vacated or demolished, and:

- Were subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of low or very low-income, or
- Subject to any other form of rent or price control through a public entity's valid exercise of its police power, or
- Occupied by low or very low-income households

For the purpose of this program "previous five years" is based on the date the application for development was submitted.

Please note, until 2025, pursuant to Government Code section 66300(d) (Chapter 654, Statutes of 2019 (SB 330)), an affected city or county shall not approve a housing development project that will require the demolition of residential dwelling units regardless of whether the parcel was listed in the inventory unless a) the project will create at least as many residential dwelling units as will be demolished, and b) certain affordability criteria are met. A listing of affected cities and counties can be found at <https://www.hcd.ca.gov/community-development/accountability-enforcement/statutory-determinations.shtml>.

SAMPLE PROGRAM

Program X: Replacement Unit Program

XXXX will adopt a policy and will require replacement housing units subject to the requirements of Government Code section 65915, subdivision (c)(3) on sites identified in the site inventory when any new development (residential, mixed-use or nonresidential) occurs on a site that is identified in the inventory meeting the following conditions:

- currently has residential uses or within the past five years has had residential uses that have been vacated or demolished, and
- was subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of low or very low-income, or
- subject to any other form of rent or price control through a public entity's valid exercise of its police power, or
- occupied by low or very low-income households

Funding: General Funds

Responsible Parties: Planning and Community Development Department

Objectives: In order to mitigate the loss of affordable housing units, require new housing developments to replace all affordable housing units lost due to new development.

Timeframes: The replacement requirement will be implemented immediately and applied as applications on identified sites are received and processed, and local policy shall be adopted by <DATE>. End of Sample Program

NEXT STEP:

- Move to Part E: Determination of Adequate Sites

PART E: DETERMINATION OF ADEQUATE SITES

The last step in this process is a determination of whether the housing element demonstrates sufficient land suitable and available for residential development to meet the locality's housing need for each designated income level or if further program actions are required to accommodate a shortfall.

Step 1: Consider any alternative means of meeting the RHNA

Government Code section 65583.1

The housing element may satisfy its RHNA requirement through a variety of methods other than identifying sites. The following is a description of those alternative methods.

- Units permitted, built, entitled or pending: (See Part A, Step 1)
- Potential for accessory dwelling units (ADU) or junior accessory dwelling units (JADU): The jurisdiction can count the potential for the development of ADUs within the planning period. The analysis is based on the following factors:
 - the number of ADUs or JADUs developed in the prior planning period
 - community need and demand for these types of housing units
 - the resources and/or incentives available that will encourage the development of ADUs
 - the availability of ADUs and JADUs for occupancy, rather than used as offices or guest houses
 - the unit must meet the Census definition of a housing unit, which can be found on the U.S. Census Bureau website, and be reported to the Department of Finance as part of the annual City and County Housing Unit Change Survey
 - the anticipated affordability of these units. The purpose of this analysis is to determine the appropriate RHNA income category to be accommodated through ADU and JADU development.

Affordability can be determined in a number of ways. As an example, a community could survey existing ADUs and JADUs for their current market rents and consider other factors such as square footage, number of bedrooms, amenities, age of the structure and general location, including proximity to public transportation. Another method could examine current market rents for reasonably comparable rental properties to determine an average price per square foot in the community. This price can be applied to anticipated sizes of these units to estimate the anticipated affordability of ADUs and JADUs. Available regional studies and methodology on ADU affordability can also be a resource to determine the likely affordability mix for ADUs and JADUs.

- other relevant factors as determined by HCD.

In addition, the housing element must describe and analyze any currently adopted ordinance and other factors that could affect ADU and JADU development within the planning period. At a minimum, the housing element should analyze whether the ordinance conforms with state ADU and JADU requirements and any additional development standards (i.e., setbacks, maximum unit sizes, lot coverage, etc.) adopted by the local government, zones allowing ADUs, fees and exactions, and any other potential constraints impacting the development of ADUs and JADUs.

Impact of New Accessory Dwelling Unit Laws

Since 2017, the Legislature has passed a series of new laws that significantly increase the potential for development of new ADUs and JADUs by removing development barriers, allowing ADUs through ministerial permits, and requiring jurisdictions to include programs in their housing element that incentivize their development. As a result, using trend analysis when estimating the potential for development may not accurately reflect the increased potential for these units. To account for this increased potential, HCD recommends the following options when performing this analysis:

- Use the trends in ADU construction since January 2018 to estimate new production. This is a conservative option to only account for the effect of the new laws without local promotional efforts or incentives (safe harbor option).
- Where no other data is available, assume an average increase of five times the previous planning period construction trends prior to 2018. This option is a conservative estimate based upon statewide data on ADU development since the implementation of the new laws (safe harbor option).
- Use trends from regional production of ADUs.
- Include programs that aggressively promote and incentivize ADU and JADU construction.
- Other analysis (reviewed on a case-by-case basis).

Potential affordability of these units must still be calculated per the analysis outlined on the previous page. In addition to the above options, the element should also include a monitoring program that a) tracks ADU and JADU creation and affordability levels, and b) commits to a review at the planning cycle mid-point to evaluate if production estimates are being achieved. Depending on the finding of that review, amendments to the housing element may be necessary, including rezoning pursuant to Government Code 65583.2 (h) and (i).

- Alternative Adequate sites: Under limited circumstances, a local government may credit up to 25 percent of their adequate sites requirement per income category through existing units that will be:
 - substantially rehabilitated
 - in a multifamily rental or ownership housing complex of three or more units that are converted from non affordable to affordable rental
 - preserved at levels affordable to low- or very low-income households, where the local government has provided those units with committed assistance

For more information on this option, please refer to HCD's [Building Blocks Webpage](#)

- Manufactured housing, manufactured housing park hook-ups, floating homes/live aboard berths: In certain circumstances a jurisdiction can utilize the potential for new manufactured housing either in a manufactured housing park or on large properties in rural areas, or new floating home/liveaboard berths with sewer and water hook ups. In cases of a manufactured home park or in floating home/liveaboard berth marinas, the jurisdiction may count new spaces with infrastructure hook-ups intended for permanent residential occupancy and reported to the Department of Finance. Potential for manufactured homes in rural areas should be analyzed using the same factors as those

for potential ADUs, including establishing the market rate affordability of the units and crediting them to the appropriate RHNA category. In addition, the analysis should indicate if appropriate water and sewer infrastructure is available to support the development.

- Former military housing: Sites that contain permanent housing units located on a military base undergoing closure or conversion as a result of action pursuant to the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526), the Defense Base Closure and Realignment Act of 1990 (Public Law 101-510), or any subsequent act requiring the closure or conversion of a military base may be identified as an adequate site if the housing element demonstrates that the housing units will be available for occupancy by households within the planning period of the housing element. No sites containing housing units scheduled or planned for demolition or conversion to nonresidential uses shall qualify as an adequate site.
- In consultation with HCD, other alternatives may be considered, such as motel conversions, adaptive reuse of existing buildings, or legalization of units not previously reported to the Department of Finance.

Step 2: Determine whether there is sufficient capacity to accommodate the RHNA for the jurisdiction by income.

Government Code Section 65583(a)(3)

The following table is an example of that calculation:

Adjustment Factor	Very Low	Low	Moderate	Above Moderate
RHNA	300	200	165	465
Entitled, Permitted, or Constructed Project Projects	50	50	0	200
Accessory Dwelling Unit Potential	10	15	15	10
Adequate Sites Alternative Preservation	20	16		
Multifamily Residential R-3 (Vacant)	75	50		
Mixed Use MU (Nonvacant)	75	50	50	
Multifamily Residential (Vacant) R-2			75	
Single-Family (Vacant) R-1				200
Spring Valley Specific Plan			150	250
Total	230	181	290	660
Shortfall/Surplus	-70	-19	+125	+195

While the jurisdiction has sufficient sites to accommodate its RHNA for moderate- and above moderate-income units, it has a shortfall of 89 units to accommodate its lower income need. The jurisdiction would be required to include a program in the housing element to accommodate that shortfall.

If Yes: Congratulations, the site inventory analysis is complete

If No: Move to Step 3

Step 3: Adequate Sites Program

Government Code section 65583(f) and Government Code section 65583.2(h)

Where the inventory of sites does not identify adequate sites to accommodate the RHNA for lower income households, a program must be included to identify sites that can be developed for housing within the planning period. The housing element should include an inventory of potential sites for rezoning. Those sites must meet the adequate sites requirements in terms of the suitability and availability outlined above.

General Program Requirements

A jurisdiction's adequate sites program must accommodate 100 percent of the shortfall of sites necessary to accommodate the remaining housing need for housing for very low- and low-income households during the planning period and include the following components:

- Permit owner-occupied and rental multifamily uses by right for developments in which 20 percent or more of the units are affordable to lower income households. By right means local government review must not require a conditional use permit, planned unit development permit, or other discretionary review or approval.
- Permit the development of at least 16 units per site.
- Ensure sites within suburban and metropolitan jurisdictions — as defined by Government Code Section 65583.2(c)(3)(B)(iii) and (iv) — permit a minimum of 16 dwelling units per acre for incorporated cities within nonmetropolitan/rural counties and nonmetropolitan counties with micropolitan areas or 20 dwelling units per acre for suburban and metropolitan jurisdictions.
- Ensure a) at least 50 percent of the shortfall of low- and very low-income regional housing need can be accommodated on sites designated for exclusively residential uses, or b) if accommodating more than 50 percent of the low- and very low-income regional housing need on sites designated for mixed-uses, all sites designated for mixed-uses must allow 100 percent residential use and require residential use to occupy at least 50 percent of the floor area in a mixed-use project.

Timing

Rezoned due to a shortfall from the current planning period:

A locality's ability to accommodate needed housing during the planning period requires designating appropriate zoning as early as possible. Generally, however, a rezoning should occur no later than three years and 120 days from the beginning of the planning period. A one-year extension to the deadline to complete required rezoning may be allowed if a local government has completed rezoning at sufficient densities to accommodate at least 75 percent of the units for very-low and low-income households. Also, the jurisdiction must determine after a public meeting that substantial evidence supports findings and adoption of a resolution that the rezone deadline was not met due to one of the following reasons:

- Action or inaction beyond the control of the local government of any other state, federal, or local agency.
- Infrastructure deficiencies due to fiscal or regulatory constraints.

- The local government must undertake a major revision to its general plan in order to accommodate the housing-related policies of a sustainable communities strategy or an alternative planning strategy adopted pursuant to Section 65080.

The jurisdiction must provide HCD a copy of the resolution and findings along with: - a detailed budget and schedule for preparation and adoption of required rezoning within one year of the adoption of the resolution, - plans for citizen participation, and - expected interim actions to complete the rezoning, and any revisions to the general plan (Government Code section 65583(f)).

Consequences for Failing to Complete Rezoning Deadline:

If a local government fails to complete all rezoning's by the prescribed deadline, a local government may not disapprove a housing development project⁷, nor require a conditional use permit, planned unit development permit, or other locally imposed discretionary permit, or impose a condition that would render the project infeasible, if the housing development project:

- Is proposed to be located on a site included in a housing element program to be rezoned.
- Complies with applicable objective general plan and zoning standards and criteria, including design review standards, described in the rezone program action.

However, any subdivision of the site is subject to the Subdivision Map Act.

A jurisdiction may disapprove a housing development or approve it upon the condition that the project be developed at a lower density only if it makes written findings supported by substantial evidence on the record that both of the following conditions exist:

- The housing development project would have a specific, adverse impact upon the public health or safety⁸.
- There is no feasible method to satisfactorily mitigate or avoid the adverse impact.

The local government may also be subject to enforcement actions by HCD, including a determination that the housing element no longer complies with the requirements of state law and referral to the Attorney General pursuant to Government Code section 65585(i) and (j).

⁷ "Housing development project" is defined a project to construct residential units for which the project developer provides sufficient legal commitments to the appropriate legal agency to ensure the continued availability and use of at least 49 percent of the housing units for very-low, low-, and moderate-income households with an affordable housing cost or affordable rent.

⁸ "Specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

Housing Accountability Act and the Housing Element

The Housing Accountability Act (Government Code section 65589.5) establishes state overarching policy that a local government not deny, reduce the density of, or make infeasible housing development projects, emergency shelters, or farmworker housing that are consistent with objective local development standards and contribute to meeting housing need. Jurisdictions without a housing element in compliance with State Housing Element Law or without a complete site inventory are further limited in the ability to deny a housing development application.

Among other requirements (including those related to housing development regardless of affordability levels), the Housing Accountability Act states that a local agency shall not disapprove or condition approval in a manner that renders the housing development project infeasible, including through the use of design review standards, for development of an emergency shelter or a housing development project for very low, low-, or moderate-income households unless it makes written findings, based upon a preponderance of the evidence in the record, as to one of the following:

- The jurisdiction has adopted a housing element in substantial compliance with Housing Element Law and the jurisdiction has met or exceeded its share of the RHNA for the planning period for the income category proposed for the housing development project.
- The project would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible.
- The denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable or rendering the development of the emergency shelter financially infeasible.
- The project is proposed on land zoned for agriculture or resource preservation, or which does not have adequate water or wastewater facilities to serve the project.
- The project is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation, unless the housing development project is proposed on a site that is identified as suitable or available for very low, low-, or moderate-income households in the jurisdiction's housing element, or if the local agency has failed to identify in the inventory of land in its housing element sites that can be developed for housing within the planning period and are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584.

“Housing for very low, low-, or moderate-income households” means where at least 20 percent of the total units are or will be sold or rented to lower income households or 100 percent of the units will be sold or rented to persons and families of moderate income, or persons and families of middle income.

Rezoned due to an unaccommodated need from previous planning period⁹:

Pursuant to Government Code section 65584.09, if the jurisdiction failed to make adequate sites available to accommodate the regional housing need in the prior planning period, the jurisdiction must zone or rezone sites to accommodate any unaccommodated need within the first year of the planning period. If more than one year has lapsed since the beginning of the planning period, the housing element cannot be found in compliance with Housing Element Law until the required zoning or rezoning is complete and the housing element is amended to reflect the necessary rezoning.

Annexation

If the jurisdiction must rely on annexation to accommodate its RHNA, the housing element must include a program committing to completing the annexation within three years of the planning period. In addition, the housing element must also include an evaluation of the suitability of the annexed sites, including the following information:

- Consistency with Local Agency Formation Commission (LAFCO) policies
- Actions to pre-zone prior to annexation
- Descriptions of the zone, density, development standards and design requirements
- The anticipated housing capacity allowed by each site
- Timeline to complete annexation which is early enough in the planning period to facilitate development of annexed sites (e.g., within the first three years of the planning period)
- Analysis of the suitability and availability of sites, including identification of any sites currently under Williamson Act contracts
- Demonstrated compliance with the requirements of the adequate sites program requirements of Government Code section 65583.2, subdivisions (h) and (i)

Please note, if the potential for annexation was not included in the RHNA allocation methodology, a portion of the county's allocation may be transferred to the city pursuant to Government Code section 65584.07(d). This transfer of RHNA would require an amendment to the housing element to ensure that any additional RHNA can be accommodated on sites within the inventory.

⁹ Sometimes called the AB 1233 consequence.

Sample Rezone Program:

To accommodate the remaining lower-income RHNA of 89 units, the City of X will identify and rezone a minimum of 4.5 acres of vacant land to the R3 zoning district, allowing exclusively residential uses and a minimum of 20 units per acre to a maximum of 30 units per acre by June 30, 2024. Rezoned sites will permit owner-occupied and rental multifamily uses by right pursuant to Government Code section 65583.2(i) for developments in which 20 percent or more of the units are affordable to lower income households and will be selected from sites 20 through 30 in the parcel listing (Appendix A). As reflected in Appendix A, each site has the capacity to accommodate at least 16 units and will be available for development in the planning period where water, sewer, and dry utilities can be provided.

Objective: Create opportunity for at least 89 units of multifamily housing for lower income households

Responsible Agency: Community Development Department

Timeline: Sites rezoned by June 30, 2024

Funding Source(s): General fund

Other program ideas for increasing capacity or facilitating development on identified sites:

- Up-zone existing neighborhoods in areas of opportunity or in high quality neighborhood transit areas at appropriate densities to facilitate development of housing.
- Increase maximum allowable residential densities in existing residential, commercial, and mixed-use zones and modify development standards, such as height limitations to ensure maximum density can be achieved.
- Establish minimum densities — Designate minimum densities of development to ensure that existing available land is not underutilized.
- Allow and encourage mixed-use zoning — Permit housing in certain nonresidential zones either as part of a mixed-use project or as a standalone residential use.
- Rezone underutilized land from nonresidential to residential to expand the supply of available residential land.
- Institute flexible zoning — Allow various residential uses within existing nonresidential zones without requiring rezoning or conditional approvals.
- Redevelop and/or recycle underutilized existing land to more intensive uses.
- Convert obsolete, older public/institutional/commercial/industrial buildings to residential use through adaptive reuse and/or historic preservation.
- Over-zone — Create a surplus of land for residential development during the current planning period of at least 20 percent more than the locality's share of the regional housing need. Over-zoning compensates for urban land left vacant due to ownership and development constraints and creates a real surplus. A sufficient supply of land beyond the time frame of the housing element helps prevent land shortages from bidding up land costs.
- Allow and promote small and irregular-size lot development.

- Consolidate lots — Facilitate combining small residential lots into larger lots to accommodate higher-density development.
- Increase height limitations — At a minimum, allow three stories in multifamily zones.
- Increase Floor Area Ratios — Allow for larger buildings on smaller lots and/or more units per lot by reducing the floor area ratio (total lot area divided by the total building area).
- Identify publicly owned land suitable for affordable housing development and sell parcels for \$1 (with consideration of the Surplus Land Act as amended by AB 1486, Statutes of 2019).
- Facilitate development by encouraging staff outreach to owners of potential sites and affordable housing developers to discuss needs and constraints in the jurisdiction.
- Adopt incentives such as a super density bonus or by right approval for housing that meets community objectives, such as housing near transit, affordability, housing that meets the needs of special populations, etc.
- Adopt a specific plan that streamlines CEQA compliance.

Common Program Questions and Answers for Shortfall Zoning:

Q: How do I establish the density range for a rezone site?

A: The density range is set at the minimum density (either 16 or 20 dwelling units per acre, depending on the jurisdiction). While there is no specific maximum density requirement, the range must include the density that was identified as appropriate to accommodate housing affordable to lower-income households (Part B, Step 2).

However, jurisdictions should not set the minimum and maximum density range at the same density (e.g., 20 units per acre minimum as both a minimum and maximum density). If identifying a narrow density range, the housing element must analyze the range as a potential governmental constraint on housing development, including potential impacts resulting from site constraints, financial considerations, and other development factors.

Q: If a development is proposed with less than 20 percent affordability to lower income, can the jurisdiction approve it?

A: Yes, however, the project would not qualify for the by right provisions of this law unless the underlining zone already permitted housing by right. This, and all housing development projects, is subject to the Housing Accountability Act. In addition, the jurisdiction may be subject to No Net Loss Law provisions.

Q: How is the 20 percent calculated when State Density Bonus Law is added?

A: This 20 percent calculation is based upon the total number of units in the development including additional units provided by a density bonus. This calculation methodology is consistent with several other pieces of housing laws, including the Streamlined Ministerial Approval Process (Government Code section 65913.4) and the Housing Accountability Act.

ATTACHMENT 1: SUMMARY OF NEW LAWS REFERENCED IN THE GUIDEBOOK

[AB 1397, Low \(Chapter 375, Statutes of 2017\)](#): The law made a number of revisions to the site inventory analysis requirements of Housing Element Law. In particular, it requires stronger justification when nonvacant sites are used to meet housing needs, particularly for lower income housing, requires by right housing when sites are included in more than one housing element, and adds conditions around size of sites, among others.

[AB 686, Santiago \(Chapter 958, Statutes of 2018\)](#): The law ensures that public entities, including local governments, administer their programs relating to housing and urban development in a manner affirmatively to further the purposes of the federal Fair Housing Act and do not take any action that is materially inconsistent with its obligation to affirmatively further fair housing. It also requires that housing elements of each city and county promote and affirmatively further fair housing opportunities throughout the community for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics protected by the California Fair Employment and Housing Act, Government Code Section 65008, and any other state and federal fair housing and planning law. AB 686 requires jurisdictions to conduct an assessment of fair housing in the housing element, prepare the housing element site inventory through the lens of affirmatively furthering fair housing, and include program(s) to affirmatively further fair housing.

[SB 6, Beall \(Chapter 667, Statutes of 2019\)](#): Jurisdictions are required to prepare the site inventory on forms developed by HCD and send an electronic version with their adopted housing element to HCD. HCD will then send those inventories to the Department of General Services by December 31 each year. The law (?) authorizes HCD to review, adopt, amend, and repeal the standards, forms, or definitions to implement this subdivision and subdivision (a) of Section 65583.

[AB 1486, Ting \(Chapter 644, Statutes of 2019\)](#): The law expanded the definition of surplus land and added additional requirements on the disposal of surplus land. In addition, local agencies must send notices of availability to interested entities on a list maintained by HCD. This list and notices of availability are maintained on HCD's website. Local agencies must also send a description of the notice and subsequent negotiations for the sale of the land, which HCD must review, and within 30 days submit written finding of violations of law. Violations of the Surplus Land Act can be referred to the Attorney General. Finally, it adds a requirement in Housing Element Law for the jurisdiction to identify which of the sites included in the inventory are surplus property.

ATTACHMENT 2: GOVERNMENT CODE SECTION 65583.2

As of January 1, 2020

(a) A city's or county's inventory of land suitable for residential development pursuant to paragraph (3) of subdivision (a) of Section 65583 shall be used to identify sites throughout the community, consistent with paragraph (9) of subdivision (c) of Section 65583, that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584. As used in this section, "land suitable for residential development" includes all of the sites that meet the following standards set forth in subdivisions (c) and (g):

(1) Vacant sites zoned for residential use.

(2) Vacant sites zoned for nonresidential use that allows residential development.

(3) Residentially zoned sites that are capable of being developed at a higher density, including sites owned or leased by a city, county, or city and county.

(4) Sites zoned for nonresidential use that can be redeveloped for residential use, and for which the housing element includes a program to rezone the site, as necessary, rezoned for, to permit residential use, including sites owned or leased by a city, county, or city and county.

(b) The inventory of land shall include all of the following:

(1) A listing of properties by assessor parcel number.

(2) The size of each property listed pursuant to paragraph (1), and the general plan designation and zoning of each property.

(3) For nonvacant sites, a description of the existing use of each property. If a site subject to this paragraph is owned by the city or county, the description shall also include whether there are any plans to dispose of the property during the planning period and how the city or county will comply with Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5.

(4) A general description of any environmental constraints to the development of housing within the jurisdiction, the documentation for which has been made available to the jurisdiction. This information need not be identified on a site-specific basis.

(5) (A) A description of existing or planned water, sewer, and other dry utilities supply, including the availability and access to distribution facilities.

(B) Parcels included in the inventory must have sufficient water, sewer, and dry utilities supply available and accessible to support housing development or be included in an existing general plan program or other mandatory program or plan, including a program or plan of a public or private entity providing water or sewer service, to secure sufficient water, sewer, and dry utilities supply to support housing development. This paragraph does not impose any additional duty on the city or county to construct, finance, or otherwise provide water, sewer, or dry utilities to parcels included in the inventory.

(6) Sites identified as available for housing for above moderate-income households in areas not served by public sewer systems. This information need not be identified on a site-specific basis.

(7) A map that shows the location of the sites included in the inventory, such as the land use map from the jurisdiction's general plan, for reference purposes only.

(c) Based on the information provided in subdivision (b), a city or county shall determine whether each site in the inventory can accommodate the development of some portion of its share of the regional housing need by income level during the planning period, as determined pursuant to Section 65584. The inventory shall specify for each site the number of units that can realistically be accommodated on that site and whether the site is adequate to accommodate lower income housing, moderate-income housing, or above moderate-income housing. A nonvacant site identified pursuant to paragraph (3) or (4) of subdivision (a) in a prior housing element and a vacant site that has been included in two or more consecutive planning periods that was not approved to develop a portion of the locality's housing need shall not be deemed adequate to accommodate a portion of the housing need for lower income households that must be accommodated in the current housing element planning period unless the site is zoned at residential densities consistent with paragraph (3) of this subdivision and the site is subject to a program in the housing element requiring rezoning within three years of the beginning of the planning period to allow residential use by right for housing developments in which at least 20 percent of the units are affordable to lower income households. An unincorporated area in a nonmetropolitan county pursuant to clause (ii) of subparagraph (B) of paragraph (3) shall not be subject to the requirements of this subdivision to allow residential use by right. The analysis shall determine whether the inventory can provide for a variety of types of housing, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing. The city or county shall determine the number of housing units that can be accommodated on each site as follows:

(1) If local law or regulations require the development of a site at a minimum density, the department shall accept the planning agency's calculation of the total housing unit capacity on that site based on the established minimum density. If the city or county does not adopt a law or regulation requiring the development of a site at a minimum density, then it shall demonstrate how the number of units determined for that site pursuant to this subdivision will be accommodated.

(2) The number of units calculated pursuant to paragraph (1) shall be adjusted as necessary, based on the land use controls and site improvements requirement identified in paragraph (5) of subdivision (a) of Section 65583, the realistic development capacity for the site, typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction, and on the current or planned availability and accessibility of sufficient water, sewer, and dry utilities.

(A) A site smaller than half an acre shall not be deemed adequate to accommodate lower income housing need unless the locality can demonstrate that sites of equivalent size were successfully developed during the prior planning period for an equivalent number of lower income housing units as projected for the site or unless the locality provides other evidence to the department that the site is adequate to accommodate lower income housing.

(B) A site larger than 10 acres shall not be deemed adequate to accommodate lower income housing need unless the locality can demonstrate that sites of equivalent size were successfully developed during the prior planning period for an equivalent number of lower income housing units as projected for the site or unless the locality provides other evidence to the department that the site can be developed as lower income housing. For purposes of this subparagraph, "site" means that portion of a parcel or parcels designated to accommodate lower income housing needs pursuant to this subdivision.

(C) A site may be presumed to be realistic for development to accommodate lower income housing need if, at the time of the adoption of the housing element, a development affordable to lower income households has been proposed and approved for development on the site.

(3) For the number of units calculated to accommodate its share of the regional housing need for lower income households pursuant to paragraph (2), a city or county shall do either of the following:

(A) Provide an analysis demonstrating how the adopted densities accommodate this need. The analysis shall include, but is not limited to, factors such as market demand, financial feasibility, or information based on development project experience within a zone or zones that provide housing for lower income households.

(B) The following densities shall be deemed appropriate to accommodate housing for lower income households:

(i) For an incorporated city within a nonmetropolitan county and for a nonmetropolitan county that has a micropolitan area: sites allowing at least 15 units per acre.

(ii) For an unincorporated area in a nonmetropolitan county not included in clause (i): sites allowing at least 10 units per acre.

(iii) For a suburban jurisdiction: sites allowing at least 20 units per acre.

(iv) For a jurisdiction in a metropolitan county: sites allowing at least 30 units per acre.

(d) For purposes of this section, a metropolitan county, nonmetropolitan county, and nonmetropolitan county with a micropolitan area shall be as determined by the United States Census Bureau. A nonmetropolitan county with a micropolitan area includes the following counties: Del Norte, Humboldt, Lake, Mendocino, Nevada, Tehama, and Tuolumne and other counties as may be determined by the United States Census Bureau to be nonmetropolitan counties with micropolitan areas in the future.

(e) (1) Except as provided in paragraph (2), a jurisdiction shall be considered suburban if the jurisdiction does not meet the requirements of clauses (i) and (ii) of subparagraph (B) of paragraph (3) of subdivision (c) and is located in a Metropolitan Statistical Area (MSA) of less than 2,000,000 in population, unless that jurisdiction's population is greater than 100,000, in which case it shall be considered metropolitan. A county, not including the City and County of San Francisco, shall be considered suburban unless the county is in an MSA of 2,000,000 or greater in population in which case the county shall be considered metropolitan.

(2) (A) (i) Notwithstanding paragraph (1), if a county that is in the San Francisco-Oakland-Fremont California MSA has a population of less than 400,000, that county shall be considered suburban. If this county includes an incorporated city that has a population of less than 100,000, this city shall also be considered suburban. This paragraph shall apply to a housing element revision cycle, as described in subparagraph (A) of paragraph (3) of subdivision (e) of Section 65588, that is in effect from July 1, 2014, to December 31, 2028, inclusive.

(ii) A county subject to this subparagraph shall utilize the sum existing in the county's housing trust fund as of June 30, 2013, for the development and preservation of housing affordable to low- and very low-income households.

(B) A jurisdiction that is classified as suburban pursuant to this paragraph shall report to the Assembly Committee on Housing and Community Development, the Senate Committee on

Housing, and the Department of Housing and Community Development regarding its progress in developing low- and very low income housing consistent with the requirements of Section 65400. The report shall be provided three times: once, on or before December 31, 2019, which report shall address the initial four years of the housing element cycle, a second time, on or before December 31, 2023, which report shall address the subsequent four years of the housing element cycle, and a third time, on or before December 31, 2027, which report shall address the subsequent four years of the housing element cycle and the cycle as a whole. The reports shall be provided consistent with the requirements of Section 9795.

(f) A jurisdiction shall be considered metropolitan if the jurisdiction does not meet the requirements for “suburban area” above and is located in an MSA of 2,000,000 or greater in population, unless that jurisdiction’s population is less than 25,000 in which case it shall be considered suburban.

(g) (1) For sites described in paragraph (3) of subdivision (b), the city or county shall specify the additional development potential for each site within the planning period and shall provide an explanation of the methodology used to determine the development potential. The methodology shall consider factors including the extent to which existing uses may constitute an impediment to additional residential development, the city’s or county’s past experience with converting existing uses to higher density residential development, the current market demand for the existing use, an analysis of any existing leases or other contracts that would perpetuate the existing use or prevent redevelopment of the site for additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites.

(2) In addition to the analysis required in paragraph (1), when a city or county is relying on nonvacant sites described in paragraph (3) of subdivision (b) to accommodate 50 percent or more of its housing need for lower income households, the methodology used to determine additional development potential shall demonstrate that the existing use identified pursuant to paragraph (3) of subdivision (b) does not constitute an impediment to additional residential development during the period covered by the housing element. An existing use shall be presumed to impede additional residential development, absent findings based on substantial evidence that the use is likely to be discontinued during the planning period.

(3) Notwithstanding any other law, and in addition to the requirements in paragraphs (1) and (2), sites that currently have residential uses, or within the past five years have had residential uses that have been vacated or demolished, that are or were subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of low or very low income, subject to any other form of rent or price control through a public entity’s valid exercise of its police power, or occupied by low or very low income households, shall be subject to a policy requiring the replacement of all those units affordable to the same or lower income level as a condition of any development on the site. Replacement requirements shall be consistent with those set forth in paragraph (3) of subdivision (c) of Section 65915.

(h) The program required by subparagraph (A) of paragraph (1) of subdivision (c) of Section 65583 shall accommodate 100 percent of the need for housing for very low and low-income households allocated pursuant to Section 65584 for which site capacity has not been identified in the inventory of sites pursuant to paragraph (3) of subdivision (a) on sites that shall be zoned to permit owner-occupied and rental multifamily residential use by right

for developments in which at least 20 percent of the units are affordable to lower income households during the planning period. These sites shall be zoned with minimum density and development standards that permit at least 16 units per site at a density of at least 16 units per acre in jurisdictions described in clause (i) of subparagraph (B) of paragraph (3) of subdivision (c), shall be at least 20 units per acre in jurisdictions described in clauses (iii) and (iv) of subparagraph (B) of paragraph (3) of subdivision (c) and shall meet the standards set forth in subparagraph (B) of paragraph (5) of subdivision (b). At least 50 percent of the very low and low-income housing need shall be accommodated on sites designated for residential use and for which nonresidential uses or mixed uses are not permitted, except that a city or county may accommodate all of the very low and low-income housing need on sites designated for mixed uses if those sites allow 100 percent residential use and require that residential use occupy 50 percent of the total floor area of a mixed-use project.

(i) For purposes of this section and Section 65583, the phrase “use by right” shall mean that the local government’s review of the owner-occupied or multifamily residential use may not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval that would constitute a “project” for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Any subdivision of the sites shall be subject to all laws, including, but not limited to, the local government ordinance implementing the Subdivision Map Act. A local ordinance may provide that “use by right” does not exempt the use from design review. However, that design review shall not constitute a “project” for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Use by right for all rental multifamily residential housing shall be provided in accordance with subdivision (f) of Section 65589.5.

(j) Notwithstanding any other provision of this section, within one-half mile of a Sonoma-Marín Area Rail Transit station, housing density requirements in place on June 30, 2014, shall apply.

(k) For purposes of subdivisions (a) and (b), the department shall provide guidance to local governments to properly survey, detail, and account for sites listed pursuant to Section 65585.

(l) This section shall remain in effect only until December 31, 2028, and as of that date is repealed.

(Amended (as amended by Stats. 2018, Ch. 958, Sec. 3) by Stats. 2019, Ch. 664, Sec. 15.5. (AB 1486) Effective January 1, 2020. Repealed as of December 31, 2028, by its own provisions. See later operative version amended by Sec. 16.5 of Stats. 2019, Ch. 664.)

EXHIBIT Q

**Mill Valley Planning Commission Meeting
February 28, 2023**

Alan Linch, Chair, Mill Valley Planning Commission:

[2:26:24]

All right. Well, thank you to all the members of the public for your ____ You're a ____ Very thoughtful and important comments. I know they will will now close the public hearing and bring items to the planning commission for discussion.

By various commenters that there may need to be some sort of discussion. Before we get to the Planning Commission deliberation, it might be helpful to hear any general comments Director Kelly or perhaps the City Attorney just about a couple of items. I mean, I guess in particular the ones that stuck out to me are that the question about segmentation.

With the project level EIR, subject ____ to the land use designation change, just trying to make sure we're aware of the advice we were being given going into that discussion. And then secondarily, I guess, it is just the, I know there's a question about the fire danger.

Fire danger zones is being a reason for certain choices that were made for the site inventory. Maybe Director Kelly will be able to comment on that. I can go through the list of items that are going to be available. You may have been keeping the list of questions as well, but maybe I can just turn to you to see if you have any general comments. And we can work through the questions before we go to deepen the deliberation.

Patrick Kelly, Director of Building and Planning:

[2:27:47]

Well, I can start out by providing a general review and I believe our legal council Inder Khalsa may be a role in responding as well as Danielle Staudi. I'll turn to Danielle to answer a few questions regarding the sites capacity and other questions.

Well, gee why wasn't 575 East Blithedale counted and _____ is included and we can clarify that. But you know, majority of the comments were relative to the one Hamilton and the statement about segmentation, statements about why now is the cart before the horse, so to speak.

Just a point of clarification is that as senior planner Staudi had mentioned, the full entitlement application is forthcoming. There will be study sessions, and I'm saying sessions, at least one before the Planning Commission, possibly more than one, depending on how the first one goes. And that is very much upholding the process, no different than any other.

That comes before the city. The public will have the opportunity to weigh in on the project design. Meanwhile, the full environmental analysis will be prepared. That will be published again for public review. The public will have the opportunity to review the analysis and the mitigation program. And that's all again forthcoming.

No decision will be made ultimately recommendation by this body and ultimately by the city council until complete disclosure is advanced before the public that includes the full entitlement application and the full CEQA documentation on the general plan It is very clear that the state housing committee development department will not certify our housing element

unless we fulfill our regional housing needs allocation. Part of that strategy is 45 units assumed for one Hamilton. And that's why I mentioned internal consistency. That is indeed relevant. And without those 45 units we'd have to find them elsewhere.

And we scoured our city it was very, very, it was very, very intense analysis to look at every possible site and as you that was presented this evening, we also included in the not just the overlay districts but also the office conversions to meet our regional housing needs, our assessment allocation. That 865 plus a buffer.

So it's a very, very challenging endeavor. And again, part of that does include the 45 units. Without those 45 units, they would have to be made elsewhere. For the 45 units to be included, the general plan must be amended. And otherwise, the state will not count those units, and then we're short. And our housing owner will not be certified. You heard the penalties that we'd be subject to. It's a very serious matter.

Serious matter and we're already actually striving to move advanced housing element as quickly as possible to avoid any monetary penalties. It's a very serious matter to the city. _____

Very intense effort that took months of work. And we actually toured the city with officials from the State Housing and Community Development Department and we stopped at the site at Safeway. And they said unless there's a reasonable expectation that this site will redevelop into housing, don't include it, it's not gonna be counted. And so without those assurances from property.

From property owners. We had to then go through and remove as Danielle presented on the slide showing sites that were removed from the sites inventory. So we have to have reasonable expectations that the sites will develop into housing for the next eight year cycle for the state to count those sites that are considered. And the verdict is still out. We still have to go through another round

with HCD and many cities go three, four rounds before the housing element certified. So the front and center in the housing element is the sites inventory. It's the most critical element of our housing element. With respect to the eyes of HCD, maybe Danielle can clarify the pipeline projects a little further. I don't know if there's anything else with clarifying that.

With clarifying that there's a lot there. –

Danielle Staude, Senior Planner:

[2:32:56]

Do you want me to finish up? There's a few just clarifications. So 575 [east blithedale] is included as part of the total. It is very confusing and I didn't create this matrix or model, but this is what we need to do to satisfy requirements.

So there's three buckets. There's pipeline projects and 575 is part of the pipeline projects. And then there's accessory dwelling units and we can use trends so that gets us 120 units for the eight-year cycle for accessory dwelling units. And then the third bucket is this idea of sites inventory so it's where there is additional Capacity on Zoned land that we have so we looked at all our zoning and the allowable number of units on properties, looked at hazards

looked at the condition of those Structures to talk to figure out what potentially might come about. That's where we'd indicated and through the analysis found that we had a lack of number of units that we needed. We couldn't meet the 865. So that's when we started talking about different opportunities. As part of that discussion, there were discussions about where to put housing. And I believe some people in this room that actually are near one Hamilton have spoken about Miller Avenue.

And requesting that additional units be built on corridors, such as Miller Avenue. Miller Avenue is multi-family and commercial areas and that's a place in which the city sees that there's opportunity to have additional units. Miller Avenue is not the only place for units in the sites inventory map as part of I can pull that up later shows that there is a diverse range of places where potential housing can go. There is criteria that we used associated with identifying sites so that included eliminating areas that had 40% or more slope for multi-family areas. Areas. Areas that weren't landlocked at the age of structures outside a historic zone, but we only have about 15 structures that are considered historic. Those are not in commercial areas. And you'll see in the document there's a modification that the multi-family and mixed use potential multi-family developments that are part of the sites inventory that they're outside very high fire severity zones that are within steep hillside. So there are potentially sites that are in very high fire severity zones for multifamily. We're just looking to try to find areas that aren't on steep hillside.

If you look at page 1-6 There is an illustration of the, basically, commercial and multi-family corridor. Most of that corridor is actually outside the hazard area that we're talking about, and allows again and facilitates potential housing in the multi-family and commercial areas. And lastly, there's a half mile of transit.

In terms of additional sites looked at, yes, we're interested in Mr. [klein's?] interests in adding religious institutions and educational facilities. We'd love to do that. We need to get more information and more feedback from those parties. As part of the outreach, we did ask about about creating the overlay, there is concern from the community and we want to make sure that we're balancing that community interest of being able to maintain those facilities and educational facilities and the institutional religious institutions while also providing housing. So there wasn't a great feeling to just add an overlay as part as part of where those religious institutions are.

The Pharmaca parking lot and the abandoned Montessori mentioned in Mr. [klein's?] report are part of the site's inventory, so those are part of that. And then there's a list of doing a specific plan on Miller Avenue that would actually combine lots from what I can tell.

There's nine, eight or nine owners associated with the lots. That's a lot of coordination with land owners could be done, but there needs to be more coordination for that to happen. Parking, there was mention that parking spaces was a half parking space per unit. We wanted to clarify it's one parking space for the overlay districts if the unit is a thousand square feet or less. And with that, I'll turn it over to Inder to talk about land use.

Inder Khalsa, City Attorney:

[2:38:25]

>> I can briefly address the legal questions that came up. So I wanted to point to a couple of things. One is that we heard that you have, the city has three years after adoption of the housing Element to what was mentioned by the commenter to revise the general plan. That is not correct. We have three years after the adoption of the housing element to rezone sites, but that section of the law in the government code says rezone. It does not say revise our general plan. And as Patrick has noted a couple of times there has to be internal consistency in the general plan and in our communications with how other jurisdictions with how other jurisdictions are handling this, they're amending their general plans at the time that they move forward with their housing element to reflect any changes in density with the housing element programs so that they have that internal consistency and hopefully to increase the chances that HCD will review and view our actions as in good faith and our intentions as in good faith.

Another thing that did come up is several people mentioned.

Mentioned that once you've amended the general plan, you have less discretion over development on the site. That is true if we're talking about a privately owned site, but you just have to remember that one Hamilton is city owned. The city has 100% discretion about whether or not it wants to ground lease its own property for development or affordable housing project. This is a 100% discretionary and legislative project. There's no private applicant with property rights who can assert or claim the advantage of state housing laws in this case. This is totally up to the city what it wants to do with its own property. So I wanted to raise that.

And then finally, it was mentioned a couple of times that the city is piecemealing. Piecemealing is where you have a project. You know what the project is going to look like. You have a fairly clear vision of what the project is going to be.

And then you sort of split it up into its little parts. So you say, first we're gonna do the grading and we'll do environmental review on the grading and then we're gonna say build the foundation and do an environmental review on that. And so you break it up into little pieces and the concern with that is that it can sometimes result in sort of lessened impacts. If you split a project up into a lot of pieces, you often miss the bigger picture cumulative impacts. In this case, our timing was such that we were moving our housing element forward understanding the general idea for density that we wanted for the site, but we did not have design or a site plan or a coherent idea of what the project might look like on a sort of a site level.

And so we didn't have enough information to do the full project level EIR along with the land use change and the housing element. It might have been nice if we had timed it that way, but that's just not how it has progressed through the city's process. And so we are still in the process of developing our idea of site design and layout and the height and mass. We're still at a very sketchy level with that and we're planning to workshop those back with planning commission and with the public. And so we weren't in a position to analyze it at a project level at the time that the housing element EIR was commenced. But we will do our project level EIR down the road to analyze all those project specific impacts.

At the same time though we wouldn't be able to meet our RHNA numbers without the one Hamilton project and there's certainly, this is very common for cities to include a project that's still sort of in the, you know, conceptual, you know, development phase in a housing element and include that on their sites inventory.

And so this is the way that we've handled this is not uncommon. There's nothing problematic about it from a CEQA perspective because we didn't have enough information to analyze the project as a whole at the time that we really started work on our housing element EIR. But it will be coming fairly shortly after we're hoping this year. So as we move forward and we get that additional information, we'll be able to do that additional analysis.

CEQA only requires that we analyze what we can actually understand. And if we don't know what the project will look like yet, there's obviously a lot of features that we won't be able to fully analyze. So the way that we've proceeded forward, I feel very confident, is consistent with CEQA. We've really been carefully complying with CEQA every step of the way. We plan to do the full project analysis. There's no lessened discretion for one Hamilton as a result of this general plan change because it was always and is always going to be a purely legislative city property city project. So I hope that answers some of the questions. I'm happy to answer any follow up.

Alan Linch, Chair [2:43:12]

Now all of this has been very helpful. I think it has addressed the large part of the questions that were raised by the public and they _____ be some other questions that piggyback _____ these issues, I guess along those lines, I guess just to put a finer point on it, I understand that it's helpful to be internally consistent. It's allowed to have the land use designation change. But do we have reasonably that HCD will, I mean, specifically will not count these 45 units in the housing element if we don't change the land use designation now. I think that's -- I just want to understand, we can do it or not, but I just want to understand, do we have reasonably the HDD will not count those 45 units if the land use designation is not changed tonight? Or are recommended for change.

Inder Khalsa

[2:44:07]

I don't believe we've had that direct conversation with HCD, but in looking at how other jurisdictions are handling this, they are amending their land use elements alongside the adoption of the housing element. And it would make sense that the housing element would not

be an effective document if it's inconsistent with other parts of the general plan. For example, this is now zoned open space as a parking lot adjacent to Hauke Park. And so it wouldn't be viable as an sites inventory site in the housing element, if the land use element conflicted with it. So that's the first concern. And then it's not just HCD that's watching the city. As we all know, there are many pro housing groups out there right now, also carefully watching cities for compliance with housing element law. And the other concern would be that this would be raised as an inconsistency or a show of bad faith by the city by a party outside, not HCD, but another party that is, you know, there are several organizations out there right now that are really looking around for cities to challenge in the housing element process. And so we're trying to do everything as carefully as we can.

Alan Linch, Chair

Fair enough. That's helpful. Any other questions for staff, city attorney, related to the questions raised in public comment? I mean, I think we can talk about it in deliberation.

If there's anything to serve us now, please.

Thank you, Commissioner Hilderhead.

Greg Hildebrand, Planning Commissioner

[2:45:30]

So I thank you. I think that answers my question. It sounds like it's not determined. Whether you could count the units while it's in process of the time period to rezone.

So I don't think that's a definitive, no we wouldn't be able to count those 45 units, is that correct?

Inder Khalsa

[2:46:02]

>> That's correct. As far as I'm concerned it's a concern but it's not definitive one way or another. I don't know if our staff has had different conversations with our consultants. There's a lot of, we're watching very closely how other jurisdictions are handling these things. So I don't know if there's new intelligence.

Greg Hildebrand, Planning Commissioner

[2:46:22]

Okay, so I mean, we're all, this is all new, right? 'Cause this, we went from 149 units in the last cycle to 865, so I think this is probably new for everybody, right? Facing this huge number that we have to try to achieve. But the other question that I have, that one of the first people brought up tonight, Patrick, and I know since I've been involved in the ADU ordinance, before the state got involved and mandated what we had to adjust ours to we've had lots of discussions with Fire Marshall, etc. about how do we handle fire safety and these high fire severity zones when it comes to ADUs and there's been a lot discussion about road width and some of these other areas where you know you wouldn't be able to safely evacuate and how could you develop significant if everybody in all the hillsides in those higher severity zones built in ADU, we'd have obviously we'd have major health and safety issues. So we talked about that as part of the mandate in the beginning, but I thought it was if you could kind of address what

one of the community members mentioned tonight about we have some of those safety measures in there in the ADU ordinance, but if, and I think Danielle said that there's some properties for multifamily development that are in the high fire severity zone, but it's in an area that's not on a steep slope, so they were included so I think one of those is on Evergreen and that's the reservoir that is currently something that the city potentially could get access to from Marin Water, right? And that might be one of the ones that the individual mentioned. But I guess my question is, is how do we reconcile that? Because I think we should be consistent because if we're just again panicked about getting our housing numbers and we don't consider fire severity zones and developing the other things that we're all trying to do here is sustainable design and development and if we're doing, and we desperately need affordable by design projects, but how can you look at affordable by design and not have access to city services and be in a walkable, bikeable place and develop something up in a high severity zone like the reservoir like _____ [*lengthy comments about sustainable design and his interest in it and tension between affordable by design and sustainability*].....one of the beauties of One Hamilton is it is walkable to everything...

I hate to feel like we're under pressure, we're in fear of the state, how do we address all these things and move this thing forward which we know we all need to do?

Patrick Kelly:

I'll start out and maybe Danielle has a perspective here. I think the short answer in general is that the environmental impacts of the project that is the housing element before you and the general planning amendments corresponding have been analyzed by the subsequent EIR. So if there's a concern of hazards or risk factors, they've been fully analyzed as presented to you this evening. And we do have full, a robust, you know, vegetable management program. Every project is fully analyzed by the rent or fire district that we're partners with. So I think that's the short answer. The comment that I made at the presentation was just the challenges that we've had, you know, finding sites. And you may recall that the city did challenge our number that _____ this by the state. And one of the items that we mentioned were the challenges, the topography, very high-fire severity zones, narrow roads, and so forth, flood zones as well. And it fell on deaf ears. And the state has generally rejected appeals throughout the state of California. So that was the reason why that was mentioned, was just the challenges we had in meeting them.

Eric Macris:

3:06:36

But first I do support what Greg is suggesting that we not lose our institutional memory. We've done so much work, some of which ends up going to HCD, but figuring out some creative ways to build on what you've done and learned would be very useful for the community. Couple of specific questions reflecting.

Just to clarify and I think it's a question for Inder. You've said that based on what we know so far from what's happening with other communities and their interactions with HED that the

land use designation seems to be a necessary part of submitting our housing element and I want to make sure that.

That I think that's also true for the SEIR as well, that if we didn't move forward with that now as we're being asked to do, that the, maybe it's a question for you guys, but the HCD would likely consider our submission of the revised element to be incomplete without both the land use designation and.

And the S E I R. >>

Inder Khalsa:

I think the E I R is necessary because _____ [CEQA?] we have to do a full environmental analysis before we approve a project and project is defined as something that impacts our physical environment and surely the housing element with its increased density and some of the programs that we're looking at here will impact the physical environment of Mill Valley. To do a full environmental analysis. In our case, because we do require, ours does require up-zoning some sites. We are doing an EIR in order to fully evaluate those impacts. We have to do that. And council has to look at the environmental impacts before it can make a decision on any project. It's a little bit more unusual for Mill Valley to have, to have more than one EIR happening in one year like we have been.

So I realized that that's a little bit more uncommon for us But this is part of the any process in which the city council is going to approve a project We always have to do CEQA in Mill Valley where we deal with mostly small projects most projects are exempt but the housing element is a big Big project that impacts the whole area and so we need to do that analysis first HCD actually does not care about our environmental analysis That's it's a different set of laws that requires us to do the environmental.

Us to do the environmental analysis. HCD does care, though, about the, I guess, the enforceability and applicability of our housing element. And so I do think that they will be looking to make sure that we are taking all steps to show that we plan -- that our intent is to move forward. And so the General Plan Amendment shows them that we're serious about the programs that we're adopting.

So then I think the other issue that cities are looking at is that the housing element law specifically says you have three years to rezone. If the legislature had meant three years to redesignate, you know, in your general plan and rezone, they presumably would have said so. The statutes are very long and complicated and full of details like that. So the fact that that statute says you have three years to rezone, that doesn't say you have three years.

And say you have three years to do both. It's strongly suggest to me that a court in interpreting that law would say three years to rezone, but not three years to change general plan. That's right. Yeah. Yeah. OK. And then one follow up question then raised by, at least one speaker, the subsequent EIR, does it, or does it not trump a project.

A project, I know you've touched on this peripherally, but since some folks asked, I wanted to ask to.

Inder:

Yeah, they really are, in this case, they kind of dovetail. So the housing element addresses sort of the increase in density citywide and the SEIR that we are preparing that is in draft form in

front of you tonight addresses the impacts of that increase in density, not just on the one Hamilton site, but including the one Hamilton site, but also citywide. All of the site's inventory, the overlay districts, that increased density is addressed in that SEIR. The project level analysis that we're looking at would be looking at the design, the mass, the size, the visual and aesthetic impacts, the air quality impacts associated with construction, the, obviously the soils. The soils and any hazardous materials impacts and so we'd be looking at those site specific impacts. But just to be clear, the density of one Hamilton is included in and analyzed by the SEIR that's in front of you tonight. Okay, thank you. That's all I got.

Ernest Crangle, Commissioner

3:11:44

Sort of following up on that would be a little more fine.

It seems to me that the most worrisome thing that we heard from the community was, if I can paraphrase, if we approve what's before us tonight, it would preclude having an impact on our decisions for the one Hamilton specific. And I think you made it pretty clear.

You made it pretty clear. I heard it. I just wanted to be reiterated that doing that does not preclude all the things that we need to do to improve one hamilton. We'll do that including asbestos and the design of it, the massing of all the things that you just outlined are still in. In the, to be judged in the future and not already predetermined by doing what we, by by by approving what we're doing tonight. I think that's, we heard that from multiple people there's a concern that we're, you know, the shell game here that we're going to, we approve it, but it really then sort of a done deal. I think just to, you know, just.

To try our best to make the community understand that that's not what's happening here.

Inder:

That's right. So just to reiterate, the project is this isn't privately owned property where an applicant could use state housing laws to say city you must approve a housing project of a certain size or housing project that wasn't in compliance with our allowed density. This. That will be reviewed by planning commission and recommended on and then sent to city council who will have to decide whether or not the city wants to use its own property to build affordable housing. So that's all fair game at that point. There's no limitations on the city's discretion whatsoever. There's no arguments that we don't, the city is the applicant in this case. We have a partner EAH, but we have no applicant.

With their own individual property rights that we need to be concerned about, like we would with a site on private property, for example, the Blithedale site that we reviewed recently. It's not like that. - So it's a rather unique situation that's after the is city land. - Right. - And so that puts it into this different kind of sort of sense, - So one of us being able to do what we think is right.

Do what we think is right. Right and I do think that it is confusing [3:14:21]because when we amend our general plan with respect to a privately owned site we would be handing over some rights to that applicant to develop under the general plan designation. No question that that would hamstring the city or that a privately owned site. That's just not the case though with this particular site. So many of the arguments that we've heard tonight they have some validity.

If this were a privately on site, but they don't apply here because this is a city on site where we have 100%. Yes or no, we can change our mind at any time. We can go through the whole process and the city council doesn't like the final result. They can just revert to a parking lot or keep it status quo.

That's very helpful.

**Jon Yolles,
Commissioner**

3:45:35

I just want to add one thing, a couple things, which is, so Patrick, your comment that there's a high likelihood of HCD.'s rejecting the Housing Element without those 45 units carries a lot of weight in my book. We don't have an alternative, as you said, and in particular, those 45 units are being.

That are being counted as exclusively low income units, which are the hardest units to find an alternative for. We just don't have an alternative of 45 low income units elsewhere. Again, we're not building, we're not approving of that project tonight. We're not going to probably approve it for some time to come. But I really don't see how we're going to approve it. And I think we all kind of have to put our city council hats on and realize that they obviously have. They obviously have the final say and I don't see how we can send something to them that doesn't have those 45 low-income units included in it. Lastly, this is not our third time looking at this housing element. It's those 45 units have been in there all three times. And well, maybe some of the mechanics weren't clear to us. I think that's fair to say, they have been in there and I think there's been a long opportunity for the community.

Opportunity for the community to be aware of their being in there as well. So I don't think there's, you know, I don't think they're unaware. And I don't think they, you know, a lot of people didn't like it then and a lot of people don't like it now. And I don't think anything's changed on that front. And finally, there are major fines up to \$600,000 a month that the city could incur and a risk of loss of local control by this commission if we don't. I'm not suggesting we take those out. That's the point. We don't know that they're going to reject them. And we know that they're going to come back with more edits. So then once we find out if they reject those, then we have another conversation. And maybe that gives us an opportunity to look at some of the one Hamilton data that will be there. That's all I'm saying.

I do hear it great. I kind of view it as like, you know, the city now is in the position of an architect or a developer where you're submitting to another entity and you're trying to get their buy-in on everything you said. And, you know, the less information you provide on that current submittal, you know, they're just gonna keep coming back at you. And the more you do, you know, the more developed your application is, the quicker and smoother it goes, the more. More goodwill you develop and you go through, you and I both go through this on a regular basis and I think we could be, you know, kind of just a stuck in the eye of the HCD if we don't get with the program. I think they made that pretty darn clear in the last round of comments that they gave us. So I mean this is maybe not on topic but do you realize.

Greg Hildebrand:

But do you realize that every time we meet now, everything that we try to do is based on fear of fines from the state? Is that where the planning commission is moving towards? Is that what our role is now? We just have to react and just rubber stamp. That's what we look at. We can talk about that. I mean, I find that frustrating that one thing the community really feels strongly about, and a lot of people said something about.

That we can't put it in there with a way to have an option to update it without having to go back and do and no one's ever going to do another general plan amendment in eight years to change that back. Well, I think there was a general misunderstanding about the public versus private land issue because I mean I think that kind of drove this point out for me personally and it's just that it's different. I mean.

Different? I mean, you're not answering yourself from future review. Well, is it different if it's given to EAH and they're the developer and they have control over it? I guess to me, I don't, especially after everything that we went through when we heard all the expertise on 575E's flight tail, well, it's exempt and you have to do this.

I'm not sure if it's a little cautious, maybe too much so. But I want to certify the housing element, but I'm just worried about, I think that's a, I've never heard that before. There was a lot of comments and I read every single one of those and I thought, whoa, this is something that we should really take into under consideration. You know, if council doesn't agree with it, well that's, but at some point, it seems like.

But it seems like the planning commission ought to be an independent body and not something that just rubber stamps everything that city staff is in fear about. Anyway. Well, other comments because I think maybe it's time to make a motion. I'm ready to make a motion.

I'm ready to make a motion, but can I get clarification on one of our recommendations that we may be making? So Danielle, you talked about additional strategies at four years under program 20 that would give owners an opportunity to opt into...

EXHIBIT R

TRAINING FOR HEALTH CARE PROVIDERS

[Date ...Place ...Event...Sponsor...Organizer]

CHILDREN AND NOISE

Children's Health and the Environment

WHO Training Package for the Health Sector

World Health Organization

www.who.int/ceh

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<<NOTE TO USER: Please add details of the date, time, place and sponsorship of the meeting for which you are using this presentation in the space indicated.>>

This presentation on Children and Noise is part of a comprehensive set of training materials for health care providers on children, the environment and health.

<<NOTE TO USER: This is a large set of slides from which the presenter should select the most relevant ones to use in a specific presentation. These slides cover many facets of the problem. Present only those slides that apply most directly to the local situation in the region. It is also very useful if you present regional/local examples of noise prevention programs, if available, and choose local relevant pictures.>>

CONTENTS

- 1. Introduction**
- 2. Vulnerability of children**
- 3. Adverse health effects**
- 4. Effects by age-group**
- 5. Taking action**
- 6. Discussion**

LEARNING OBJECTIVES

To **understand, recognize** and **know**

1. Definition and characteristics of sound and noise
2. Sources and settings of noise exposure
3. Adverse effects of noise exposure
 - On physical health
 - On psychological health
 - On cognition
4. **Weight of the evidence of the harm to children**
 - **Special vulnerability of children**
 - **Various noise exposure scenarios in settings where children develop**
5. Interventions and preventive strategies

These are the learning objectives for this module. After the presentation, the audience should understand, recognize and know

<<READ SLIDE>>

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- 1. Introduction**
2. Vulnerability of children
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Children and noise

DEFINITION: SOUND AND NOISE

Sound is characterized by:

❖ Vibration

- Frequency (Hz)
- Intensity (Pa or dB)
 - Decibel scale logarithmic
 - Begins at threshold of hearing

❖ Periodicity

❖ Duration



“Noise is an unwanted or objectionable sound”

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What is sound? Sound is a mechanic vibration propagated by elastic media (as air and water) which alters the pressure displacing the particles, and can be recognized by a person or an instrument.

Vibration and noise can never be separated but vibration can exist without audible noise.

Sound is characterized by its intrinsic characteristics:

• **Vibration:** Sound is a mechanic vibration, expressed as a combination of pressure (Pascals, Pa) and frequency (Hertz, Hz)

• **Frequency** or pitch is the number of cycles per second (Hertz, Hz or kilo Hertz, KHz).

• **Intensity** or loudness is the “level of sonorous pressure” and is measured in Pascals (Pa) or decibels (dB). The audible spectrum of the human ear is between 0.00002 Pa (corresponds to 0 dB) and 20 Pa (corresponds to 120 dB). The intensity of human speech is approximately 50 dB. Decibels are used for convenience to express sound on a compressed, logarithmic scale in the human audible spectrum.

• **Periodicity:** describes the pattern of repetition of a sound within a period of time: short sounds that are repeated.

• **Duration:** is the acoustic sense developed by the continuity of a sound in a period of time, for example music, voice or machinery.

What is noise? Noise is an unwanted or objectionable sound. Generally, the acoustic signals that produce a pleasant sense (music, bells) are recognized as “sound” and the unpleasant sounds as “noise” (for example: produced by a machine or airplane). It can be a pollutant and environmental stressor, and the meaning of sound is important in determining reaction of different individuals to the same sound. One person’s music is another’s noise.

The human ear is an instrument that detects vibration within a set range of frequencies. Air, liquid or solid propagates vibration; without them, sound does not exist. Sound does not exist in the vacuum. The higher the level of pressure of the sonorous wave, the shorter the period of time needed to be perceived by the ear.

Why are not all vibrations audible?

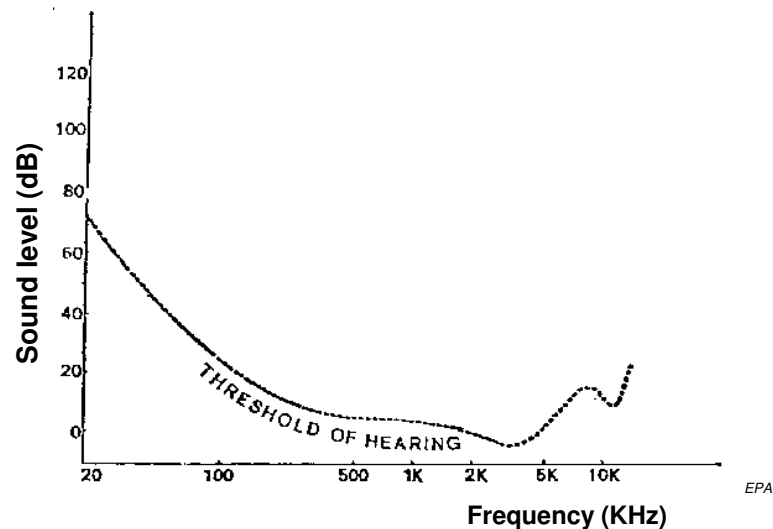
The ear is a frequency analyzer. The eardrum separates tone and conduction in two different ways: by the nervous system and by the bones. The nervous system connects the cochlea to the temporal region of both hemispheres of the brain. The cochlea perceives vibration transmitted directly from the bones of the head.

Picture:

• NASA

Children and noise

THRESHOLDS OF HUMAN HEARING



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Why is noise sometimes inaudible?

Threshold of hearing is defined as the minimum efficient sonorous pressure (Pa or dB) that can be heard without background noise of a pure tone at a specific frequency (Hz or KHz, cycles per second).

The human audible frequency range is from 20 to 20,000 Hertz (Hz). Frequencies out of this range are not detected by the human ear. The ear is not equally sensitive to all the frequencies.* The most audible frequencies are between 2000 and 3000 Hz (range within which the least pressure is needed to provoke the conscious recognition of a sound). This range can be easily identified where the curve is at its minimum and corresponds to human speaking frequencies.

For this reason, sound meters are usually fitted with a filter whose response to frequency is a bit like that of the human ear. The most widely used sound level filter is the A scale, which roughly corresponds to the inverse of the 40 dB (at 1 kHz) equal-loudness curve. Using this filter, the sound level meter is thus less sensitive to very high and very low frequencies. Measurements made on this scale are expressed as **dB(A)**.

The "normal threshold" of hearing is defined in "young people with a healthy auditory system".

The **"pain threshold"** is the high level (high dB) audible sound where the level of pressure of the sound produces discomfort or pain. The pressures of the sounds are over the curve: "ultrasounds". Very powerful levels of sound can be perceived by the human ear but cause discomfort and pain.

*Pressures below the audible level are called "infra-sounds": the pressure is detected but our hearing mechanism is not adapted to making the sound evident to the human ear (under the curve in the graphic). These frequencies (less than 20 Hz, not audible for the human ear) can be produced by machines or "ultrasonic" motors of planes. Out of the limits of the human threshold of hearing exists sound that can be perceived by special equipment or animals such as dolphins and bats that are equipped to perceive sound that humans can not perceive. The human being hears a very short portion of the existing sounds, the very weak and the ones above and below of the thresholds are not perceived or they are accompanied by pain, **and can produce damage to a system that is not prepared to perceive them as the person may not be able to protect her/himself from this deleterious exposure.** There is individual variation within these general parameters.

Reference:

•Noise effects handbook, National Association of Noise Control Officials. *Office of the Scientific Assistant, Office of Noise Abatement and Control, U.S. Environmental Protection Agency, 1979, revised 1981* (www.nonoise.org/library/handbook/handbook.htm).

Picture:

•EPA (U.S. Environmental Protection Agency)

Children and noise

MAGNITUDE AND EFFECTS OF SOUND

COMMON EXAMPLE	dBA	EFFECT
Breathing	0-10	Hearing threshold
Conversation at home	50	Quiet
Freeway traffic (15 m), vacuum cleaner, noisy party	70	Annoying , intrusive, interferes with phone use
Average factory, train (at 15 m)	80	Possible hearing damage
Jet take-off (at 305 m), motorcycle	100	Damage if over 1 minute
Thunderclap, textile loom, chain saw, siren, rock concert	120	Human pain threshold
Toy cap pistol, Jet takeoff (at 25 m), firecracker	150	Eardrum rupture

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This abbreviated table correlates common sounds with effects on hearing.

Additional examples for discussion are listed below:

-Quiet suburb or quiet conversation	50 dB A	No significant effect
-Conversation in a busy place, background music or traffic	60 dB A	Intrusive
-Freeway traffic at 15 metres	70 dB A	Annoying
-Average factory, train at 15 metres	80 dB A	Possible hearing damage
-Busy urban street, diesel truck	90 dB A	Chronic hearing damage if exposure over 8 hours
-Subway noise	90 dB A	Chronic hearing damage, speech interfering
-Jet take-off 300 metres	100 dB A	More severe than above
-Stereo held close ear	110 dB A	More severe than above
-Live rock music, jet take off 160 mts	120 dB A	As above, human pain threshold
-Earphones at loud level	130 dB A	More severe than above
-Toy cap pistol, firecracker close ear	150 dB A	Acute damage (eardrum rupture)

dBA weighting curve: response of a filter that is applied to sound level meters to mimic (roughly) the response of human hearing. So a typical human equal loudness curve is somewhat similar to the dBA curve, but inverted.

Reference:

•Children's health and the environment: A review of evidence. Tamburlini G et al., eds. *EEA-WHO*, 2002 (www.eea.europa.eu/publications/environmental_issue_report_2002_29)

Children and noise

SOURCES OF NOISE

Outdoor sources

- ❖ Transport
 - Aircraft
 - Road
 - Rail
- ❖ Occupational
 - Machinery
- ❖ Neighbours
 - Machinery
 - Loud music

Indoor sources

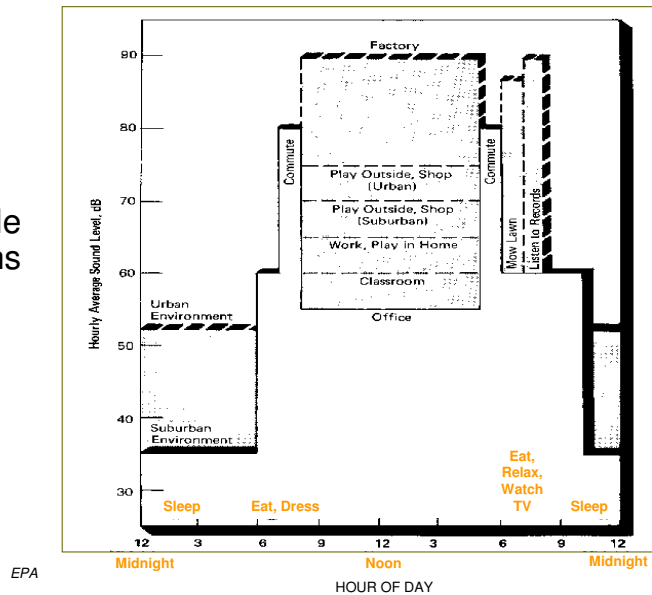
- ❖ Ambient noise outside
- ❖ Building design and location
- ❖ Room acoustics
- ❖ Activities of occupants
 - Children

Common sources of outdoor noise arise from transportation (aircraft, car and truck traffic, and trains), occupations (construction machinery, assembly lines), and even from neighbours (yard equipment, loud music). Indoor noise is affected by outdoor noise, and indoor sources such as TV, radio, music and children at play. The level is modified by building design and location as well as room acoustics.

Children and noise

SETTINGS OF NOISE EXPOSURE: "NOISE-SCAPE"

Hypothesized lifestyle noise exposure patterns



The concept of a "noise-scape" can be useful in thinking about noise exposures. That is, obvious loud noises are imposed upon a background of noises that will vary according to general location (urban vs. rural), time of day (day vs. night) and activity (school vs. play). This image is a schematic representation which illustrates these different aspects of the "noise-scape".

Reference:

•Noise effects handbook, National Association of Noise Control Officials. *Office of the Scientific Assistant, Office of Noise Abatement and Control, U.S. Environmental Protection Agency*, 1979, revised 1981 (www.nonoise.org/library/handbook/handbook.htm).

Picture:

•EPA (U.S. Environmental Protection Agency)

Children and noise

NOISE EXPOSURE IN EU

- ❖ 40% of population exposed to $L_{eq} > 55$ dBA during the day
- ❖ 20% of population exposed to $L_{eq} > 65$ dBA during the day
- ❖ 30% of population exposed to $L_{max} > 55$ dBA during the night
- ❖ Hazard is increasing

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L_{eq} : average sound level over the period of the measurement, usually measured A-weighted

L_{max} : maximum A-weighted noise level

dBA weighting curve: response of a filter that is applied to sound level meters to mimic (roughly) the response of human hearing. So a typical human equal loudness curve is somewhat similar to the dBA curve, but inverted.

Reference:

- Berglund B et al., eds. Guidelines for Community Noise. Geneva, *WHO*, 1999.

Children and noise

NOISE CONTAMINATION

❖ Noise exceeding safety threshold is widespread:

- In neighbourhoods
- Schools, hospitals and care centres
- Urban and suburban areas
- Activities inside the buildings (elevators, water tubs, music in discotheque)
- From children themselves (toys, equipment, children playing or practicing sports in a close yard)
- Traffic: heavy road, railways, highways, subways, airports
- Industrial activities
- Building and road construction, renovation

❖ Increased environmental noise levels - more noise sources

❖ Also linked to population growth

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Noise contamination or noise pollution is a concept which implies harmful levels of excess noise. Noise intense enough to cause harm is widely spread.

<<READ SLIDE>>

CONTENTS

1. Introduction
2. **Vulnerability of children**
3. Adverse health effects
4. Effects by age-group
5. Taking action
6. Discussion

Children and noise

VULNERABLE GROUPS OF CHILDREN

- ❖ The fetus and babies
- ❖ Preterm, low birth weight and small for gestational age babies
- ❖ Children with dyslexia and hyperactivity
- ❖ Children on ototoxic medication

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It is logical to consider certain subgroups of children (since conception) to be particularly at risk for harm from excess noise exposure. These include the fetus, babies and very young infants born preterm, with low birth weight or small for gestational age. Also, children who have learning disabilities or attention difficulties may be more likely to develop early problems with mild hearing loss compared to children without these challenges, and children on ototoxic medications may have higher likelihood of developing problems from exposure to excess noise.

Reference:

•Carvalho WB, et al. Noise level in a pediatric intensive care unit. *J Pediatr*, 2005, 81:495-8.

OBJECTIVES: The purpose of this study was to verify the noise level at a PICU. **METHODS:** This prospective observational study was performed in a 10 bed PICU at a teaching hospital located in a densely populated district within the city of São Paulo, Brazil. Sound pressure levels (dBA) were measured 24 hours during a 6-day period. Noise recording equipment was placed in the PICU access corridor, nursing station, two open wards with three and five beds, and in isolation rooms. The resulting curves were analyzed. **RESULTS:** A basal noise level variation between 60 and 70 dBA was identified, with a maximum level of 120 dBA. The most significant noise levels were recorded during the day and were produced by the staff. **CONCLUSION:** The basal noise level identified exceeds International Noise Council recommendations. Education regarding the effects of noise on human hearing and its relation to stress is the essential basis for the development of a noise reduction program.

VULNERABILITY OF CHILDREN

- ❖ Different perception of dangers of noise
 - Can not recognize the dangerous exposures
- ❖ Lack of ability to control the environment
 - Are not able to identify and avoid the source of noxious noise
 - Exposure *intra utero*
- ❖ Noise can interfere with communication of danger
- ❖ May be more exposed due to their behaviour
 - Exploratory or risk behaviour (in children and teenagers)

Special vulnerability of children to noise. The known increased risk is due to

<<READ SLIDE>>

Noise effects in children

"Children may be more prone to the adverse effects of noise because they may be more frequently exposed....and they are more susceptible to the impact of noise". (Tamburlini, 2002)

Reference:

•Children's health and the environment: A review of evidence. Tamburlini G et al., eds. *EEA-WHO*, 2002 (www.eea.europa.eu/publications/environmental_issue_report_2002_29)

Children and noise

VULNERABILITY OF CHILDREN

Why might children be more susceptible to noise effects?

- ❖ Possible increased risk due to immaturity
 - Increased cochlear susceptibility?
 - *In utero*
 - Animal data studies
- ❖ Critical periods in relation to learning
- ❖ Lack of developed coping repertoires
- ❖ Vulnerable tasks \ Vulnerable settings (schools, home, streets)

What might be the implications of noise effects?

- ❖ Lifelong impairment of learning and education
- ❖ Short-term deficit followed by adaptation
- ❖ Non intentional lesions

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<<READ SLIDE>>

Exposure to excessive noise and vibration during pregnancy may result in high frequency hearing loss in the newborn, may be associated with prematurity and growth retardation, although the scientific evidence remains inconclusive.

The role of the amniotic fluid is not yet defined, nor when and which noises or vibrations can damage the fetal development of the auditory system (e.g. cochlea). Concern about synergism between exposure to noise and ototoxic drugs remains incompletely defined. There are studies on fetal audition dating from 1932 that explore the reaction of the fetus to external noises but even today this remains incompletely characterized.

References:

- Children's health and the environment: A review of evidence, Ed. Tamburlini G. et al, *EEA-WHO, 2002* (www.eea.europa.eu/publications/environmental_issue_report_2002_29).
- National Institute of Public Health Denmark. Health Effects of Noise on Children and Perception of the Risk of Noise. Bistrup ML, ed. *Copenhagen, Denmark: National Institute of Public Health Denmark, 2001*, 29.

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ADVERSE EFFECTS FROM EXCESS NOISE EXPOSURE

- ❖ Direct ear damage
 - Noise induced hearing loss
 - Noise induced threshold shift
- ❖ Indirect adverse effects
 - Physiological effects
 - Psychological effects
- ❖ Impaired cognition

Characteristics of the sound can modify effect

Adverse effects can be divided into direct damage, indirect adverse effects and impaired cognition. Many effects of noise exposure are more thoroughly studied in adults than in children.

The degree of adverse effect is modified by the sound characteristics.

• **Vibration:** can be acute or chronic, audible or inaudible. Vibration can be transmitted to all the body directly through the skin or bones.

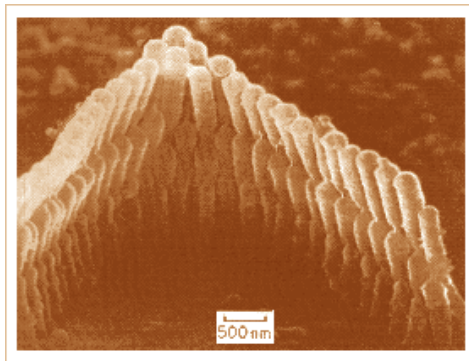
• **Frequencies:** lower and higher (ultra and infra sounds) can also damage the human hearing system, despite being imperceptible, and have important consequences for life (loss of hearing). These consequences can also be present after chronic exposure to low frequency non audible sounds (chronic back noise exposure). Incubators are an example of this exposure.

• **Intensity:** Direct blows to the ears, very loud noise (pneumatic hammer or drill, fire arms, rocket), and sudden but intense sounds can destroy the eardrum and damage the hair cells of the cochlea by bypassing the protective reflexes. Acute trauma can cause a lifelong lesion.

• **Periodicity and Duration:** Impulse noise is more harmful than continuous because it bypass the natural protective reaction, the damping-out of the ossicles mediated by the facial nerve. Loud noise may result in temporary decrease in the sensitivity of hearing and tinnitus, but repeated exposure may cause these temporary conditions to become permanent.

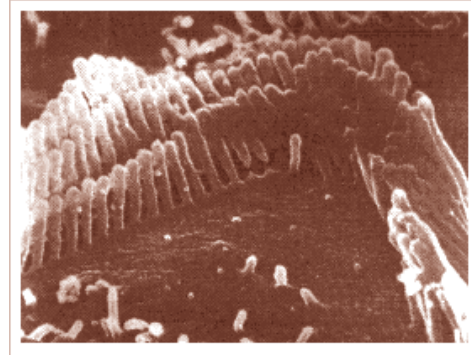
ORGAN DAMAGE NOISE INDUCED HEARING LOSS

Normal hair cell



VIMM

Noise damaged hair cell



VIMM

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Normal healthy "hair cells" transform vibration into nerve impulses sending messages to the brain. Trauma to the hair cells of the cochlea results in hearing loss. Prolonged exposure to sounds louder than 85 dBA is potentially injurious (85 dBA is tolerable for an occupational exposure). Continuous exposure to hazardous levels of noise tend to affect high frequencies regions of the cochlea first. Noise induces hearing loss gradually, imperceptibly, and often painlessly. Often, the problem is not recognized early enough to provide protection. Further, it may not be recognized as a problem, but merely considered a normal consequence of ordinary exposure, and part of the environment and daily life.

References:

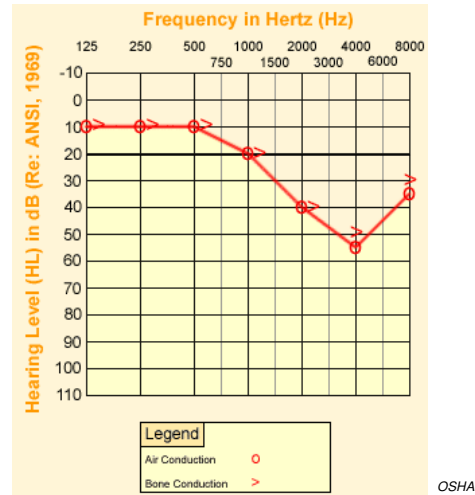
- Moeller, Environmental health, *Harvard University Press*, 1992
- VIMM (Veterinarian Institute of Molecular Medicine, Italy):
www.vimm.it/cochlea/cochleapages/theory/hcells/hcells.htm

Pictures:

- VIMM (Veterinarian Institute of Molecular Medicine, Italy):
www.vimm.it/cochlea/cochleapages/theory/hcells/hcells.htm - used with copyright permission.

AUDIOGRAM

Noise-induced hearing loss



OSHA

<< NOTE TO USER: If possible place an audiogram of a child living in your local environment here to illustrate either normal hearing, or hearing damaged by environmental noise. >>

Noise-induced hearing loss is insidious, but increases with time, usually beginning in adolescent years. As shown here, it affects the high frequencies first. The speech window is between 500 and 4000 Hz, so it is not surprising that high frequency loss of large magnitude could go undetected for long periods of time without formal testing.

Picture:

• OSHA (U.S. Department of Labor Occupational Safety & Health Administration)
www.osha.gov/dts/osta/otm/noise/images/sensorineural_loss_audiogram.gif

CHILDREN AND NOISE: SETTINGS

Noise at home	50 - 80 dB A
Home appliances	78 - 102 dB A
Noise in incubators	60 - 75 dB A, peak sounds 120 dB A
Noise in hospitals	> 70 dB A
Day-care institutions	75 – 81 dB A
Noise from toys peak sounds	79 - 140 dB A
Background noise in schools	46.5 – 77.3 dB A

These ranges represent excessive everyday exposures of children to sound.

References:

- Committee on Environmental Health. Noise: A Hazard for the Fetus and Newborn. *Pediatrics*, 1997, 100:724-27.
- Etzel RA, ed. Pediatric Environmental Health. 2nd ed. American Academy of Pediatrics Committee on Environmental Health.; *Elk Grove Village, IL: American Academy of Pediatrics*, 2003.

NOISE INDUCED THRESHOLD SHIFT (NITS)

- ❖ Initially - a temporary condition
 - Decrease in sensitivity to noise
 - Tinnitus

- ❖ Caused by exposure to loud noises

- ❖ May be reversible or irreversible
 - Severity and duration of exposure
 - Continuous and recurrent exposure

Exposure to loud noise may result in a temporary decrease in the sensitivity of hearing and tinnitus. This condition, called temporary noise-induced threshold shift (NITS), lasts for several hours depending on the degree of exposure, and may become permanent depending on the severity and duration of noise exposure. Noise induced threshold shifts may be reversible; however, continued excessive noise exposure could lead to progression of NITS to include other frequencies and lead to increase severity and permanent hearing loss. The consequences of these measured NITS may be enormous if they progress to a persistent minimal sensorineural hearing loss. In school-aged children, minimal sensorineural hearing loss has been associated with poor school performance and social and emotional dysfunction.

PREVALENCE NOISE INDUCED THRESHOLD SHIFTS

National survey US children (n=5249)

Characteristics	%	(95% CI)
Age: 6-11 years old	8.5	(6.9-10.0)
12-19 years old	15.5	(13.3-17.6)
Sex:		
Male	14.8	(12.3-17.3)
Female	10.1	(8.3-11.8)
Urban status:		
Metropolitan	11.9	(9.8-14.0)
Non-metropolitan	13.0	(11.3-14.6)

Niskar AS, Pediatrics, 2001, 108(1):40-3

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This is evidence that children are experiencing changes in hearing which are consistent with excess noise exposure. These data show the prevalence of Noise Induced Threshold Shift (NITS) in children which increases with age. The prevalence of NITS in one or both ears among children 6-19 year of age in the USA was recently found to be 12.5% (or 5.2 million) children affected. Most children with NITS have an early phase of NITS in only one ear and involving only a single frequency, however among children with NITS, 4.9% had moderate to profound NITS. This table demonstrates several points. First, older children have a higher prevalence of NITS compared to younger children suggesting that ongoing exposure to excess noise in the environment may be causing cumulative hearing damage. Boys in this survey were more likely to have evidence of excess noise exposure measured as NITS compared to girls, but there was little difference between urban and non-urban status.

Reference:

•Niskar AS. Estimated prevalence of noise-induced hearing threshold shifts among children 6 to 19 years of age: the Third National Health and Nutrition Examination Survey, 1988-1994, United States. *Pediatrics*, 2001, 108(1):40-3

This analysis estimates the first nationally representative prevalence of noise-induced hearing threshold shifts (NITS) among US children. Historically, NITS has not been considered a common cause of childhood hearing problems. Among children, NITS can be a progressive problem with continued exposure to excessive noise, which can lead to high-frequency sound discrimination difficulties (eg, speech consonants and whistles). The Third National Health and Nutrition Examination Survey (NHANES III) was conducted from 1988 to 1994. NHANES III is a national population-based cross-sectional survey with a household interview, audiometric testing at 0.5 to 8 kHz, and compliance testing. A total of 5249 children aged 6 to 19 years completed audiometry and compliance testing for both ears in NHANES III. The criteria used to assess NITS included audiometry indicating a noise notch in at least 1 ear. RESULTS: Of US children 6 to 19 years old, 12.5% (approximately 5.2 million) are estimated to have NITS in 1 or both ears. In the majority of the children meeting NITS criteria, only 1 ear and only 1 frequency are affected. In this analysis, all children identified with NITS passed compliance testing, which essentially rules out middle ear disorders such as conductive hearing loss. The prevalence estimate of NITS differed by sociodemographics, including age and sex. CONCLUSIONS: These findings suggest that children are being exposed to excessive amounts of hazardous levels of noise, and children's hearing is vulnerable to these exposures. These data support the need for research on appropriate hearing conservation methods and for NITS screening programs among school-aged children. Public health interventions such as education, training, audiometric testing, exposure assessment, hearing protection, and noise control when feasible are all components of occupational hearing conservation that could be adapted to children's needs with children-specific research.

INDIRECT ADVERSE EFFECTS

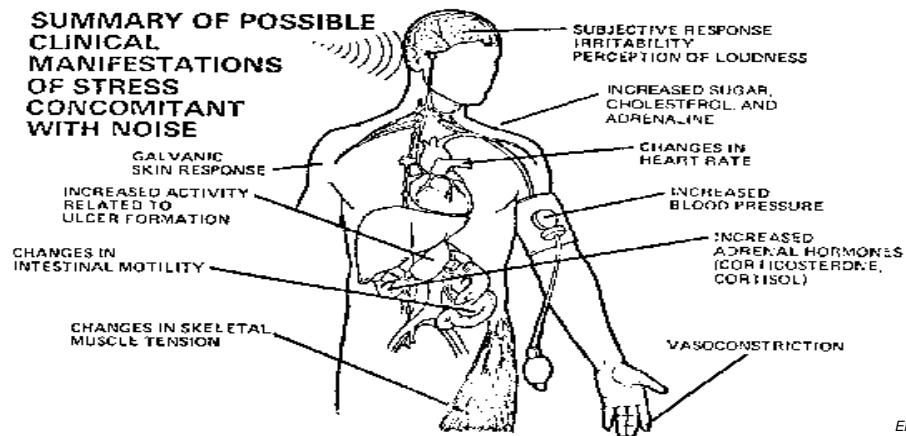
- ❖ **Stress-related somatic effects**
 - Stress hormone
 - Blood pressure
 - Muscle spasm

- ❖ **Psychological effects**
 - Annoyance / Isolation
 - Sleep disturbance
 - Mental health

- ❖ **Cognitive effects**
 - Reading, concentration, memory, attention

The next section will review the indirect adverse effects of noise listed here.

PHYSIOLOGICAL EFFECTS OF NOISE



There might be harmful consequences to health during the state of alertness as well as when the body is unaware or asleep.

24

There are a variety of physiological effects that have been documented or postulated as a result of excess noise exposure.

<<READ SLIDE>>

References:

Stress response:

•Frankenhaeuser M. Immediate and delayed effects of noise on performance and arousal. *Biol Psychol*, 1974, 2:127-33

Increased excretion of adrenaline and noradrenaline demonstrated in humans exposed to noise at 90 dBA for 30 minutes.

•Henkin RI. Effect of sound on the hypothalamic-pituitary-adrenal axis. *Am J. Physiol*, 1963, 204:710-14
Hypothalamic- pituitary- adrenal axis is sensitive to noise as low as 65 dBA (53% increase in plasma 17 HO corticosteroid levels).

•Rosenberg J. Jets over Labrador and Quebec: noise effects on human health. *Can. Med. Assoc. J.*, 1991, 144(7):869-75.

Biochemical evidence of the stress response was found in elevated urinary cortisol and hypertension accompanied a 30 minute exposure to 100dBA in 60 children aged 11 to 16 years.

Sleep derivation:

Noise levels at 40-50 dBA result in 10-20% increase in awakening or EEG changes

•Falk SA. Hospital noise levels and potential health hazards. *Engl. J Med.*, 1973, 289(15):774-81

•Hilton BA. Quantity and quality of patient's sleep and sleep-disturbing factors in respiratory intensive care unit, *J Adv Nurs*, 1976, 1(6):453-68

•Thiessen GJ. Disturbance of sleep by noise. *J. Acoustic Soc. Am.*, 1978, 64(1):216-22

Cardiovascular effects:

•Etzel RA, ed. *Pediatric Environmental Health*. 2nd ed. American Academy of Pediatrics Committee on Environmental Health. Elk Grove Village, IL: American Academy of Pediatrics; 2003.

Exposure to noise levels greater than 70 dBA causes increases in vasoconstriction, heart rate and blood pressure

Picture:

•EPA (U.S. Environmental Protection Agency)

STRESS HORMONES - CHILDREN

Noise type (leq)	Noise exposure	N°	Adrenaline	Noradrenaline	Cortisol	Author
Aircraft	53, 62	217	+	+	+	Evans, 1998
Aircraft	56, 70	40	0	0	0	Ising, 1999
Road, Rail	<50, >60	115	0	0	+	Evans, 2001
Road	30-54, 55-78	56			+	Ising, 2001
Aircraft	<57, >66	238			0	Stansfeld, 2001
Aircraft	53, 62	204	0	0	0	Haines, 2001

+ increase with noise, - decrease with noise, 0 no effect

Adapted from Babisch W, Noise Health, 2003, 5(18):1-11

In experimental studies with humans carried out in the laboratory, unequivocal findings of noise exposure on the endocrine system have been sometimes observed. However, exposure conditions vary considerably between experiments. Furthermore, secretory patterns of hormone excretion vary between individuals. It is not clear as to what extent findings from experimental studies on endocrine responses of noise reflect a potential health hazard. To more completely characterize these indirect adverse effects of excess noise, there is a need to 1) develop a consensus on measurement techniques, 2) replicate results of adult studies in children, and 3) link hormone levels to health impairment. When it is done, stress hormone responses may identify risk groups.

Leq: average sound level over the period of the measurement, usually measured A-weighted

N°: number of subjects

Reference:

•Babisch W. Stress hormones in the research on cardiovascular effects of noise. *Noise Health*, 2003, 5(18):1-11

In recent years, the measurement of stress hormones including adrenaline, noradrenaline and cortisol has been widely used to study the possible increase in cardiovascular risk of noise exposed subjects. Since endocrine changes manifesting in physiological disorders come first in the chain of cause-effect for perceived noise stress, noise effects in stress hormones may therefore be detected in populations after relatively short periods of noise exposure. This makes stress hormones a useful stress indicator, but regarding a risk assessment, the interpretation of endocrine noise effects is often a qualitative one rather than a quantitative one. Stress hormones can be used in noise studies to study mechanisms of physiological reactions to noise and to identify vulnerable groups. A review is given about findings in stress hormones from laboratory, occupational and environmental studies.

BLOOD PRESSURE - AIRCRAFT NOISE

Study	Psys (mmHg)	Pdia (mmHg)	Sound level (Leq)
Karagodina, 1969	abnormalities	abnormalities	distance from airport
Cohen, 1980	3-7	3-4	<70 dBA (indoors)
Cohen, 1981	no effect	no effect	70 dBA (indoors)
Evans, 1995	2	0	68 dBA (outdoors)
Evans, 1998	3	3	64 dBA (outdoors)
Morrell, 1998	negative	negative	ANE I 45 (outdoors)
Morrell, 2000	no effect	negative	ANE I 45 (outdoors)

- ❖ Inconsistent picture: 3 positive, 4 negative studies
- ❖ Prospective studies: 1 positive, 1 negative study
- ❖ Magnitude of effect found in positive studies may be relevant

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Studies on elevated blood pressure and noise exposure (from aircraft) are also inconsistent. Only the cross-sectional study of Cohen shows that aircraft noise exposure (specifically at school) is statistically significantly associated with increases in systolic and diastolic blood pressure.

Leq: average sound level over the period of the measurement, usually measured A-weighted

Psys: systolic pressure

Pdia: diastolic pressure

dBA weighting curve: response of a filter that is applied to sound level meters to mimic (roughly) the response of human hearing.

So a typical human equal loudness curve is somewhat similar to the dBA curve, but inverted.

ANEI: Australian Noise Exposure Index.

References:

Aircraft Noise:

- Cohen S. Physiological, motivational and cognitive effects of aircraft noise on children: moving from the laboratory to the field. *Am Psychol.*, 1980, 35:231-43.
- Cohen S. Aircraft noise and children: longitudinal and cross-sectional evidence on adaptation to noise and the effectiveness of noise abatement. *J. Pers Soc Psychol.*, 1981, 40:331-45
- Evans G. Chronic noise and psychological stress. *Psychological Science*, 1995, 6:333-38
- Evans G. Chronic noise exposure and physiological response: a prospective study of children living under environmental stress. *Psychological Science*, 1998, 9:75-77
- Karagodina IL. Effect of aircraft noise on the population near airports. *Hygiene and Sanitation*, 1969, 34:182-187
- Morrell S. Cross-sectional relationship between blood pressure of school children and aircraft noise. In N.L. Carter, & R.F.S Job (Eds.), *Noise Effects. Proceedings of the 7th International on Noise as a Public Health Problem. Sydney, Australia: Noise Effects Inc*, 1998, 275-79.
- Morrell S. Cross sectional and longitudinal results of a follow up examination of child blood pressure and aircraft noise. *The Inner Sydney Child Blood Pressure Study. Proceedings Internoise, SFA, Nice, France*, 2000, 4:2071.
- van Kempen E. et al. Noise exposure and children's blood pressure and heart rate: the RANCH project. *Occup Environ Med.*, 2006, 63:632-39

BACKGROUND: Conclusions that can be drawn from earlier studies on noise and children's blood pressure are limited due to inconsistent results, methodological problems, and the focus on school noise exposure. **OBJECTIVES:** To investigate the effects of aircraft and road traffic noise exposure on children's blood pressure and heart rate. **METHODS:** Participants were 1283 children (age 9-11 years) attending 62 primary schools around two European airports. Data were pooled and analysed using multilevel modelling. Adjustments were made for a range of socioeconomic and lifestyle factors. **RESULTS:** After pooling the data, aircraft noise exposure at school was related to a statistically non-significant increase in blood pressure and heart rate. Aircraft noise exposure at home was related to a statistically significant increase in blood pressure. Aircraft noise exposure during the night at home was positively and significantly associated with blood pressure. The findings differed between the Dutch and British samples. Negative associations were found between road traffic noise exposure and blood pressure, which cannot be explained. **CONCLUSION:** On the basis of this study and previous scientific literature, no unequivocal conclusions can be drawn about the relationship between community noise and children's blood pressure.

Traffic Noise:

- Babisch W. Blood pressure of 8-14 year old children in relation to traffic noise at home--results of the German Environmental Survey for Children (GerES IV). *The Science of the total environment*, 2009, 407(22):5839-43.
- Babisch W, Kamp I. Exposure-response relationship of the association between aircraft noise and the risk of hypertension. *Noise Health*. 2009 Jul-Sep, 11(44):161-8.
- Belojevic G et al. Urban road-traffic noise and blood pressure and heart rate in preschool children. *Environ Int*. 2008, 34(2):226-31. Epub 2007 Sep 14.

HYPERTENSION AND EXPOSURE TO NOISE NEAR AIRPORTS *The HyENA study*

Results

- ❖ Significant exposure-response relationship
- ❖ Night time aircraft noise exposure: borderline significant relationship
- ❖ Risk of myocardial infarction in relation to noise exposure: analysis ongoing
- ❖ Effects of noise exposure on stress hormone level (cortisol): statistical analyses and epidemiological ongoing

Conclusion

- ❖ Prevalence of hypertension increased with increasing noise exposure
- ❖ Long-term road traffic noise exposure effects on BP
- ❖ Acute effect on hypertension of night-time aircraft noise
- ❖ Highly annoyed people are found at aircraft noise levels

An increasing number of people live near airports with considerable noise and air pollution. The Hypertension and Exposure to Noise near Airports (HYENA) project aims to assess the impact of airport-related noise exposure on blood pressure (BP) and cardiovascular disease using a cross-sectional study design.

Although the study has been made in adults (men and women between 45-70 years old), it might be a good cardiovascular disease predictor in children.

Reference:

- Jarup L. Hypertension and Exposure to Noise near Airports (HYENA): Study Design and Noise Exposure Assessment. *Environ Health Perspect.*, 2005, 113(11):1473–1478.

PSYCHOLOGICAL DAMAGE

- ❖ Exposure to **moderate level of noise** can cause
 - Psychological stress
 - Annoyance, interference with activity, isolation
 - Headache, tiredness and irritability; may impair intellectual function and performance of complex tasks
- ❖ Exposure to **intense level of noise** can
 - Cause personality changes and aggressive/violent reactions
 - Reduce ability to cope
 - Alter work performance and intellectual function
 - May cause muscle spasm and also break a bone (when combined with strong vibration)
 - Sleep disturbance
 - Changes in mental health.
- ❖ Exposure to **sudden, unexpected noise** can cause
 - Startle reaction with stress responses
 - Cause non intentional injuries

Psychological effects correlate with intensity (or loudness) of the noise.

Exposure to **moderate levels of noise** can cause psychological stress.

Other effects can be:

- Annoyance (fear, anger, feeling bothered, feelings of being involuntarily and unavoidably harmed, and feelings of having privacy invaded), interference with activity.
- Headache, tiredness and irritability are also common reactions to noise.
- Possible impairment of intellectual function and performance of complex tasks. Depends on the nature of sound and individual tolerance.

Exposure to **intense level of noise** can:

- Cause personality changes and provoke aggressive and violent reactions.
- Reduce ability to cope.
- Alter work performance and intellectual function.
- Cause muscle spasm and also break a bone (when combined with strong vibration).
- Cause sleep disturbance.
- Provoke changes in mental health.

Exposure to **sudden, unexpected noise** can cause:

- Startle reaction with stress responses.
- Cause non intentional injuries.

Stress response consisting in acute terror and panic was described in children upon exposure to sonic booms.

References:

- Kam PC. Noise pollution in the anaesthetic and intensive care environment. *Anaesthesia*, 1994, 49(11):982-6
- Kujala T, Brattico E. Detrimental noise effects on brain's speech functions. *Biol Psychol*. 2009, 81(3):135-43. Epub 2009 Apr 8.
- Rosenberg J. Jets over Labrador and Quebec: noise effects on human health. *Can. Med. Assoc. J.*, 1991, 144(7):869-75

IMPAIRED COGNITIVE FUNCTION

- ❖ Chronic noise exposure impairs cognitive function
 - Reading comprehension
 - Long term memory
- ❖ Dose-response relationships
 - Supported by both laboratory and field studies
- ❖ Study of possible mechanisms and noise reduction interventions
 - Tuning out of attention / concentration
 - Impairment of auditory discrimination

The most robust area of study on noise and effects in children comes from studies which evaluate the effect of noise on learning and cognitive function; there are possible mechanisms, including noise-related changes in attention or distraction and impaired auditory discrimination.

<<READ SLIDE>>

ENVIRONMENTAL NOISE AND COGNITIVE DEVELOPMENT IN PRESCHOOL CHILDREN

- ❖ Children 6 months - 5 years
- ❖ Inverse associations between noise level at home and cognitive development

Wachs TD. *Early Experience and Human Development*. New York Plenum, 1982
Evans GW. *Children's Environments*, 1993, 10(1):31-51

Effects of noise on cognitive development have been documented in preschool ages as well. Higher levels of noise at home are associated with decrements in cognitive development for age.

References:

- Evans GW. Non-auditory effects of noise on children: A critical review. *Children's Environments*, 1993, 10(1):31-51.
- Maxwell LE et al. The effects of noise on pre-school children's pre-reading skills. *Journal of Environmental Psychology*, 2000, 20(1):91-97.
- Wachs TD. *Early Experience and Human Development*. New York Plenum, 1982.
- Yang W, Bradley JS. Effects of room acoustics on the intelligibility of speech in classrooms for young children. *J Acoust Soc Am*. 2009, 125(2):922-33.

APARTMENT NOISE AND READING ABILITY

- ❖ 54 children living in apartments above interstate highway
 - 32nd floor: 55 dBA,
 - 20th floor: 60 dBA,
 - 8th floor: 66 dBA
- ❖ Measures of auditory discrimination and reading ability
- ❖ Correlations between floor level and auditory discrimination vary by duration of residence
- ❖ **Floor level correlates with reading-abolished by adjustment for auditory discrimination**
- ❖ Reading powerfully associated with mothers' education

Cohen S. *Journal of Experimental and Social Psychology*, 1973, 9:407-22.

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This study shows that street traffic noise measured on different floors of a multilevel apartment correlates inversely with auditory discrimination and reading ability. The higher floors were quieter and children scored better on reading ability and auditory discrimination. Correlations varied with duration of residence, and when reading level scores were adjusted for auditory discrimination measures, the floor level effect disappeared. Reading is also powerfully associated with mother's education.

Reference:

•Cohen S. Apartment noise, auditory discrimination, and reading ability in children. *Journal of Experimental and Social Psychology*, 1973, 9:407-22.

RAILWAY NOISE AND READING SCORES

- ❖ Reading scores compared between classes in same school
- ❖ Exposed/not exposed to railway noise
- ❖ No selection of children into classes
- ❖ **Poorer performance on achievement test on noisy side**
- ❖ Measuring reading age 3-4 months behind on noisy side

Bronzaft AL. Environment and Behavior, 1975, 7:517-28

32

This study compared reading scores between classrooms in the same school that were exposed and not exposed to railway noise. Poorer performance was noted on the noisy side with a 3-4 month delay compared to the quieter side. There was no selection of the children in each class. This is supportive evidence that noise impaired reading learning.

Reference:

•Bronzaft AL. The effect of elevated train noise on reading ability. *Environment and Behavior*. 1975, 7:517-28.

IMPAIRED COGNITIVE FUNCTION

❖ Los Angeles airport study

Cohen S. *Am Psychol.*, 1980, 35:231-43.

❖ New York airport city

Evans G. *Environment and Behavior*, 1997, 29(5):638-656.

❖ Munich airport study

Evans G. *Psychological Science*, 1998, 9:75-77; *Psychological Science*, 1995, 6:333-38

❖ Heathrow studies

Haines MM. *Psychological Medicine*, 2001a,b,c; *J Epidemiol Community Health*, 2002, 56(2):139

Over 20 studies have reported that noise **adversely affects** children's academic performance

33

Many studies have reported that noise can adversely affect children's academic performance. Transport noise is well-studied. Some of the most important studies are the Los Angeles airport study, the New York airport study, the Munich and Heathrow studies.

References:

- Cohen S. Physiological, motivational and cognitive effects of aircraft noise on children: moving from the laboratory to the field. *Am Psychol.*, 1980, 35:231-43.
 - Cohen S. Aircraft noise and children: longitudinal and cross-sectional evidence on adaptation to noise and the effectiveness of noise abatement. *J. Pers Soc Psychol.*, 1981, 40:331-45
 - Evans G. Chronic noise and psychological stress. *Psychological Science*, 1995, 6:333-38
 - Evans G. Chronic noise exposure and physiological response: a prospective study of children living under environmental stress. *Psychological Science*, 1998, 9:75-77
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 - Haines MM. Chronic aircraft noise exposure, stress responses, mental health and cognitive performance in school children. *Psychological Medicine*, 2001a, 31:265-77.
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- AIM: To assess noise exposure in school children in urban center in different residential areas and to examine psychosocial effects of chronic noise exposure in school children, taking into account their socioeconomic status. METHODS: We measured community noise on specific measurement points in residential-administrative-market area and suburban residential area. We determined the average energy-equivalent sound level for 8 hours (LAeq, 8 h) or 16 hours (LAeq, 16 h) and compared measured noise levels with World Health Organization (WHO) guidelines. Psychological effects were examined in two groups of children: children exposed to noise level LAeq, 8 h >55 dBA (n=266) and children exposed to noise level LAeq, 8 h <55 dBA (n=263). The examinees were schoolchildren of 10-11 years of age. We used a self-reported questionnaire for each child - Anxiety test (General Anxiety Scale) and Attention Deficit Disorder Questionnaire intended for teachers to rate children's behavior. We used Mann Whitney U test and multiple regression for identifying the significance of differences between the two study groups. RESULTS: School children who lived and studied in the residential-administrative-market area were exposed to noise levels above WHO guidelines (55 dBA), and school children who lived and studied in the suburban residential area were exposed to noise levels below WHO guidelines. Children exposed to LAeq, 8 h >55 dBA had significantly decreased attention (Z=-2.16; p=0.031), decreased social adaptability (Z =-2.16; p=0.029), and increased opposing behavior in their relations to other people (Z=-3; p=0.001). We did not find any correlation between socioeconomic characteristics and development of psychosocial effects. CONCLUSION: School children exposed to elevated noise level had significantly decreased attention, and social adaptability, and increased opposing behavior in comparison with school children who were not exposed to elevated noise levels. Chronic noise exposure is associated with psychosocial effects in school children and should be taken as an important factor in assessing the psychological welfare of the children.*
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MUNICH AIRPORT SCHOOL PERFORMANCE

- ❖ Closure of old airport, opening of new airport
- ❖ Deficits in long-term memory and reading around old airport
- ❖ Impairments diminish within 2 years after airport closed
- ❖ Same impairments develop in new group of children within 2 years of new airport opening



US Transportation Security Administration

Hygge S. *Psychol Sci.* (2002)13(5):469

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When an old airport was closed down in Munich, deficits in long term memory and reading in children exposed to the old airport improved within 2 years of the airport's closure and the associated decreased noise exposure. Interestingly, the children exposed to noise from the new airport replacing the old began to have the same deficits in long term memory and reading that were seen in the children exposed to the old airport—also within 2 years.

Reference:

•Hygge S. et al. A prospective study of some effects of aircraft noise on cognitive performance in schoolchildren, *Psychol Sci.*, 2002, 13(5):469.

Before the opening of the new Munich International Airport and the termination of the old airport, children near both sites were recruited into aircraft-noise groups (aircraft noise at present or pending) and control groups with no aircraft noise (closely matched for socioeconomic status). A total of 326 children (mean age = 10.4 years) took part in three data-collection waves, one before and two after the switch-over of the airports. After the switch, long-term memory and reading were impaired in the noise group at the new airport, and improved in the formerly noise-exposed group at the old airport. Short-term memory also improved in the latter group after the old airport was closed. At the new airport, speech perception was impaired in the newly noise-exposed group. Mediation analyses suggest that poorer reading was not mediated by speech perception, and that impaired recall was in part mediated by reading.

Picture:

•US Transportation Security Administration

STRENGTH OF EVIDENCE FOR EFFECTS OF AIRCRAFT NOISE ON CHILDREN

HEALTH OUTCOME	STRENGTH OF EVIDENCE
Annoyance	Sufficient
Hearing loss	Sufficient
Cognitive performance - reading	Sufficient
Cognitive performance - memory	Sufficient
Cognitive performance - auditory discrimination	Sufficient
Cognitive performance - speech perception	Sufficient
Cognitive performance - academic performance	Sufficient
Cognitive performance - attention	Inconclusive
Motivation	Sufficient / limited
Wellbeing/perceived stress	Sufficient / limited
Catecholamine secretion	Limited / inconclusive
Hypertension	Limited (weak associations)
Psychiatric disorder	Inconclusive / no effect
Sleep disturbance	Inadequate / no effect
Birth weight	Inadequate
Immune effects	Inadequate

Here is a brief summary slide examining the weight of the evidence for health outcomes in children from aircraft noise. We are indebted to Dr. Stephen Stansfeld (Queen Mary, University of London) for kindly lending us this and many of the previous slides for this project. This slide highlights the clear associations in children between annoyance, hearing loss and impaired cognitive performance and excess noise. The lower categories are still in need of investigation.

<<READ SLIDE>>

CONTENTS

1. Introduction
2. Vulnerability of children
3. Adverse health effects
4. **Effects by age-group**
5. Taking action
6. Discussion

EFFECTS OF NOISE BY AGE-GROUP

- ❖ **Fetus**
- ❖ **Infant**
- ❖ **Pre-school, school-aged children**
- ❖ **Teenager**
- ❖ **Youth**

EFFECTS OF NOISE ON THE FETUS

- ❖ Growth retardation
 - Occupational exposure of the mother to noise
 - Environmental noise unlikely to cause effects, but exposure to chronic low-dose noise requires more study

- ❖ Hearing impairment
 - Possible effects

There are several paediatric populations which may be at increased risk of harm from noise. The fetus is one in which there is some evidence that occupational exposure to a pregnant woman may result in growth retardation and/or hearing impairment. Little is known about the effects of non-occupational noise on fetal development, and further studies are needed.

Reference:

•American Academy of Paediatrics, Committee on Environmental Health. Noise: a hazard to the fetus and newborn. *Pediatrics*. 1997, 100:724-727.

EFFECTS OF NOISE ON INFANTS

Pre-term and full-term baby

- ❖ Exposed to “Neonatal Intensive Care Unit” (NICU) noise
 - Pre-term babies have immature hearing organs / systems

- ❖ Adverse noise-induced effects on the pre-term baby
 - **Hearing impairment:** possible effect
 - **Sleep disturbances:** awakening, sleep disruption
 - **Others:** crying

Babies who are born pre-term or require intensive care in hospital are exposed to large amounts of noise from incubators and busy hospital settings. Furthermore, this noise may be continuous, 24 hours/day.

They are exposed to “Neonatal Intensive Care Unit” (NICU) noise (60 - 90 dBA max. 120 dBA) and noise inside the incubators (60 – 75 dBA max. 100 dBA). Pre-term babies must cope with their environment with immature organ systems (auditory, visual and central nervous system). These last stages of maturation occur, in part, during the time the pre-term child is in an incubator or neonatal intensive care unit (NICU).

References:

- Brandon DH. Effect of Environmental Changes on Noise in the NICU. *Advances in Neonatal Care*, 2008, 8(5):S5-S10
- Milette IH, Carnevale FA. I'm trying to heal...noise levels in a pediatric intensive care unit. *Dynamics*, 2003, 14:14-21.

The literature demonstrates clearly that most intensive care units exceed the standard recommendations for noise levels in hospitals, and that high noise levels have negative impacts on patients and staff. The purpose of this study was to evaluate the level of noise in a PICU and compare it to the recommendations of international bodies. We outline recommendations to promote the awareness of this problem and suggest strategies to decrease the level of noise in a PICU. The orientations of these strategies are threefold: 1) architectural-acoustic design, 2) equipment design and, most importantly, 3) staff education.

Children and noise

EFFECTS OF NOISE IN PRE-SCHOOL AND SCHOOL-AGED CHILDREN

- ❖ Hearing impairment
 - In isolated cases by toys or equipment
- ❖ Sleep disturbances
 - Earlier responses than adults (EEG awakenings)
- ❖ Somatic effects
 - Blood pressure and stress hormones
- ❖ Psycho-social effects
 - No studies on behaviour with high environmental noise levels
 - Cognitive tasks are impaired, like reading, long term memory, attention and motivation
- ❖ Vocal nodule

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EEG: electroencephalogram

<<READ SLIDE>>

Children raise their voices and risk developing hoarseness and vocal nodules because of noise and relative overcrowding. The number of children screaming so much and so loudly that their voices are damaged and require treatment increased in Denmark during the 1990s. Noise in schools and day care institutions results in boys' voices getting hoarse and girls' voices squeaky. Children with vocal nodules can be difficult to understand and risk losing their voices altogether. Other children become so tired of screaming or of trying to make themselves heard that they give up saying anything at all and, for example, do not raise their hands in class. If children give up speaking, their voices do not develop properly and language learning is not reinforced.

References:

•Boman, E. The effects of noise and gender on children's episodic and semantic memory. *Scandinavian Journal of Psychology*, 2004, 45:407-416.

•Bowen C. *Vocal nodules and voice strain in pre-adolescents*. 1997 (members.tripod.com/Caroline_Bowen/teen-nodules.htm, accessed November 2009).

•Clark C et al. Exposure-effect relations between aircraft and road traffic noise exposure at school and reading comprehension: the RANCH project. *Am J Epidemiol*. 2006, 163:27-37.

Transport noise is an increasingly prominent feature of the urban environment, making noise pollution an important environmental public health issue. This paper reports on the 2001-2003 RANCH project, the first cross-national epidemiologic study known to examine exposure-effect relations between aircraft and road traffic noise exposure and reading comprehension. Participants were 2,010 children aged 9-10 years from 89 schools around Amsterdam Schiphol, Madrid Barajas, and London Heathrow airports. Data from The Netherlands, Spain, and the United Kingdom were pooled and analyzed using multilevel modeling. Aircraft noise exposure at school was linearly associated with impaired reading comprehension; the association was maintained after adjustment for socioeconomic variables (beta = -0.008, p = 0.012), aircraft noise annoyance, and other cognitive abilities (episodic memory, working memory, and sustained attention). Aircraft noise exposure at home was highly correlated with aircraft noise exposure at school and demonstrated a similar linear association with impaired reading comprehension. Road traffic noise exposure at school was not associated with reading comprehension in either the absence or the presence of aircraft noise (beta = 0.003, p = 0.509; beta = 0.002, p = 0.540, respectively). Findings were consistent across the three countries, which varied with respect to a range of socioeconomic and environmental variables, thus offering robust evidence of a direct exposure-effect relation between aircraft noise and reading comprehension.

•Jessen B, Ruge G. Skolebørn skriger sig syge [Schoolchildren scream until they get sick]. *Berlingske Tidende*, 2000:26.

Children and noise

EFFECTS OF NOISE.... A WORD APART FOR **TEENAGERS!!**

- ❖ Potential sources of hearing impairment
 - Noisy toys, firecrackers, boom-cars, musical instruments, others
- ❖ Discotheques and pop concerts
 - Exposure similar to occupational exposures
 - Use of music headphones
- ❖ Loss of hearing may go undetected for many years after chronic exposure to high levels of noise
- ❖ Increased rates of adolescent hearing impairment in last 3 decades
- ❖ Protection needed from the start
 - Be instructed to use personal hearing protection
 - Not only at work but also at technical and polytechnic schools

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<<READ SLIDE>>

Noise is associated with youth. Often, teenagers' exposure is constant. Prolonged exposure can lead to a transitory loss of 10-30 dB for several minutes after the noise ceases. Frequency of exposure, personal variability, and age of exposure determine the pattern of the damage.

Music occurs outside of the major frequencies of the human voice and over exposure to loud music causes loss of discrimination at low frequencies which may not be detected without formal testing for years. "Walkman" equipment is designed for emissions not higher than 80 dB, but the combination of an immature hearing system and a prolonged use may cause cumulative damage. Technology can be modified to bypass factory-imposed limitations and result in very loud music/noise exposure. Loss of concentration because of the focus on the music, in the presence of a potentially dangerous situation, makes a young person more vulnerable to accidents.

Teenagers should be instructed to use personal hearing protection as soon as they start being exposed to high noise levels, not only at work, but also at technical and polytechnic schools. If noise-abatement measures are not taken, good hearing will not be preserved and noise-induced tinnitus will not be prevented. The extent of hearing impairment in teenagers, caused by occupational noise exposure, and exposure at technical and polytechnic schools is unknown.

There are insufficient numbers of studies on somatic, psycho-social and behavioural effects of noise in teenagers.

References:

- Axelsson A. et al. Early noise-induced hearing loss in teenage boys. *Scand Audiol*, 1981;10: 91-96.
- Baig LA. et al. Health and safety measures available for young labourers in the cottage industries of Karachi. *J Coll Physicians Surg Pak*, 2005, 15:380.
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- Segal S. et al. Inner ear damage in children due to noise exposure from toy cap pistols and firecrackers: a retrospective review of 53 cases. *Noise Health*, 2003, 5:13-8.
- Vogel I et.al. Young People's Exposure to Loud Music. A Summary of the Literature. *Am J Prev Med*, 2007, 33(2):124-133.

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Children and noise

PREVENTION AND INTERVENTION

- ❖ More research needed, especially in vulnerable groups
- ❖ Preventive action
 - Noise has to be controlled at the source
 - Hearing protection devices are a last resort
- ❖ Child hearing conservation programs
- ❖ Education and dissemination

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Future research:

- Effects of noise on cognitive functions.
- Effects of noise on children's sleep.
- Magnitude/significance of noise annoyance.
- Children's perception and risk perception.
- Settings: home, schools, hospital, day care centres.
- Teenagers' attention when driving and listening to loud music.
- Effect of non-audible noise.
- Identification of more vulnerable groups!
- Intervention programs/best practices for preventing harmful effects.

Preventive actions

Noise has to be controlled at the source by:

- Reducing.
- Enclosing the vibrating surfaces.
- Placing sound absorbers and other protections.

Hearing protection devices are a last resort!

Child hearing conservation program

- Noise monitoring where children live, study and play.
- Hearing protection programs diffusion for teachers and parents.
- Vibration detection and protection.
- Protection of the pregnant woman.

Education and dissemination

References:

- Folmer RL, et al. Hearing conservation education programs for children: a review. *J Sch Health*. 2002;72:51-7.
- Prevalence of noise-induced hearing loss (NIHL) among children is increasing. Experts have recommended implementation of hearing conservation education programs in schools. Despite these recommendations made over the past three decades, basic hearing conservation information that could prevent countless cases of NIHL remains absent from most school curricula. This paper reviews existing hearing conservation education programs and materials designed for children or that could be adapted for classroom use. This information will be useful as a resource for educators and school administrators and should encourage further development, implementation, and dissemination of hearing conservation curricula. The overall, and admittedly ambitious, goal of this review is to facilitate implementation of hearing conservation curricula into all US schools on a continuing basis. Ultimately, implementation of such programs should reduce the prevalence of noise-induced hearing loss among children and adults.*
- Moeller. Environmental Health, *Harvard University Press*, 1992.

WHERE TO INTERVENE?

❖ Techniques for reducing or eliminating noise

- At the source
- By installing a barrier between the source and the recipient
- At the point of reception / At the human recipient

❖ Potential settings for intervention

- NICU
- Child care settings
- Primary schools
- Discotheques and rock festivals

❖ Address external and internal noise sources

<<READ SLIDE>>

Identified potential settings for intervention

1. NICU

2. Child care settings : more and more children stay in various child care settings. These play an important role in the initial stages of children beginning to establish their basic education.

3. Primary schools : primary school children often spend long periods of time in one classroom, and a noisy room can adversely affect the occupants of that room.

4. Discotheques and rock festivals : the noise level can be very high in discotheques, often resulting in tinnitus or a temporary threshold shift among patrons. Many major cities have festivals, and many of the noisier attractions inevitably appeal to younger people.

References:

• Bistrup M.L., Keiding L., ed. (2002). Children and noise - prevention of adverse effects. *Copenhagen, National Institute of Public Health* (also available at www.niph.dk).

• Byers JF, et al. Sound level exposure of high-risk infants in different environmental conditions. *Neonatal Netw.* 2006, 25(1):25-32.

PURPOSES: To provide descriptive information about the sound levels to which high-risk infants are exposed in various actual environmental conditions in the NICU, including the impact of physical renovation on sound levels, and to assess the contributions of various types of equipment, alarms, and activities to sound levels in simulated conditions in the NICU. DESIGN: Descriptive and comparative design. SAMPLE: Convenience sample of 134 infants at a southeastern quaternary children's hospital. MAIN OUTCOME VARIABLE: A-weighted decibel (dBA) sound levels under various actual and simulated environmental conditions. RESULTS: The renovated NICU was, on average, 4-6 dBA quieter across all environmental conditions than a comparable nonrenovated room, representing a significant sound level reduction. Sound levels remained above consensus recommendations despite physical redesign and staff training. Respiratory therapy equipment, alarms, staff talking, and infant fussiness contributed to higher sound levels. CONCLUSION: Evidence-based sound-reducing strategies are proposed. Findings were used to plan environment management as part of a developmental, family-centered care, performance improvement program and in new NICU planning.

HOW TO INTERVENE?

Technically

- ❖ Planning and designing outdoors and indoors “soundscapes”
- ❖ Improving road surfaces and developing green spaces and green barriers
- ❖ Developing noise barriers, building sound insulation
- ❖ Planning internal spaces according to activities (e.g. schools, sports-centres, others that involve noise), strategically using the space & location
- ❖ Reducing internal noise (eg. fans, ventilators)
- ❖ Using sound-absorbent materials
- ❖ Setting sound limits for concerts
- ❖ Increasing public and professional education to recognize noise pollution and reduction!

<<READ SLIDE>>

HOW TO INTERVENE?

Organizationally and Educationally

- ❖ Educating children, adults, professionals
- ❖ Teaching methods/interventions
- ❖ Disseminating information
- ❖ Informing the media and decision-makers and health professionals!
- ❖ Creating silent areas (“silence islands”) for resting
- ❖ Distributing earplugs at work and setting limits for the earphones
- ❖ Identifying and turning off noise at the source!

<<READ SLIDE>>

HOW TO INTERVENE?

Planning

- ❖ **Identifying noise sources and recognizing noise as a problem**
- ❖ **Recognizing health effects in children caused by noise**
- ❖ **Recognizing and diagnosing adults' health problems originated in childhood exposure**
- ❖ Raising awareness
- ❖ Setting-up noise control campaigns in hospitals and schools
- ❖ Applying the “Precautionary Principle”
- ❖ Thinking about noise exposure when planning the settings where children dwell
- ❖ Promoting sound landscape design
- ❖ Developing noise mapping, action plans, community involvement
- ❖ Standardizing noise measurements

<<READ SLIDE>>

POINTS FOR DISCUSSION

<<NOTE TO USER: Add points for discussion according to the needs of your audience.>>

Children and noise

ACKNOWLEDGEMENTS

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We are indebted to Dr. Stephen Stansfeld (Queen Mary, University of London) for kindly lending us slides for this project.

Children and noise

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EXHIBIT S

Noise Levels Associated with Urban Land Use

Gavin King, Marek Roland-Mieszkowski, Timothy Jason,
and Daniel G. Rainham

ABSTRACT *Recent trends towards the intensification of urban development to increase urban densities and avoid sprawl should be accompanied by research into the potential for related health impacts from environmental exposure. The objective of the current study was to examine the effect of the built environment and land use on levels of environmental noise. Two different study areas were selected using a combination of small area census geography, land use information, air photography, and ground-truthing. The first study area represented residential land use and consisted of two- to three-story single-family homes. The second study area was characteristic of mixed-use urban planning with apartment buildings as well as commercial and institutional development. Study areas were subdivided into six grids, and a location was randomly selected within each grid for noise monitoring. Each location was sampled four times over a 24-h day, resulting in a total of 24 samples for each of the two areas. Results showed significant variability in noise within study areas and significantly higher levels of environmental noise in the mixed-use area. Both study areas exceeded recommended noise limits when evaluated against World Health Organization guidelines and yielded average noise events values in the moderate to serious annoyance range with the potential to obscure normal conversation and cause sleep disturbance.*

KEYWORDS *Noise, Land use, Urban, Geographic information systems, Sound level meter*

INTRODUCTION

The human environment has become increasingly shaped by urbanization and the built environment, which comprises the physical infrastructure arising from urban development as well as managed green space such as urban forests, parks, and sport fields.¹ Indeed, more than half of the global population and over 80 % of North Americans now reside in urban areas.² The built environment is now attracting the attention of public and environmental health researchers, as its inherent quality, characteristics, and spatial orientation (i.e., urban sprawl) have been linked both positively (e.g., parks, trails) and negatively (obesity, injuries, stress) to a variety of health outcomes.^{3,4} Increasing urbanization has been linked to a rise in the prevalence of health disparities, as well as a growing culture of sedentary living,

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contributing to the development of several chronic disease outcomes.⁵ In efforts to improve urban conditions and enhance human well-being, municipal planning groups have developed and promoted several initiatives, including mixed-use development strategies. A potential consequence of these strategies is an increase in environmental noise levels.

Environmental noise is an increasingly common feature of urban areas that can be described as an unwanted or undesirable sound within non-occupational settings. Road, rail, and air traffic sources account for the majority of noise in urban and surrounding areas.⁶ Additional sources of noise include industrial/commercial enterprise, construction projects, and such familiar domestic sources as pets and radios/stereos. Municipal planning strategies emphasizing increases in urban development densities, mixed-uses, as well as a continuation of automobile-centered traffic planning policies may lead to an increase in population level exposure to traffic and related urban environmental noise. At present, little is known regarding how noise levels may vary with forms of urban development and affect the health of a population.

Environmental noise has been linked to several non-auditory, biologically relevant health outcomes, including: increased levels of hypertension and high blood pressure,⁷ lowered cognitive ability,⁸ and an increased prevalence of cardiovascular disease.⁹ Exposure to environmental noise from traffic-related sources is reportedly the most annoying of all urban pollution types,¹⁰ interfering with enjoyment of daily activities and largely affecting sleep and rest patterns.¹⁰⁻¹² In a recent Canadian survey, 20-28 % of urban populations attributed noise from road traffic to disruptions during sleep, conversation, and communication tasks such as reading and writing.¹³ Few studies have conducted field measurements to assess levels of environmental noise in Canadian cities; furthermore, it is still unknown whether recent trends towards the intensification of urban development will impact environmental noise levels and in turn population health.

Acceptable noise level guidelines have been developed by several agencies based on levels of annoyance, interference with communications, disturbance to sleep, and the potential to cause hearing impairments.^{14,15} For example the US Environmental Protection Agency recommended a maximum indoor noise level of 45 dB(A)* and outdoor noise level of 55 dB to allow for intelligible communication.¹⁶ Typically, values are derived for specific settings and time periods. Some agencies also provide guidelines according to land use and population density (e.g., Italian legislation in 1997). Recommended urban residential noise levels generally range from 45 to 55 dB depending on the time of day and location of measurement. For example, Australian Environmental Protection Authority noise guidelines state that noise levels in urban residential neighborhoods should not exceed 55 dB(A) during the day and 47 dB(A) at night (i.e., from 22:00 to 06:00). The maximum recommended noise levels generally increase in relation to the amount of commercial activity, which presents challenges for cities developing policies related to integrated residential and commercial land uses.

As with many urban centers in Canada and abroad, the Halifax Regional Municipality intends to intensify urban development by combining residential and

*Sound is measured by comparing the logarithm of a given sound to a reference sound pressure, and is expressed on a logarithmic decibel (dB) scale. The A-weighting [dB (A)] system was devised to adjust results in studies examining the impact of environmental noise on human hearing specifically.

commercial land-use types. The objective is to promote mixed-use neighborhoods with focused development in core areas. A number of reasons have been cited for this development strategy including the high costs of municipal services and rising costs of health care (e.g., obesity, transportation injuries) related to sprawl and associated increased automobile use.¹⁷⁻¹⁹ Research into these issues is required not only to protect the health and well-being of urban inhabitants, but also to ensure that planning decisions are based on evidence that considers the potential health and environmental consequences of development. To date, few studies have examined how noise varies as a function of urban development.

The aim of this study was to assess and compare noise levels in two urban neighborhoods: one completely residential and comprised of mostly single and multi-family dwellings, and the other characteristic of mixed residential and commercial land uses. Ambient environmental noise was recorded, measured, and analyzed within defined spatial locales in order to determine the potential for cumulative exposure to the local population. This research is timely and potentially informative given current trends in urban development.

METHODS

For the purpose of this study, two neighborhoods were selected: one almost exclusively residential to represent traditional planning strategies and the other comprised of residential and commercial land uses to represent more modern planning strategies that emphasize mixed-use development in urban core areas. The boundaries of each neighborhood matched the smallest statistical boundaries developed for the dissemination of Canadian census data (see Figure 1). Area 1, the representative residential area, mostly contained single-family dwelling units up to 10 m in height with 653 residents and a population density of approximately 3,950 persons per square kilometer. Buildings in this area are generally free standing and constructed of wood, stone, and brick. Area 1 also included seven roads (total length=3,506 m) that either border or are situated within the area. Area 2, representing mixed commercial and residential land uses, was larger in area yet housed a smaller population of 566 residents (1,836.5 persons per square kilometer). This area is bounded by several major roads and is generally oriented east to west. Area 2 contains commercial, institutional, and residential zones, with mostly concrete multi-story buildings. Sixteen roads traversed the area totaling 6,271 m in length.

Sampling Strategy

Study areas 1 and 2 were each divided by a grid into six identical cells. A geographic information system was used to randomly select one sample site location within each cell in the following manner. First, road network polygons were imported and a 4-m buffer polygon was inserted from the edge of the road. Second, a spatial random point generator, constrained to one point per grid cell within the buffer polygon, identified six sampling locations per study area. As a result, one randomly selected sample point per grid square was included in the analysis (Figure 1). Forty-five-minute noise recordings were randomly sampled during each of four distinct time periods from each of the six sampling locations per study area.

Environmental noise sampling methods vary considerably. For example, studies have used a sampling frequency of 15-min measurements every 2 h,²⁰ while others have employed continuous assessments.²¹ Studies have measured noise levels during

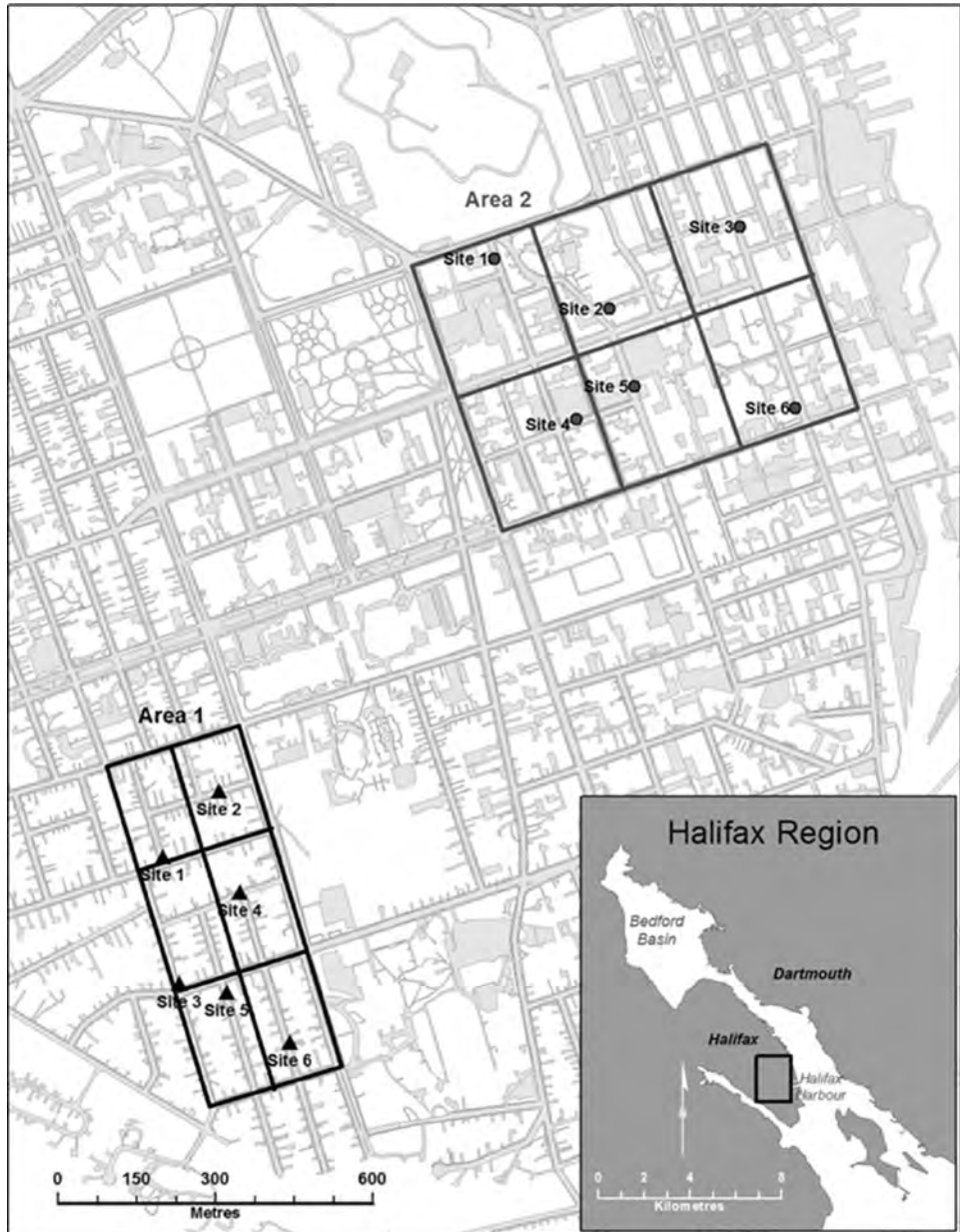


FIGURE 1. Study areas and sampling sites.

the day and at night,²² while others have only considered measurements during the day.²³ In 2007, Ng and Tang adopted a three-period assessment in which a 24-h clock was divided into three periods (day, evening, and night) that differed slightly in their period start times and sample lengths.²⁴ For the purpose of the current study, we incorporated a modified version of the three-period assessment method with certain refinements, as discussed by Ng and Tang,²⁴ for improving statistical accuracy. Each sample location yielded 3 h of data distributed across four time periods (i.e., 45 min per sampling period for each location). Daytime periods were subdivided into morning (06:00–12:00 h) and afternoon (12:00–18:00 h) segments

to enhance assessment quality. In addition, hours in the evening period (18:00–24:00 h) and the night period (24:00–06:00 h) were randomly sampled in order to capture the full daily spectrum of environmental noise production.

Data Collection

Noise data were collected using a Centre 322 Logging Sound Level Meter (SLM) and a Marantz PMD-660 Solid State Digital Recorder. The Centre SLM is an ANSI S1.4 Type 2 instrument with a 0.5" electrets condenser microphone, frequency range of 31.5 Hz to 8 KHz, measuring level range of 30–130 dB, and capacity to weight frequencies to either the A or C scale. The Marantz PMD-660 Solid State Digital Recorder was connected to an external microphone that can record 4 h of data at frequencies of 44.1/48 KHz.

The SLM and sound recorder were mounted on a camera tripod and microphone stand at a height of 1.5 m, a distance of 0.5 m from the curb, and were oriented perpendicularly to the nearest road. The SLM logged noise using an average of 1 s measurements, while the digital sound recorder facilitated continuous recordings to qualitatively identify peak noise events. Recordings commenced at the top of each hour (e.g., 1:00, 2:00...); in addition, the particular time at which recordings commenced was randomly assigned to sample locations thereby ensuring that the full 6-h time period (i.e., day, afternoon, evening, and night) was sampled. No data collection occurred on days ($n=2$) with rain, snow, or high winds, because these elements can both damage equipment and decrease the accuracy of measurements. Preliminary analysis of noise data from a related and, as of yet, unpublished study found that weather conditions, precipitation and wind in particular, had no influence on noise levels measured at a frequency of one measurement per hour. This conclusion was derived from comparing statistically noise levels measured during high wind or rain events (or both) with noise levels during times when weatherproofing of instrumentation would not be required.

Data Analysis

The SLM data included the minimum and maximum sound pressure level (SPL) averaged over 1 s, which resulted in 2,700 data points for each sampled time period and 10,800 data points for each grid sample area in a 24-h period. Basic noise descriptors were calculated. In addition, the equivalent continuous sound pressure level (L_{Aeq}) and day–evening–night composite whole-day rating level (L_{Rden}) were derived for the sample periods, grid sample areas, and study areas to identify variations in environmental noise over both space and time.

The two study areas were statistically evaluated and compared. First, each study area was examined individually to determine the spatial variation of environmental noise during each 6-h period and the full 24-h period. Noise levels associated with individual sample sites within each study area were compared statistically using a series of Kruskal–Wallis tests for non-parametric data. Then, the two primary study areas were compared statistically using the Mann–Whitney two-sample rank test.

L_{Aeq} values were compared with environmental noise exposure limits as dictated by Italian legislation (see Piccolo et al. 2005 for the exposure limits). In order to accomplish this, the study data were recalculated to correspond with the standardized time periods adopted by Italian legislation. This approach provided a means to determine levels of noise exposure with comparison to standards developed to prevent potential human health risk.

Calculation

Each study area yielded 18 h of data comprising 3 h per site (four time period samples of 45 min each). The A weighted equivalent continuous sound pressure level (L_{Aeq}) was calculated for each sample using the following formula:

$$L_{Aeq} = \frac{10(\log \frac{1}{T}) \int P_A^2(t)}{p_o^2(dt)} \quad (1)$$

P_A^2 – The A-weighted instantaneous sound pressure at the running time t ;

p_o – The standard reference sound 20 μ Pa

The resultant L_{Aeq} values were then adjusted according to the particular sampled time period (+5 dB for evening hours and +10 dB for night-time hours) using the formula indicated below:

$$L_{Reqj,Tn} = L_{Aeqj,Tn} + K_j \quad (2)$$

K_j – Adjustment for the specified sample and time period;

$L_{Aeqj,Tn}$ – The actual L_{Aeq} value at the specified time period

Using the adjusted L_{Aeq} values, the day–evening–night rating levels were derived using the following formula:

$$L_{Rden} = 10 \log \left[\frac{d}{24} \times 10^{\frac{LRd}{10}} + \frac{e}{24} \times 10^{\frac{LRe}{10}} + \frac{(24 - d - e)}{24} \times 10^{\frac{LRn}{10}} \right] db \quad (3)$$

d – The number of daytime hours;

n – The number of night-time hours;

e – The number of evening hours;

L_{Rd} – The rating level for daytime hours including adjustments;

L_{Re} – The rating level for evening hours including adjustments;

L_{Rn} – The rating level for night-time hours including adjustments

RESULTS

Area 1

The distribution of sound in area 1 was skewed to the right and somewhat peaked with an overall mean sound level of 48.1 dB(A) (SD=7.6) and substantial variation among individual sites (Table 1). Maximum values for the individual sites ranged from 60.6 dB(A) at site 6 to 93.3 dB(A) at site 3, while minimum values ranged from 20.0 dB(A) at site 3 to 47.0 dB(A) at site 4. Site 3 evidenced the greatest range of sound with night recordings of 20.0 dB(A) to 93.3 dB(A). L_{A90} values (90th percentile), representing background noise in the area, ranged from a low of 38.2 dB(A) at site 3 to a high of 50.3 dB(A) at site 4. Site 3 yielded higher than average L_{A1} values (1st percentile), indicating high levels of road traffic near the sample points. Adjusted (Adj) L_{Aeq} values ranged from a low of 44.7 dB(A) at site 6 to a high of 76.8 dB(A) at site 3. A comparison of the four sample time periods across sites evidenced maximum SPLs between 71.3 dB(A) and 77.4 dB(A) and mean SPLs from a low of 44.0 dB(A) to a high of 51.5 dB(A) (Table 2). L_{A90} values for the four time periods ranged from a low of 41.6 dB(A) to a high of 45.4 dB(A), while Adj L_{Aeq} (\bar{x} = 57.3 dB(A)) values ranged from a low of 56.0 dB(A) to a high of 59.1 dB(A). Table 1 shows site 3 (\bar{x} = 68.9 dB(A)) and the night period (\bar{x} = 59.1 dB(A)) as having the highest overall Adj L_{Aeq} levels.

TABLE 1 Summary statistics for area 1

Site	Period	Start time	Max	Min	Mean	Percentiles			
						L_{A1}	L_{A90}	L_{Aeq}	Adj L_{Aeq}
1	1	07:00	73.0	40.1	44.2	60.0	41.8	48.5	48.5
	2	16:00	73.3	41.4	47.7	65.1	42.8	53.2	53.2
	3	18:00	66.6	25.8	43.9	61.8	39.5	49.2	54.2
	4	03:00	66.3	41.7	43.9	51.6	42.8	45.0	55.0
2	1	08:00	72.9	43.7	51.3	67.4	46.3	55.4	55.4
	2	12:00	75.4	40.9	48.0	63.7	43.3	53.0	53.0
	3	22:00	65.2	21	44.2	55.9	41.5	46.6	51.6
	4	01:00	66.3	38.8	40.3	49.2	39.4	42.0	52.0
3	1	09:00	90.0	42.3	61.4	80.3	48.0	69.1	69.1
	2	14:00	86.6	40.0	57.7	76.3	45.7	66.3	66.3
	3	23:00	81.4	37.0	43.1	72.1	38.2	58.6	63.6
	4	05:00	93.3	20.0	48.0	77.6	43.3	66.8	76.8
4	1	10:00	79.8	47.0	58.1	67.1	50.3	63.1	63.1
	2	15:00	77.5	23.0	49.0	56.7	43.0	54.8	54.8
	3	21:00	78.9	43.9	53.8	63.7	46.8	60.0	65.0
	4	24:00	77.4	39.9	45.8	55.0	41.3	52.9	62.9
5	1	11:00	72.7	41.6	50.8	66.6	43.9	55.4	55.4
	2	13:00	77.5	23.0	49.0	66.7	43.0	54.8	54.8
	3	19:00	73.9	37.8	48.4	65.0	40.5	54.2	59.2
	4	04:00	63.7	42.2	44.4	53.4	43.0	45.2	55.2
6	1	06:00	67.9	40.5	43.1	50.0	41.9	44.7	44.7
	2	17:00	73.8	42.6	49.8	66.5	45.6	54.6	54.6
	3	20:00	73.4	41.2	45.5	61.7	43.0	50.3	55.3
	4	02:00	60.6	38.3	41.7	51.5	40.2	42.7	52.7

As evident from Table 1, Adj L_{Aeq} values peaked at 05:00, 09:00, 14:00, and 23:00 (site 3), as well as at 21:00 and 00:00 (site 4). L_{Aeq} values mirrored this trend. The results suggest that the maximum values associated with these particular sites may have augmented the average noise level of the study area. The composite whole day rating for area 1 equaled 63.8 dB(A).

A significant difference in noise among individual sample sites in area 1 was observed, $\chi^2(5, N=24)=16.2, p=0.01$. Site 6 was associated with the lowest Adj L_{Aeq} levels in the area ($\bar{x}=51.8$) yet produced a comparatively high number of outlier values throughout the day from elevated noise events. Site 3, which contributed the highest levels of environmental noise in area 1 ($\bar{x}=68.9$), yielded a different data distribution pattern with fewer outlier points all of which occurred in the evening and night-time periods. A similar comparison across time periods failed to yield a significant difference, $\chi^2(3, N=24)=0.55, p=0.91$.

TABLE 2 Statistical values for area 1 by sample time period

	Max	Mean	L_{A1}	L_{A90}	L_{Aeq}	Adj L_{Aeq}
Morning	76.0	51.5	66.4	45.4	56.0	56.0
Afternoon	77.4	50.2	67.5	43.9	56.1	56.1
Evening	73.2	46.5	64.6	41.6	53.2	58.2
Night	71.3	44.0	57.8	41.7	49.1	59.1

Area 2

Data from area 2 yielded a similar distribution to area 1 with an overall mean of 56.6 dB(A). However, area 2 evidenced less variation in recorded sound values among individual sites and time periods (Table 3). Peak SPLs ranged from 69.7 dB(A) at site 2 to 90.3 dB(A) at site 6, while L_{A90} values ranged from a low of 44.0 dB(A) at site 6 to a high of 59.3 dB(A) at site 1. Adj L_{Aeq} values across sites ranged from a low of 55.4 dB(A) at site 4 to a high of 72.2 dB(A) at site 6. A comparison of the four sample time periods across sites yielded maximum SPLs between 77.2 dB(A) and 84.9 dB(A). L_{A90} values for the four time periods ranged from a low of 47.1 dB(A) to a high of 54.6 dB(A), while Adj L_{Aeq} values ranged from 61.8 dB(A) in the afternoon to 66.3 dB(A) at night (Table 4). The results indicate that area 2, the mixed use area, is associated with a more consistent level of environmental noise across sample sites. For example, L_{A90} values were highest recording in the afternoon at 54.6 dB(A), which varied little from the morning value of 53.1 dB(A), and then decreased through the evening to 47.1 dB(A) at night. Site 6 ($\bar{x} = 69.9$ dB(A)) and the night period ($\bar{x} = 66.3$ dB(A)) were associated with the highest overall Adj L_{Aeq} values (Table 3).

Table 3 displays L_{Aeq} and Adj L_{Aeq} values for selected sites over a 24-h period. As evident from this table, area 2 yielded Adj L_{Aeq} peaks at 01:00 (site 5), 03:00, 07:00,

TABLE 3 Summary statistics for area 2

Site	Period	Start time	Max	Min	Mean	Percentiles			
						L_{A1}	L_{A90}	L_{Aeq}	Adj L_{Aeq}
1	1	09:00	87.0	52.3	63.1	79.1	56.4	68.2	68.2
	2	12:00	88.3	55.4	65.1	75.9	59.3	68.1	68.1
	3	20:00	77.3	49.1	56.0	69.1	51.4	59.0	64.0
	4	02:00	79.4	42.3	50.0	65.3	45.9	55.8	65.8
2	1	08:00	89.0	46.7	58.3	75.1	52.2	65.0	65.0
	2	14:00	85.9	46.7	56.0	69.3	51.9	60.8	60.8
	3	23:00	77.8	48.9	53.4	67.3	50.2	56.7	61.7
	4	04:00	69.7	42.5	47.3	59.9	44.9	49.6	59.6
3	1	10:00	86.8	54.5	60.8	77.0	56.2	66.0	66.0
	2	15:00	85.2	54.3	60.3	71.6	56.6	62.7	62.7
	3	18:00	83.3	54.1	60.4	72.5	55.9	63.5	68.5
	4	05:00	75.1	49.7	54.0	67.5	51.5	56.4	66.4
4	1	11:00	72.7	45.4	52.6	65.9	49.0	55.4	55.4
	2	13:00	83.4	47.3	53.7	67.7	50.0	58.5	58.5
	3	22:00	75.1	28.6	50.4	66.0	47.2	54.1	59.1
	4	24:00	71.9	45.7	49.7	62.9	47.3	52.4	62.4
5	1	06:00	77.3	47.4	54.0	70.1	49.0	58.9	58.9
	2	16:00	86.0	23.7	60.9	72.1	55.0	64.0	64.0
	3	19:00	77.6	48.5	57.7	72.3	51.7	62.1	67.1
	4	01:00	85.7	46.2	53.8	73.5	49.1	61.3	71.3
6	1	07:00	90.3	49.8	65.6	81.3	56.0	71.1	71.1
	2	17:00	80.4	49.6	63.1	75.7	54.9	66.7	66.7
	3	21:00	83.7	46.7	60.1	74.3	51.8	64.8	69.8
	4	03:00	81.4	23.6	51.7	75.6	44.0	62.2	72.2

TABLE 4 Statistical values for area 2 by sample time period

	Max	Mean	L_{A1}	L_{A90}	L_{Aeq}	Adj L_{Aeq}
Morning	83.9	59.1	74.8	53.1	64.1	64.1
Afternoon	84.9	59.9	72.1	54.6	61.8	61.8
Evening	79.1	56.3	70.3	51.4	60.0	65.0
Night	77.2	51.1	67.5	47.1	56.3	66.3

and 21:00 (site 6). L_{Aeq} values, although deflated, mirrored this trend. The composite whole day rating was calculated and produced a result of 65.0 dB(A).

A significant difference in noise among individual sample sites in area 2 was yielded, χ^2 (5, $N=24$)=14.51, $p=0.01$. However, a similar comparison across time periods failed to yield a significant difference, χ^2 (3, $N=24$)=1.29, $p=0.73$. Areas 2 and 1 sample sites exhibited similar patterns of variation among sample sites and time periods; still, area 2 evidenced fewer outlier points due to higher overall levels of environmental noise. Traffic events characteristic of area 2 were absorbed by ambient background noise and therefore did not produce significant increases in sound. In contrast, sample sites associated with less road traffic and therefore lower ambient levels of noise produced more outlier points.

Comparison Between Areas 1 and 2

Differences were observed between the two sample areas both in terms of noise distribution and overall levels of environmental noise. First, Adj L_{Aeq} values among area 1 sites presented greater overall variability than area 2 sites (Figure 2). This difference can be attributed to variations in traffic volume related to land use, background institutional noise, and pedestrian activity. The noisier sites in area 1 were located near major roads, while sites associated with less noise were located further from the same roads. Although area 2 evidenced higher overall levels of environmental noise, sample sites produced fairly consistent and stable noise recordings. The consistency in noise levels across sites in area 2 likely relates to land use and background noise. More specifically, area 2 produces greater levels of background noise throughout the day from vehicle traffic in the area, industrial sounds (e.g., ventilation fans), delivery trucks, and high pedestrian traffic. This is confirmed by the higher L_{A90} values (representing background noise) in area 2 in addition to higher Adj L_{Aeq} values as a result of land use.

Results indicate that area 1 is more influenced by the disturbance effect of noise events. For example, a moving vehicle may generate an increase in sound levels of 10.0–30.0 dB(A), which would certainly lead to residential disturbances in area 1, yet remain unnoticed in the higher background sound levels inherent to area 2. It should be mentioned that the composite full day rating (L_{Rden}) values for the two areas evidenced very little difference in daily sound exposure (area 1=63.8 dB(A); area 2=65.0 dB(A)).

Findings from the Kruskal–Wallis tests provide evidence of statistically different levels of environmental noise among sample sites in areas 1 and 2. Using the Mann–Whitney test, a significant difference in Adj L_{Aeq} values associated with area 1 ($mdn=55.1$) and area 2 ($mdn=65.4$) was obtained ($U=102$, $p=0.0001$, $r=0.56$), thus supporting the hypothesis that land use (e.g., built environments) affects levels of environmental noise.

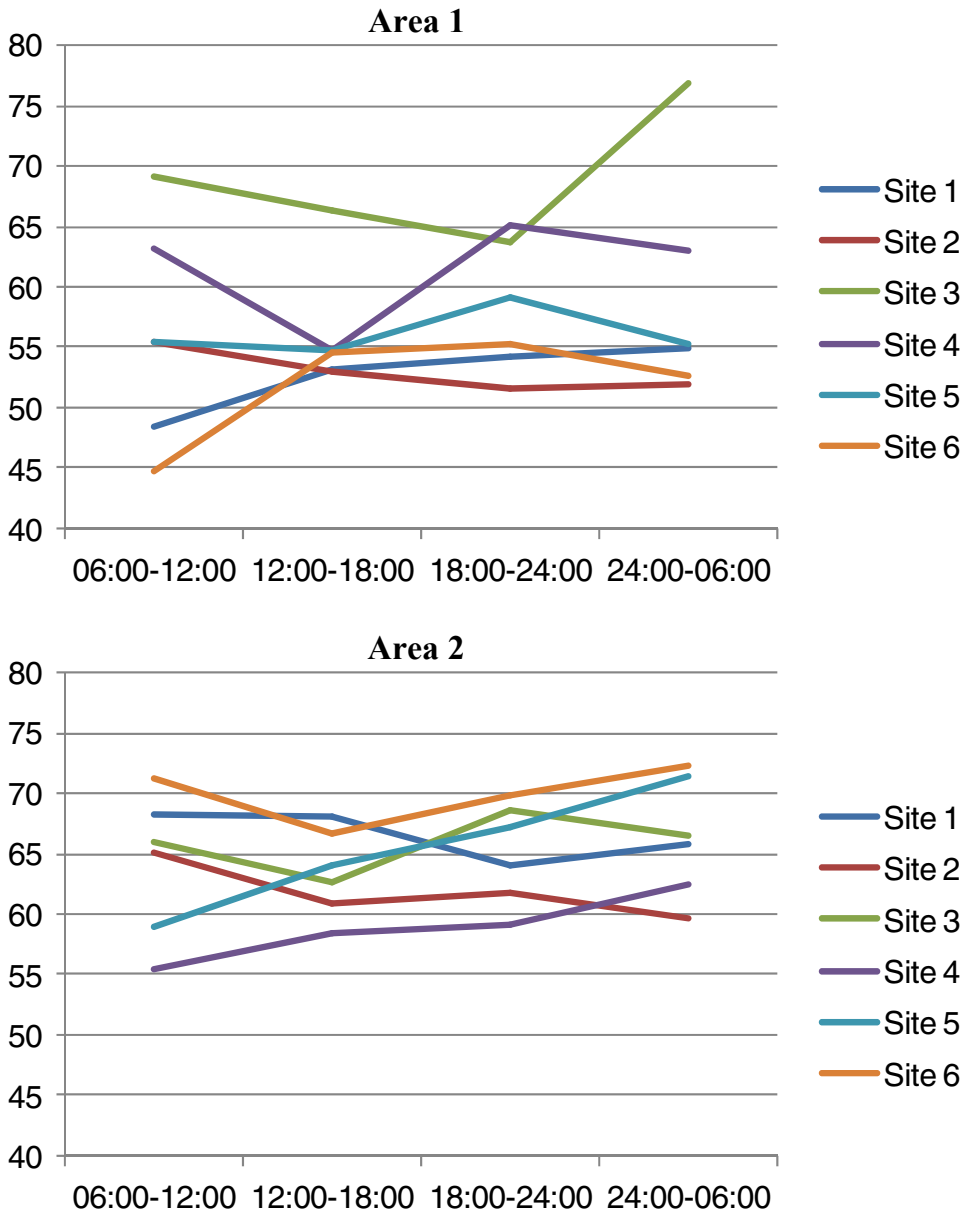


FIGURE 2. Adjusted L_{Aeq} values for areas 1 and 2.

DISCUSSION

The objective of the current research was to investigate and analyze spatial and temporal variations in environmental noise with respect to land use, specifically the built urban environment. In the analyses it was important to account for differences between neighborhood types in order to assess how increasing the frequency of mixed-used development land use would impact urban environmental noise levels. First, we found that noise levels varied significantly between residential and mixed-use neighborhoods. Noise levels in the mixed-use neighborhood were significantly greater than in the residential neighborhood. Second, noise values were analyzed to

determine the spatial and temporal variability within and between sample sites. Greater variation in noise levels was found in the residential neighborhood. This reflected the co-location of the sound-level recording with major roads bounding the sample area, as well as specific traffic-related noise sources such as buses, trucks, and street cleaning equipment. Noise variation within the sample areas was much greater in the residential neighborhood.

Analyses revealed statistically significantly higher levels of environmental noise in the mixed-use neighborhood (area 2) compared to the predominantly residential neighborhood (area 1). Area 1 generated absolute environmental noise levels within the range of an office environment or normal conversation both of which are considered comfortable for human hearing. Area 2, on the other hand, produced higher absolute environmental noise levels considered, according to annoyance scales, intrusive and slightly annoying. Noise values were on average (L_{eq}) 8 dB(A) greater during the day and 6 dB(A) greater during night-time hours in the mixed-use neighborhood. The higher overall levels of noise in area 2 likely reflect the continual presence of vehicular and pedestrian traffic in the area as well as background noise generated by institutional and industrial noise sources such as delivery trucks and ventilation systems. Evaluated against World Health Organization guidelines, both study areas yielded average noise events values in the moderate to serious annoyance range with the potential to obscure normal conversation and cause sleep disturbance.¹⁴

Our results also show significant variability in environmental noise *within* sample areas. With respect to area 1, environmental noise appeared to vary as a function of traffic patterns. For example, sites nearer to high traffic roads (e.g., heavy truck or bus traffic) presented higher levels of environmental noise. Because residential zones such as area 1 are associated with low(er) levels of background (i.e., continuous environmental noise) noise, traffic events can potentially contribute to high levels of disruption and disturbance. For example, people living close to site 3 in the residential area experienced on average a 10-dB(A) higher noise level during night-time hours compared to residents living elsewhere in the study area (Table 3). Site 3 is closest to two relatively major roads that are preferred routes for commuter, truck, and traffic from public transit (buses). In contrast, area 2 is associated with higher levels of background noise from steady traffic flow; consequently, results evidenced less intra-study area variability in noise despite the higher levels of noise associated with sites near high-traffic roads.

Our sampling approach also included measurement at random points within defined time periods to ensure sufficient noise measurements over a 24-h period. We did not find significant differences in average noise values across study sites within each sample area (Figure 2). Noise levels were somewhat higher during daytime hours, although the differences with evening and night-time measurements were minimized once values were adjusted. The consistency of noise values among day, evening, and night-time periods in urban environments has also been found in other studies.^{20,25}

Although noise values in both study areas did not vary significantly over time, there was relatively good correspondence in the intensity of average adjusted values between areas for the time periods selected. For example, noise levels increased incrementally from the afternoon, through the evening, and peaked in the overnight hours for both study areas, even though there was an overall difference in absolute noise levels. In both areas, adjusted noise levels were greater in the overnight hours, particularly for the residential study area (area 1). Adjusted noise levels in the residential study area will be affected greatly by unusual noise sources, such as loud motorcycles, automobiles, or even bus traffic, since typical noise values are much lower throughout the day. Normally

quiet neighborhoods in urban areas may thus be particularly prone to noise disturbances, especially during evening and night-time periods.

These findings support our initial hypothesis about the potential for variation in noise levels as a function of land use development in an urban environment. Urban planning initiatives developed to intensify urban development and promote mixed-use development may consider the potential for increased human exposure to noise and “design with noise in mind”, especially as there is good evidence in support of an association between environmental noise and stress-related health effects.^{7,9} When compared to guidelines designed to protect environmental quality and human health, adjusted noise levels in both areas exceed available recommended values for residential and mixed-use development and are indicative of relatively intensive land use development strategy (Table 5). Although Halifax is not a large city (population in 2006 of 372,675), noise levels in the mixed-use neighborhood are comparable to those measured in much larger urban centers such as Stockholm and Göteborg ($L_{Aeq, 24h}=62$ dB),²⁶ San Francisco ($L_{dn}=65$ dB),¹² and Vancouver ($L_{Aeq, 5min}=61.7$ dB).²⁷

From a public health perspective, noise levels measured in this study are of sufficient intensity to be injurious. For example, a 5-dB(A) increase in noise level between 45 and 65 dB(A) has been associated with a 38 % increased odds for hypertension even after control for several well-known risk factors.²⁸ The most deleterious health impacts arise from excessive noise exposures resulting in sleep disturbance. Sleep is a process of mental and physiological recovery essential to healthy functioning. It has been estimated that between 50 and 150 noise-induced awakenings per year may occur at outdoor noise levels equivalent to those measured in this study.²⁹ Subsequent impacts to health and well-being are numerous, including: impairment to cognitive performance, changes in hormone (epinephrine) levels, and changes in heart rate, sleep patterns, and mood. Ultimately, the constellation of noise-induced morbidities can lead to more severe health outcomes at noise levels not much greater than those measured in this study. Several studies have demonstrated an increased prevalence of cardiovascular diseases at noise levels as low as 70 dB(A).^{9,30} Given the high prevalence of heart disease in Halifax, when compared to similar size cities in Canada, there is a clear rationale to investigate in more detail the level and distribution of noise for the rest of the city.

Certain study limitations may affect the generalizability of the results. First, noise levels were measured in two neighborhoods and within a limited time period. Increasing the number of study areas to include additional land-use types would provide a deeper understanding of the relationship between environmental noise, the built environment, and human health risks. Second, an extended sampling campaign could investigate the potential for seasonal variation on noise levels. For example, the source and character of environmental noise may change with weather and road conditions. Third, the collection of full 24-h samples would help to eliminate

TABLE 5 Study L_{Aeq} values^a compared to noise exposure limits set by Italian legislation

	Area 1 (residential)		Area 2 (mixed use)	
	Noise exposure limits	L_{Aeq}	Noise exposure limits	L_{Aeq}
Day (06:00–22:00)	55.0	55.4	60.0	63.4
Night (22:00–06:00)	45.0	50.0	50.0	56.1

^aExpressed in dB(A)

measurement error in the L_{Aeq} calculation. Future research should consider the variation of noise with land use in a similar fashion to air quality research to enable prediction of noise levels in locations without direct noise measurement. This approach could be complemented by interviews with neighborhood residents in order to investigate annoyance and the potential for noise-related human health risks.

Despite these limitations, this study provides important evidence concerning the relationship between land use and environmental noise. A planning strategy focused on mixed-use development may result in an increase in noise levels and human exposures to noise at levels with potential health implications. In a 2007 paper on urban growth and population health, the authors recommended the inclusion of urbanicity as a potential determinant of health.³¹ Indeed, our findings suggest a sensitivity of residential areas to noise disruptions from such urban standards as traffic intensification. Municipal planning policies and initiatives should consider integrating traffic restrictions and controls in residential areas and school zones. At present there are no quantitative noise standards on which to compare measured noise levels or evaluate noise exceedances in Halifax, and all excess noise levels are controlled through a complaint driven process based on perceived noise levels. Municipal representatives should consider the institution of new environmental noise standards and policies in order to protect the health of residents and preserve urban environmental quality. Such policies could include improving the quality of mufflers on buses especially in light of findings that relate potentially harmful noise levels to mass transit systems.³² Ideally, policy development and regulation should originate from sound planning and an inclusive multi-sectoral approach,³³ to protect and improve population health in increasingly urbanized living environments.


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EXHIBIT T

 **TORONTO** Public Health

HOW LOUD IS TOO LOUD?

Health Impacts of Environmental Noise in Toronto



Reference:

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Executive Summary

There is increasing concern about the impacts of environmental noise on health, especially in urban areas. The growing body of evidence indicates that exposure to excessive environmental noise does not only impact quality of life and cause hearing loss but also has other health impacts, such as cardiovascular effects, cognitive impacts, sleep disturbance and mental health effects.

Health studies usually report on average noise exposure for a specific period (daytime, nighttime or 24 hrs) and measured as A-weighted decibel levels (dBA). Toronto Public Health (TPH) conducted a noise monitoring study in the early fall of 2016. The average 24-hour equivalent noise levels in Toronto were 62.9 dBA. Average daily levels at individual locations ranged from a low of 50.4 to a high of 78.3 dBA, with mean levels of 64.1 dBA daytime (7:00 a.m. to 11:00 p.m.) and 57.5 dBA nighttime (11:00 p.m. to 7:00 a.m.). Nearly 60 percent of noise in Toronto can be attributed to traffic noise and it is estimated that dissemination areas in the lowest income quintile are almost 11 times more likely to have 50 percent of their residents exposed to night noise levels over 55 dBA, than residents in the highest income quintile. The results of the study show that levels of noise in Toronto are similar to levels found in other large cities such as Montreal and Toronto; as well, similar to other cities there is a disparity between income and exposure to noise.

Non-auditory health impacts of environmental noise were reviewed by the World Health Organization (WHO) in 2009 and 2011. The reports show that cognitive impacts, sleep disturbance mental health and cardiovascular effects could occur at noise levels commonly experienced in urban environments. Toronto Public Health has reviewed the evidence that has accumulated since the WHO evaluation. Newer evidence confirms that health impacts can occur at levels between 42 and 60 dBA outdoors, which is below the 70 dBA benchmark that TPH had previously been considered protective of health. The available evidence suggests that environmental noise in Toronto occurs at levels that could be detrimental to health.

The World Health Organization (2009) established health-protective guidelines of 55 dBA outdoors (Leq 16 hours) for daytime and evening exposures and night-noise exposure guidelines of 40 dBA (outdoors Leq night 8 hours, to keep an indoor average of 30 dBA). Given that 40 dBA is often difficult to achieve in urban centres, the WHO indicated an interim nighttime limit of 55 dBA. The Ontario Ministry of Environment and Climate Change has recommendations for road-related noise thresholds: for sensitive land uses, such as residential uses, mitigation measures are required if outdoor levels at the centre of a window or door opening exceed 55 dBA daytime or 50 dBA nighttime.

Reducing the exposure of environmental noise to residents is multi-pronged and includes periodic assessment of the noise environment through monitoring and modelling, policy interventions (for example, traffic management, building code standards, equipment performance standards, and noise bylaws), and education and engagement of the public. Maintaining a quality outdoor noise environment will contribute to better health and wellbeing. Not only will such an environment promote a more active lifestyle (walking, cycling and active

recreation), which can reduce noise levels from transportation, it will also contribute to a reduction in the risk of chronic disease, making Toronto a healthier city for all.

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Glossary

Sound levels are reported in decibels (dB) or A-weighted decibels (dBA) which take into account the human perceptions of loudness at different frequencies. The loudness of sound (L) may be expressed in different ways:

Leq: The equivalent continuous level, which is the average level of sound over a period of time (for example hour, day, or year)

Leq 24: The equivalent continuous level, which is the average level of sound over a period of 24 Hours

Ldn: the average equivalent sound level over a 24 hour period with a penalty added for noise during the nighttime hours

Lden: the average equivalent sound level over a 24 hour period with a penalty added for noise during the evening and nighttime hours

Lmax: the maximum level of sound that occurs in a period of time

Lnight: average level during the night (usually 8-hours, for example 11pm to 7 am)

Plane of door or of window: the centre of an exterior window or door opening in a building

SEL: the sound exposure level measured over one second

Environmental Noise and Health

Environmental noise is considered to be any unwanted sounds created by human activity (Murphy, King, & Rice, 2009). Environmental noise includes noise from roads, rail and air, as well as construction noise, music systems (amplified sound), neighbours, small machinery and air conditioners. This makes it an important issue for densely populated urban environments. This definition allows for environmental noise to be considered a type of pollution, an element that can be regulated, controlled and mitigated. As is common practice, environmental noise for the purpose of this study refers to noise outdoors. It does not include noise generated indoors such as noise that travels between units in multi-residential buildings.

Noise is a complex issue to measure as it has several important properties including: loudness (intensity, measured in decibels on a logarithmic scale [dB or dBA]), duration (continuous, intermittent, or impulsive), and frequency (pitch). Measurements of loudness are often reported on the A-weighted scale, and can include additional penalties for evening and night levels (see glossary for additional information on noise measurements). In environmental noise and health research the focus tends to be on average noise levels for a specific period (day, night or 24 hrs) and measured in dBA. Since the decibel is a logarithmic unit, a sound received by the ear at 60 dBA is perceived as twice as loud as sound at 50 dBA.

Until recently the impacts of environmental noise were generally deemed a quality of life issue and the main concern was impact on hearing and annoyance. As Figure 1 shows, within an exposed population, the most severe health impacts from noise exposure will be experienced by a relatively small proportion of the population, but a larger number of people will experience feelings of discomfort or stress.

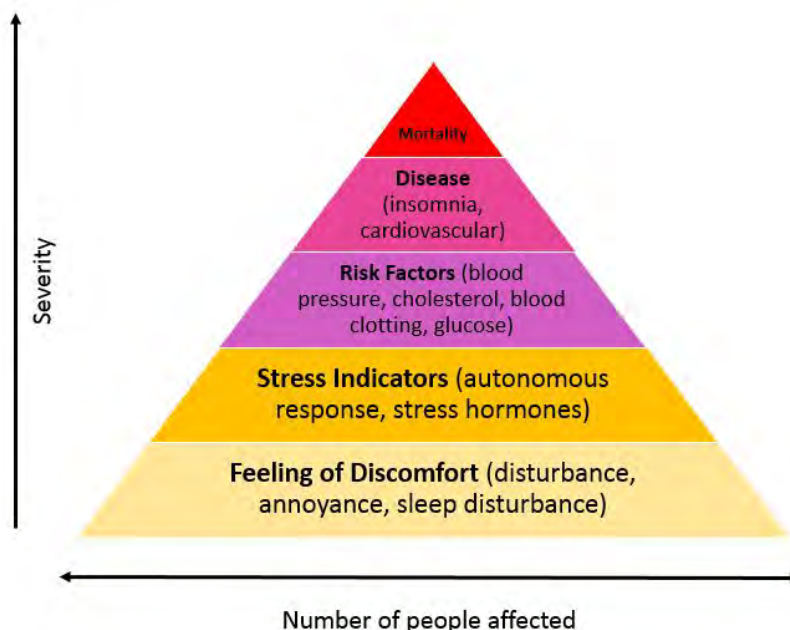


Figure 1: Source: adapted from (Wolfgang Babisch, 2002) as cited in (W Babisch et al., 2010) Noise is considered a biological stressor and a component of one's physical environment, and this therefore one of the determinants of health (Mikkonen & Raphael, 2010). The experience

of noise is based on both noise as heard by the observer and individual sensitivities to noise, with physical and psychological mediators influencing the non-auditory impacts of noise exposure (Murphy & King, 2014). The majority of the available health evidence comes from studies that modelled outdoor noise levels using proximity to roadways, railway tracks or airports to estimate exposure.

Noise-induced Hearing Loss

For a long time, the main health concern related to noise was related to occupational exposure and hearing loss. The World Health Organization (World Health Organization, 2009, 2011) has determined that noise-induced hearing loss is unlikely when average daily exposure to noise is below 70 dBA and impulse sound levels do not exceed 110 dBA. The equivalent 8-hour exposure threshold for hearing loss that includes impulse sounds is 75 dBA (World Health Organization, 1999, 2009, 2011). In Ontario, the Occupational Health and Safety Act protects workers so that no employee is exposed to levels exceeding 85 dBA (8-hour average) (Government of Ontario, 2014). Noise at this level could still result in some hearing loss.

It is important to note that hearing loss or damage is a cumulative impact, as people are exposed to noise throughout their lifetime and hearing damage can build over time. In some cases personal noise exposure is based on choices made, such as ear buds and personal listening devices, operating small equipment without protection or attending concerts and events. While these personal choice exposures were not considered in this review, they can have an impact on health. The WHO considers hearing loss or damage from acute or chronic exposure a health concern as this can affect a person's ability to function in society and result in social isolation. There is now evidence that noise can have other health impacts not related to hearing.

Non-Auditory Health Impacts of Environmental Noise

There has been growing interest in the non-auditory impacts of environmental noise on health. In 2009, the World Health Organization Regional Office for Europe released its Night Noise Guidelines for Europe and in 2011 the Burden of Disease from Environmental Noise. From these comprehensive reviews, the WHO recommended that outdoor noise levels do not exceed an average of 55 dBA during the day and an average of 40 dBA at night.

Toronto Public Health searched the literature published between 2010 and January 2017 to identify any new evidence that had emerged since the WHO review. The health effects that were included were impacts identified in the previous WHO reviews as well as emerging health impacts supported by strong evidence. Diabetes and adverse behavior in children are emerging end-points of concern. Health impacts considered in this review are:

- **Cardiovascular Effects:** myocardial infarction, hypertensive heart disease, ischemic heart disease, high blood pressure, cerebrovascular disease (stroke), coronary heart disease
- **Cognitive Impacts:** impairment (attention, memory adults, errors upon testing in children)

- **Sleep Disturbance:** increased arousals, changes to sleep structure
- **Mental Health:** annoyance, depression, quality of life
- **Pulmonary Effects:** chronic obstructive pulmonary disease, pneumonia
- **Other Effects:** diabetes, behaviour in children

Cardiovascular Effects

Noise exposure has been linked to cardiovascular diseases as vascular tension is impacted by stress responses (Babisch, 2005 in Bodin et al., 2016). These effects have been reported to occur at levels ranging from 55 to 73.6 dBA outdoors.

Myocardial infarction occurs when stress hormones like noradrenaline and cortisol interfere with beta-adrenergic receptors of the circulatory system (Gan, Davies, Koehoorn, & Brauer, 2012). Noise has been associated with an increased risk of mortality from myocardial infarction. Outdoor noise has been linked to increased odds of hypertensive health outcomes as a result of stress which affects individual hormone and blood pressure levels (Sørensen et al., 2011a). A higher arousal of the autonomous nervous and endocrine systems, which is adversely influenced by road traffic noise exposure, is associated with an increased risk of mortality from ischaemic heart disease (World Health Organization, 2011).

Adverse increases in blood pressure from environmental noise are associated with cardiovascular mortality (Chobanian et al., 2003; Ezzati et al., 2002 as cited in Fuks et al., 2011). By influencing factors like atherosclerosis and elevated blood pressure, road traffic noise exposure has been linked to an increased risk of mortality from cerebrovascular disease (stroke) (Sørensen et al., 2014). Exposure to certain noise levels indicate an increase risk in mortality due to impacts on blood pressure, which is a risk factor for the advancement of coronary heart disease, a condition that indicates the blood vessels of the heart are compromised (World Health Organization, 2016).

Recio and colleagues (2016) found a 3.5 percent increase in the risk of death from myocardial infarction and 2.9 percent increase in the risk of death from ischaemic heart disease, and 2.4 percent increase in the mortality rate of cerebrovascular disease for every 1 dBA increase in nighttime noise levels between 58.7 – 76.3 dBA (L_{max} night) for people 65 and older. For people younger than 65, there was an 11 percent increased risk of death from myocardial infarction and ischaemic heart disease for every 1 dBA increase in average nighttime noise levels between 56.2 – 69.9 dBA. Similar results were found in other studies with increased risk of mortality from myocardial infarction and ischaemic heart disease (approximately 55-60 dBA during the day, >50dBA at night)(Seidler et al., 2016a; Sørensen et al., 2012).

Seidler and colleagues (2016b) reported a statistically significant increase in odds of hypertensive heart disease for every 10dBA increase in noise over 55dBA (Leq 24). Banerjee and colleagues (2014) found similar results of increased odds of hypertension at 60dBA (L_{den}) for women and 65dBA (L_{den}) for men. The WHO (2011)found that road traffic noise and air pollution independently impact the prevalence of hypertension. Indoor environmental nighttime noise levels above 30dBA have been associated with increased odds of hypertension and high systolic blood pressure per increase of 5 dBA (Foraster et al., 2014). Sørensen and colleagues (2011a)

reported that in people over 64.5 years of age, exposure to every 10 dBA (Lden) increase in residential road traffic noise was associated with a 27 percent higher risk for stroke.

In analysis of road traffic noise, Gan and colleagues (2011) reports an increased relative risk of mortality from coronary heart disease of 13% for every 10 dBA over 58dBA and 29% for every 10dBA increase over 70 dBA when the effect of PM2.5 was taken in to account. Significant correlations for noise were still found when the effect of black carbon was taken in to account with an increased relative risk of mortality from coronary heart disease of 9% for every 10 dBA over 58 dBA and 22% for every 10 dBA increase over 70 dBA when compared to those with noise exposures less than 58 dBA.

Cognitive Impairment

Van Kempen and colleagues (2012) found an association between students exposed to road and air noise pollution at school and the number of errors made during SAT testing. In contrast, another study reported that children had increased information and conceptual recall when exposed to road or aircraft noise at school (Matheson et al., 2010). It was suggested this was due to context-dependent memory, where people recall information better when exposed to a similar environment where it was originally introduced (Matheson et al., 2010).

Cognitive impairment in adults as a result of exposure to noise has only recently been studied. Initial evidence suggests environmental noise, acts as a sensory stimulant and may hinder cognitive abilities including "attention, memory and executive function" (Wright, Peters, Ettinger, Kuipers, & Kumari, 2016b).

Sleep Disturbance

Sleep disturbance due to noise exposure is a common complaint among noise exposed populations (World Health Organization, 2011). Sleep is important to physical and mental health and well-being. Sleep is involved with the healing and repair of the body, and disturbed or deficient sleep has been linked to an increased risk of many chronic diseases. Sleep disturbance has an impact on metabolic and endocrine function and contributes to the risk of cardiovascular disease. Sleep loss is associated with weight gain, risk of diabetes, and susceptibility to viral illness (World Health Organization, 2009). Chum and colleagues (2015), indicated an increased odds of self-reported sleep disturbance in areas with elevated noise and traffic levels. Increased odds of worse quality sleep was found with outdoor daytime aircraft noise between 50-60 dBA and nighttime noise levels between 50-55 dBA (Schreckenber, Meis, Kahl, Peschel, & Eikmann, 2010).

Mental Health

Annoyance and its link to mental health is an emerging area of research on the impacts associated with exposure to environmental noise. Annoyance to noise results in a multitude of emotional responses including "disturbance, dissatisfaction, displeasure, irritation, nuisance, or anger" ((Van Kempen & Van Kamp, 2005)as cited in Babisch, Schulz, Seiwert, & Conrad, 2012). The condition of annoyance can be conceptualized in one of two ways - as a mediating factor in, or indicator for, biological responses to noise (Evans & Cohen, 1982 as cited in Oiamo,

Luginaah, & Baxter, 2015). In general, the extent and impact of annoyance varies among individuals exposed to environmental noise (Murphy & King, 2014).

A recent study looking at self-reported noise exposures found higher odds of high annoyance in populations exposed to moderate truck traffic when compared to those exposed to light truck traffic and similarly when comparing people exposed to constant truck noise to those exposed to no truck noise (Dratva et al., 2012). When looking at residents living in buildings with one quiet façade, De Kluizenaar and colleagues (2011) found that individuals benefited from both decreased noise exposure at the most exposed façade as well as lower levels of annoyance from road traffic noise. In buildings without a quiet façade the odds of annoyance increased as traffic noise increased (De Kluizenaar et al., 2011). In a study by Schlittmeier and colleagues (2015) that individuals reported average outdoor noise levels of 50 dBA Leq (10 sec) were “significantly less annoying” than when average levels were 70 dBA Leq (10 sec). In 2011, the WHO estimated 42 dBA outdoors as the point at which individuals exhibit high levels of annoyance when exposed to road traffic noise.

Increased stress and sleep disturbance have been suggested as the biological pathways by which environmental noise influences depression. Orban and colleagues (2016) found an association between high noise exposure, defined as 55 dBA Lden outdoors and greater than 50 dBA Lnight and an increased risk of self-reported high depressive symptoms.

Quality of life is defined as "an individual's perception of their position in life in the context of culture and value systems in which they live and in relation to their goals, expectations, standards and concerns" (WHO as cited in Shepherd et al., 2010). The World Health Organization Quality of Life (short-form) scale consists of 26 factors divided into four domains: physical health (7 items), psychological wellbeing (6 items), social relationships (3 items), and environmental factors (8 items). Shepherd and colleagues (2013) found higher scores across all dimensions of the Health-Related Quality of Life (HRQL) scale (except for the social dimension) for individuals residing in areas of median 55 dBA Ldn noise levels, compared to those living in “noisy” regions of median 76 dBA Ldn. In 2016, Shepherd and colleagues found noise annoyance more predictive of "psychological, social and environmental" domain variability on the HRQOL when compared to annoyance from air pollution.

Pulmonary Effects

Chronic obstructive pulmonary disease (COPD) is a term that describes multiple chronic conditions that limit airflow to the lungs (World Health Organization, 2017). Recio and colleagues (2016) found a 4% increase in the risk of death from for every 1 dBA increase with nighttime noise levels ranging from 58.7 to 76.3 dBA (Lmax night) for people 65 and older.

Recio and colleagues (2016) found a 3% increase in the risk of death from pneumonia for every 1 dBA increase with nighttime noise levels from 58.7 – 76.3 dbA (Lmax night) in people 65 and older. The authors suggest that this association is the result of chronic stress from exposure to noise which leads to reduced immunity.

Emerging Health Evidence

There is new but limited evidence for an association between exposure to environmental noise exposure and diabetes and metabolic processes. (Basner et al., 2014; Muenzel et al., 2014 as cited in Tonne et al., 2016). In individuals 65 years and older, exposure to noise at levels ranging from 56.2 to 69.9 dBA Leq night has been associated with a 11 percent increase in relative risk of mortality from diabetes for every one dBA (Recio et al., 2016).

There is some evidence of an association between road traffic noise and increased risk of a higher abnormal total difficulties score, hyperactivity, conduct problems and difficulties with peer relationship in children as based on a standardised Strengths and Difficulties Questionnaire (Hjortebjerg et al., 2016). Another study found an association between increased road traffic noise exposure at school sites and attention deficit hyperactivity disorder symptoms (Forns et al., 2016).

There has been limited focus on low-frequency noise exposure and health impacts in traditional literature (Murphy & King, 2014). Low-frequency noise is generally referring to noise levels from 20-200 Hz, and buildings tend to have difficulty with attenuating these levels (Wise & Leventhall, 2011). There is some evidence that low-frequency noise may contribute to annoyance and sleep disturbance.

Annoyance while known as an impact of environmental noise, it had not been studied much in regard to its relationship with health. Environmental noise is starting to be recognized as an important factor in the health of individuals, particularly as we undergo rapid development and urbanization.

Discussion

Based on the best available health evidence at that time, Toronto Public Health (2000) had concluded that exposure to noise at levels of up to 70 dBA (Leq 24) would not result in any adverse impacts. This review along the WHO 2009 and 2011 reviews indicate that health effects occur at much lower exposure levels (see for example Table 1). Previous evidence found ischaemic heart disease at threshold around 70 dBA, current evidence finds this threshold to start around 58 dBA. Currently, the thresholds for self-reported sleep disturbance is 42 dBA nighttime, where as previously there were around 60 dBA. The more recent evidence reviewed for this report (refer to the Appendix) supports these lower thresholds.

Table 1: Effects of noise on health and wellbeing with sufficient evidence (source: European Environment Agency, 2010)

Effect	Exposure Measure *	Threshold ** (dBA)	Effect type
Annoyance disturbance	L _{den}	42	Chronic
Self-reported sleep disturbance	L _{night}	42	Chronic
Learning, memory	L _{eq}	50	Acute, chronic
Stress hormones	L _{max Leq}	NA	Acute, chronic
Sleep	L _{max, indoors}	32	Acute, chronic

Reported awakening	SEL _{indoors}	53	Acute
Reported health	L _{den}	50	Chronic
Hypertension	L _{den}	50	Chronic
Ischaemic heart diseases	L _{den}	60	Chronic

Note: * L_{den} and L_{night} are defined as outside exposure levels. L_{max} may be either internal or external as indicated.

** Level above which health effects start to occur or start to rise above background. NA – not available.

Policy makers benefit from noise thresholds as they provide standards on which to base limitations on. Some health impacts have been suggested to occur using a no threshold model but evidence for this is limited at the current time. Due to the difference in measurement of the time periods where health effects are seen (day, evening, night), the thresholds are not directly comparable to each other and to guideline levels without conversion.

Noise Levels Recommended for Health

To protect health, the World Health Organization (2009) established night-noise guidelines of 40 dBA (outdoors Leq night 8 hours) to keep an indoor average of 30 dBA. Understanding that 40 dBA is often difficult to achieve in urban centres, they added an interim value of 55 dBA night. Additionally, the WHO recommended daytime levels of 55 dBA (Leq 16 hours). The Ministry of Environment and Climate Change (MOECC) (Government of Ontario, 2013) has recommendations for road related noise thresholds before mitigation measures are required of 55 dBA daytime and 50 dBA nighttime (See Table 2). These levels are applicable to road and stationary sources of noise at the centre of window or door openings for sensitive land uses such as residential properties, hotels, schools, hospitals, and community centres. More information on the MOECC guidelines can be found in the Noise Regulation in Ontario section of this report. The evidence identified in this review supports using the WHO guidelines as maximum noise exposure to protect health.

Table 2 – Outdoor Residential Noise level guidelines from the WHO and MOECC

Measure Detail	Noise Level (dBA)		
	Day	Evening	Night
Noise Duration	12 Hr	4 Hr	8 Hr
Timeframe	7:00-19:00	19:00-23:00	23:00-7:00
Authority			
WHO Target noise guideline	55		40
	Calculated Maximum Equivalent L _{den} : 55.6		
	Calculated Maximum Equivalent L _{den} : 56.5		
MOECC Target noise guideline (1 hr Average)	55		50
	Calculated Maximum Equivalent L _{den} : 58.2		
	Calculated Maximum Equivalent L _{den} : 58.7		

Noise Levels in Toronto

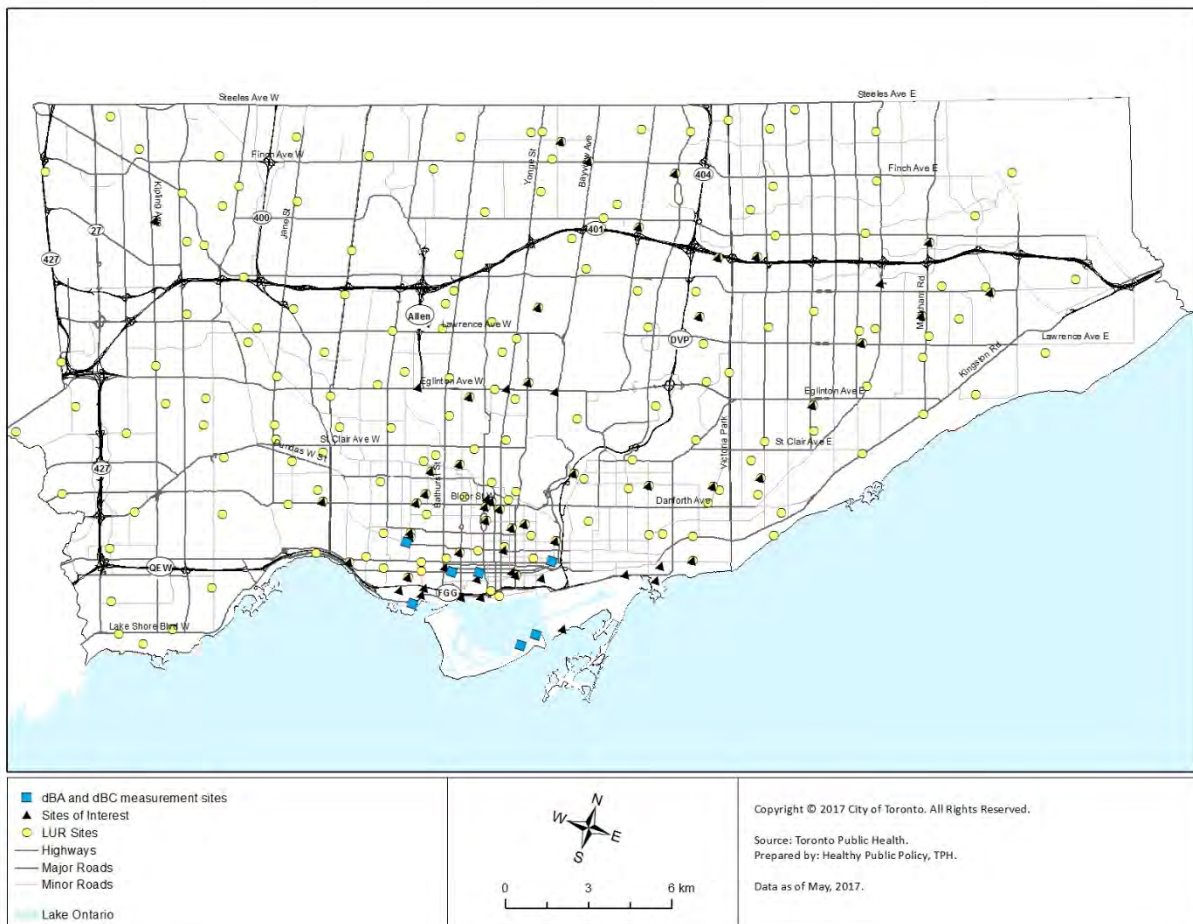
The City of Toronto is currently undergoing a noise bylaw review. To determine if current exposures to noise in Toronto could have a negative impact on health, and inform the revisions to the bylaw Toronto Public Health commissioned a noise monitoring and modelling study, the results of which can be found in Environmental Noise Study in the City of Toronto report (Oiamo, et al., 2017).

Noise Monitoring

Over the period of August to October 2016 a total of 227 noise measurements were made. Noise was monitored using the A-weighted decibel scale at 220 different locations across the City (see Figure 2) for approximately a one week period at each site. Additional measurements were done using the C-weighted scale at seven locations where the noise environment was influenced by sources of amplified sound to provide information on the distribution of lower frequency sounds. The sites were chosen based on a combination of population densities, land uses and sites of interest as determined by the project advisory committee. The project advisory committee suggested locations where events are held, or where residents have expressed concerns about noise or noise levels are expected to be high. The sites were categorised by land use (residential, open space, employment, industrial/commercial, residential), road type (local, collector, major arterial) and sites of interest (schools, long-term care/hospitals, community housing, concert venues, EMS, CNE, BMO field, TTC yards, historic or cultural sites and Toronto island).

The monitoring data was analysed in a number of traditional noise metrics for each site as well as for different categories of sites. Measurements for the full week, weekend and weekdays as well as average measurements for 24 hours (Lden, Leq 24h), day (Leq 16h), night (Leq 8h) and maximum measured 1 second (Lmax). Exceedance levels, values that describe the sound level exceeded in a specified period of time (L1 is 1% of the time, L5 is 5% of the time) were determined for the listed time periods as well. In addition, values were calculated that described the percent of time a noise level was exceeded (for example 95% of the time noise levels at night are above 40dBA).

Figure 2: Noise Monitoring Locations in Toronto (recreated from Oiamo et al., 2017)



Noise Modelling

To better understand the distribution of noise levels and exposure in Toronto, two modelling methods were used; a propagation model, which estimated the percentage of noise from road traffic specifically and a receptor-based land-use regression model that extrapolates the effect of environmental features on observed noise levels. These models were combined to create maps of predicted noise levels for daytime and nighttime across the city.

The modelling results compared the traffic based model to the receptor based land use regression model to determine the areas where the traffic model was over or under predicting noise levels based on the built environment and monitoring results. The study found that the traffic model was over predicting noise levels in areas with high levels of vegetation coverage and was under predicting noise levels in areas where population density was high. The lack of data for rail and air traffic noise means noise emissions from these sources were not modelled in this study. However, the monitoring and modelling process would still take these noise sources in to account but their precise impact on the soundscape could not be inferred. Due to data limitations sound barriers and noise walls could not be included in the modelling process. This led to some of the major roadways noise levels being over estimated in the initial traffic model. These over and under estimations were corrected for in the final modelling process.

It should be noted that land use regression is a math based approach to predicting exposures, and in this case a modelled approach to predicting where the noise from the traffic model was over or under estimated. The predictors for vegetation coverage, population density, distance to airports and railways all logically relate to noise level estimates. The interpretation of how other predictor's effect noise levels is less straight forward. Detailed methods for the modelling methods uses can be found in the report of Oiamo and colleagues (2017).

To estimate population noise exposures, the noise estimates from the final daytime and nighttime surface models were linked to Statistics Canada population estimates. Noise was estimated for the exposed façade of all residential buildings in Toronto and dissemination block level population data were used to estimate the number of residents in each building based on building size. From this, the proportion of residents exposed to daytime and nighttime levels at certain thresholds was estimated. To estimate the impact on vulnerable populations a logistic regression model was used to look at the relationship between income and noise. Household incomes were linked to dissemination areas where nighttime noise levels exceeded 55dBA for at least 50% of the residents.

Results

The monitoring study found the average 24-hour equivalent noise levels across the city to be 62.9 dBA. Average daily levels at each site ranged from a low of 50.4 to a high of 78.3 dBA. Daytime and night time averages can be seen in Table 3. Weekdays were found to be louder than weekends across the city.

The dBC measurements were primarily taken in areas where there was a known source of amplified sound. It was observed that the dBC values did not decrease with the dBA values during the latenight hours but the cause of this is unknown, but could be due to vibration of low frequency amplified sound.

Table 3 – Average dBA levels from noise monitoring. (Source: Oiamo et al., 2017)

dBA (n=220)	Full Week				Weekday				Weekend			
	Lden	Leq24h	LeqD	LeqN	Lden	Leq24h	LeqD	LeqN	Lden	Leq24h	LeqD	LeqN
Mean	66.4	62.9	64.1	57.5	66.7	63.2	64.5	57.6	65.3	61.2	62.4	56.8
Median	65.3	61.9	63.2	56.4	65.4	62.1	63.4	56.1	64.5	60.6	61.9	55.9
Std. Devi	6.9	6.4	6.3	7.8	6.9	6.3	6.2	7.9	7.3	7	7	7.9
Minimum	54	50.4	51.6	42.6	53.9	50.7	52.2	42.2	51.3	47.5	48.4	43.5
Maximum	82.3	78.3	79.5	74.4	82.9	78.9	80.1	74.8	80.8	76.5	77.8	74.1

Note: Lden is the average equivalent sound level over a 24 hour period with a penalty added for noise during the evening and nighttime hours; Leq is The equivalent continuous level, which is the average level of sound over 24 hours; LeqD is The equivalent continuous level, which is the average level of sound over 16 daytime hours; LeqN is The equivalent continuous level, which is the average level of sound over 8 nighttime hours;

Observed average noise levels among the sites of interest varied depending on the type of site or land-use. The lowest noise levels were observed in residential areas and along local roads. As expected, the highest levels were observed in mixed-use areas and along major arteries. Sites identified as close to construction activities also exhibited higher average noise compared to the overall average noise levels. Monitoring was completed in late summer early fall, which corresponds to peak construction season. High average noise levels were noted near busy TTC facilities and an EMS station and monitors in proximity to large gatherings of people also indicated high noise exposures at specific periods in time (BMO Field and CNE). The noise bylaw identifies quiet zones, which are defined as hospital, retirement home, nursing home, senior citizens residence, or other similar uses. Monitoring locations in or near ‘quiet zones’ showed similar patterns to overall levels. This might be due to the fact these facilities are generally found along major roads, and may have a larger number of emergency vehicles passing close by.

Overall the study found that 62% of the time the mean noise level was above 55dBA during the day (Leq_{day}) and 54% of the time above 50dBA (Leq_{night}) at night. The modelling indicated that 59% of the noise in Toronto can be attributed to traffic (Leq24). This result is similar to the results of comparable studies in Montreal and Vancouver. Sound levels at the majority of locations that were specifically selected because of concerns about noise did show higher noise levels overall than other sites.

Figure 3, is a map of the final predicted daytime noise levels based on traffic and land use regression modelling combined. The traffic noise dominates the map, there are higher levels in the downtown core and some areas near the highways. Areas of parkland and ravines have the lowest estimated noise levels. Figure 4 is the average predicted night time noise levels, and demonstrates a similar pattern as the daytime results. At night, the roads still dominate and the downtown core is still relatively loud, but the overall noise levels are lower.

Figure 3 - Predicted daytime (Leq16) noise levels in Toronto

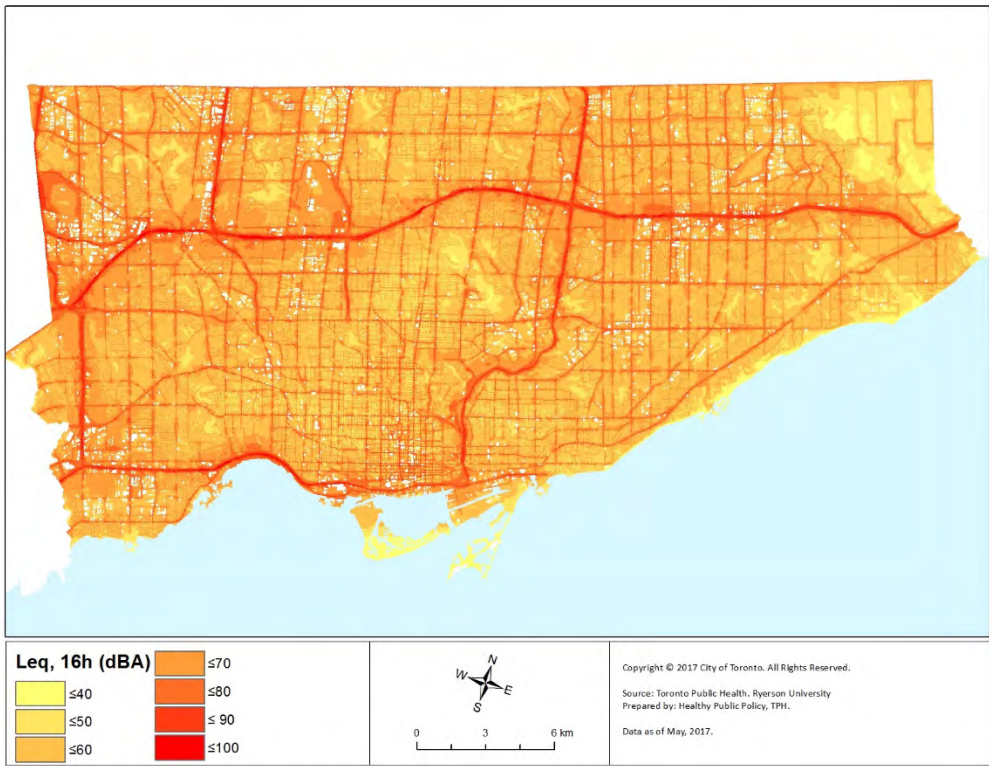
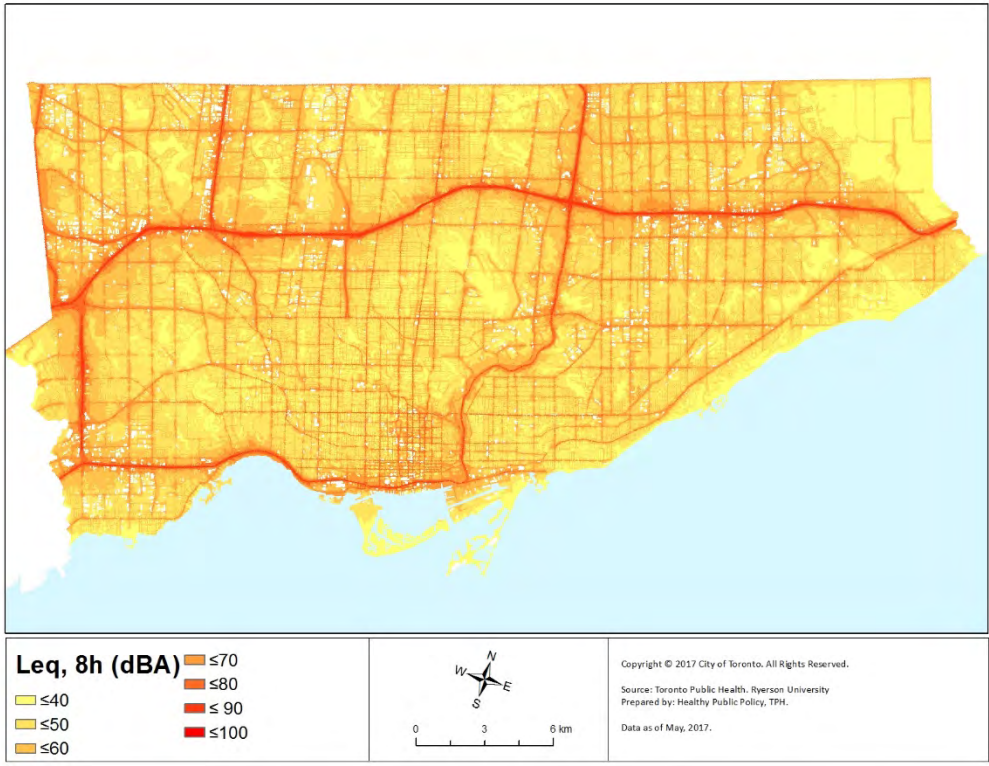


Figure 4 - Predicted nighttime (Leq8) noise levels in Toronto



Populations Affected

Table 4, has the percent of the estimated population exposed to certain noise levels at various time periods. For example, 88.7% of the population is estimated to be exposed to levels above 55 dBA during the day, and 43.4% is estimated to be exposed to above this level at night.

Table 4 – Estimated Population Exposed to Noise above selected noise exposure levels

Noise Threshold	Number of people exposed above the threshold (millions)	Percentage of people exposed above the threshold
LAeq, 24h, 65 dBA	0.85	30.1%
LAeq, 24h, 55 dBA	2.03	72.2%
LAeq16, day, 65 dBA	1.09	38.8%
LAeq16, day, 55 dBA	2.49	88.7%
LAeq8 ,night, 55 dBA	1.22	43.4%
LAeq8, night, 45 dBA	2.60	92.3%

Dissemination areas in the lowest income quintile are nearly 11 times more likely have 50% of their residents exposed to a nighttime noise above 55 dBA than do residents in dissemination areas in the highest income quintile (Table 5). Overall, a large percentage of residents in Toronto are exposed to noise that exceed objectives for outdoor noise, especially nighttime exposure at home. People living near major arterial roads or in areas with mixed commercial and residential uses are also more exposed.

Table 5 – Logistic regression predicting dissemination areas with 50% of residents exposed to nighttime noise levels exceeding 55 dBA. (Source: Oiamo et al., 2017).

	Odds Ratio**	95% Confidence Interval
Highest Income Quintile (Reference Category)		
4	1.84	1.38-2.44
3	2.18	1.64-2.89
2	3.76	2.87-4.92
Lowest income Quintile	10.99	8.42-14.36

** significant at $p < 0.0001$

Mitigation and Regulation

Noise Regulation in Ontario

Health Canada does not have any exposure guidelines for environmental noise. The 8-hour workplace permissible exposure limit in Ontario is 85 dBA. Some hearing loss can still be expected at this level of exposure.

The Ontario Environmental Noise Guideline, from the Ministry of Environment and Climate Change is applicable to stationary and transportation sources of noise (NPC-300) identifies various limits depending on area, source of noise, time of day, and type of noise. Noise sensitive land uses include residential properties, hotels, schools, hospitals, and community centres.

For example, the MOECC guidelines indicate that for road-related noise, control measures (such as sound proofing and ensuring adequate ventilation so that windows or doors can be kept closed) is not be required if the sound level in the plane of a bedroom or living/dining room window is less than or equal to 55 dBA (daytime) and 50 dBA (night-time). If the sound level in the plane of a bedroom or living/dining room window is greater than 65 dBA (daytime) or 60 dBA (night-time), noise mitigation is required, which may include installation of central air conditioning to maintain adequate ventilation, so that noise levels are kept below an average of 45 dBA in living areas, with a provision of night-time average levels of 40 dBA in sleeping quarters due to road-related noise; the corresponding values for rail-related noise are 40 and 35 dBA.

NPC-300 also includes a graduated scale for impulse noise (short burst of loud noise) depending on number of impulses per hour ranging from 80-50 dBA (impulse, outdoor), with a provision for higher allowable noise levels in Class 4 areas (areas where new sensitive land uses are built next to existing stationary source of noise).

The current City of Toronto noise bylaw sets out specific rules for noise depending on the location and time of day. The bylaw covers a variety of noise sources including amplified sound, construction noise and general noise. The bylaw regulates types of noise not covered in other regulations, and includes provisions for quiet zones and times. Other common sources of noise such as transportation, rail, industrial and workplace noise are regulated through provincial or federal instruments.

Mitigation Best Practice

There are a number of strategies available to help mitigate impacts from environmental noise. Land-use planning is a preferred choice, which includes separating loud land uses from sensitive ones and site design and building layouts that site sleeping areas away from noise sources. In developed urban environments this option is not always available to planners.

Controlling the noise at the source would be the next best choice in mitigation practice. This can include enclosing it, use of silencers or mufflers, and limiting the times of operation. Amplified sound for events such as large scale concerts or outdoor events, noise leakage can be

mitigated through specific time limitation, speaker layout and design and other noise insulation strategies, such as soundproofing or using tents.

Creating barriers to reduce the amount of sound that reaches the receiver is also a common approach. This includes noise barriers, setback requirements, and mounds and trenches. Controls on the receiver of the noise generally are related to building design, such as sound insulation, window glazing, and enclosed balcony to buffer noise. Codes may require stronger attenuation requirements for buildings near major noise sources to reduce the intrusion on occupants.

Many jurisdictions have noise level limits for road noise which may vary according to the adjacent land use. Most commonly limits are between 55-70 dBA, for daytime road traffic noise levels near residential land uses. In addition to physical noise barriers, walls and buffers for traffic noise, dynamic traffic management has been suggested as an effective mitigation strategy. This could include traffic restrictions around vulnerable populations (schools, hospitals), reduced nighttime vehicle operations, coordinated traffic signals, and street design that favours non-automobile uses. Higher vehicle speeds results in higher road noise; for example, there is an effective doubling of noise levels from 30km/h to 50km/h (Department of Transportation, 1998). Updates in paving materials can create smoother surfaces and thus result in less road noise.

The way things are built and the materials used can have a large impact on the noise levels being produced from all sources of environmental noise. For example, wheel and tire design and materials can lower noise levels by 2-15 dBA; new paving materials can reduce road noise; and, the electrification of cars, buses, trains and trucks are expected to reduce traffic noise.

Some construction noise levels can be reduced through method and equipment choices, noise barriers and scheduling both time of day and limiting the number of concurrent noise sources. Generally electric versions of small equipment are quieter than their gas powered counterparts. The requirement for noise ratings and labelling can encourage and facilitate the purchase of and use of more quiet equipment.

The European Union noise directive (European Commission, 2002) requires urban areas with population of over 100,000 to assess their noise environment on a regular basis, including the impact road, rail, and airport noise. Municipalities are also required to develop noise management action plans in consultation with the public. These plans cover the exposure to environmental noise, prevention and reduction strategies and preserving environmental noise quality where levels are good¹. A review of this requirement has found this practice effective as it has brought attention to the importance of noise as a public health risk (European Commission, 2016).

¹ For a Step by step approach for developing noise Action Plans, see Kloth, M and colleagues (2008) <http://www.noiseineu.eu/fr/3527-a/homeindex/file?objectid=3161&objectypeid=0>

Conclusions

The health impacts associated with environmental noise are both acute and chronic in nature. In addition to noise-induced hearing loss, there is growing body of evidence that shows an association between environmental noise and health impacts including cardiovascular disease cognitive impairment in adults and children, sleep disturbance and mental health impacts. Emerging evidence suggests that exposure to environmental noise could lead to adverse pulmonary effects increased mortality from diabetes, and negative impact on behaviour in children.

The health evidence suggests that older adults and young children may be more at risk. Furthermore, in Toronto lower income populations who are already experience poorer health are also more likely exposed to more noise than people with higher income.

Results of the noise monitoring and modelling study indicate that noise levels in Toronto are above the World Health Organization's limits for both daytime and nighttime exposure, and thus likely to contribute to the burden of illness in the city. Given the ubiquitous nature of this exposure a comprehensive approach to noise management in the city will be required to effectively limit unnecessary exposure to noise and ensure that noise exposures do not increase over time.

Approaches that can be used to reduce exposure to noise include choosing technologies that are quieter, setting planning requirements, adopting improved building codes, implementing traffic management measures, and prescribing limits and noise mitigation measures in the noise bylaw.

Given that almost 60% of the noise in Toronto can be attributed to traffic noise, implementing measures to reduce exposure to noise from transportation sources should be a priority. Maintaining a quality outdoor noise environment will contribute to better health and wellbeing. Not only will such an environment promote it a more active lifestyle (walking, cycling and active recreation), which can reduce noise levels from transportation, it will also contribute to a reduction in the risk of chronic disease, making Toronto a healthier city for all.

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Appendix: Health Impacts of Environmental Noise Exposure:
Literature Review Evidence Summary Table

Reference	Noise Source	Adjustment for Air Pollution	Noise Detail	Threshold, or Mean and Range measured, or Lowest effect level (as available)	Findings
Cardiovascular mortality (overall)					
Recio et al., 2016	All	Yes	Leq night (0-8h)	Mean (SD) = 60.2 (1.0) Range = 56.2 – 69.9 dB(A)	RR = 1.033 (95% CI: 1.017, 1.049) per 1 dB(A) increase in Leqn at lag 0, ≥ 65 age RR = 1.050 (95% CI: 1.004, 1.098) per 1 dB(A) increase in Leqn at lag 0, < 65 years of age
Myocardial infarction morbidity or mortality					
Recio et al., 2016	All	Yes	Lmax night (0-8h)	Mean (SD) = 63.9 (1.7) Range = 58.7 - 76.3 dB(A)	RR = 1.035 (95% CI: 1.011,1.061) (mortality rate of myocardial infarction) per 1 dB(A) increase in Lnmax at lag 0, ≥ 65 age
			Leq night (0-8h)	Mean (SD) = 60.2 (1.0) Range = 56.2 – 69.9 dB(A)	RR = 1.11 (95% CI: 1.042,1.192) (mortality rate of myocardial infarction) per 1 dB(A) increase in Leqn at lag 0, < 65 years of age
Sorensen et al., 2012	Road	Yes	Lden	Range = 42–84 dB	IRR = 1.12 (myocardial infarction) per 10 dB(A) increase for both yearly exposure at the time of diagnosis (95% CI: 1.02, 1.22) and 5 years, time-weighted mean (95% CI: 1.02, 1.23) preceding the diagnosis
Seidler et al., 2016a	Road	No	Leq (24h) The evaluation was performed on the basis of the	Increased risk estimates can be seen starting from a road traffic noise level of 55 dB. The	OR = 1.028 (95% CI: 1.25, 4.5) per 10 dB(A) increase in Leq (24h) (myocardial infarction)

			continuous 24-hour noise level and the categorized noise level (in 5 decibel classes).	OR reaches statistical significance at a noise level between 60 dB and <65 dB (OR = 1.09 (95% CI: 1.02, 1.16)); the highest OR of 1.13 (95% CI: 1.00, 1.27) is found with a 24-hour continuous noise level ≥ 70 dB. For night-time hours between 10 p.m. and 6 a.m., the risk increases when road traffic noise increases above 50 dB (statistically significant in some cases).	
	Rail			For rail traffic, in the 50 to <55 dB category there is a statistically borderline significantly raised OR of 1.05 (95% CI: 1.00, 1.10); in the 55 to <60 dB category the OR is 1.04 (95% CI: 0.97, 1.12); while in the highest sound level category, 70 dB and upwards, the OR is 1.16 (95% CI: 0.93, 1.46). For night-time hours from 10 p.m. to 6 a.m, the ORs begin to rise notably at noise levels of ≥ 60 dB (OR = 1.10 (95% CI: 1.01, 1.20)).	OR = 1.023 (95% CI: 0.5, 4.2) per 10 dB(A) increase in Leq (24h) (myocardial infarction)
Hypertensive heart disease					

Babisch et al., 2014a	Road	Yes	<p>Lden</p> <p>Unit scale was 10 dB(A). For graphical presentation of the results the noise levels were categorized in 5-dB(A) categories using ≤ 45 dB(A) as a reference category [noise level categories: ≤ 45, 46–50, 51–55, 56–60, 61–65, ≥ 66 dB(A)].</p>	Range = 31–80 dB(A)	OR = 1.43 (95% CI: 1.10, 1.86) per 10 dB(A) increase in Lden (isolated systolic hypertension)
Seidler et al., 2016b	Road	No	<p>Leq (24h)</p> <p>For all continuous analyses, a starting point of 35 dB was chosen for noise in the range virtually indiscernible from background noise, below 40 dB.</p>	The categorical analysis showed a nearly monotonous risk increase, reaching statistical significance from 55 dB upwards.	OR = 1.024 (95% CI: 1.016, 1.032) per 10 dB(A) increase in Leq (24h) (hypertensive heart failure)
	Rail		<p>The continuous sound levels for each traffic noise source were grouped in 5 dB categories.</p>		OR = 1.031 (95% CI: 1.022, 1.041) per 10 dB(A) increase in Leq (24h) (hypertensive heart disease)
	Aircraft		<p>For the analysis of road and railway traffic noise, cases and control subjects with noise exposure of less than 40 dB were grouped into the reference category. For the analysis of aircraft noise, individuals exposed to a continuous sound pressure level below 40 dB with the nightly maximum level exceeding 50 dB six or more times (NAT 6) were grouped into a</p>	<p>In the categorical analysis, the OR was significantly elevated to 1.07 (95%CI 1.04–1.09) at 45 to <50 dB sound levels.</p> <p>For individuals with 24-h continuous aircraft noise levels <40 dB and nightly maximum aircraft noise levels exceeding 50 dB six or more times, a significantly increased risk was observed.</p>	OR = 1.016 (95% CI: 1.003, 1.030) per 10 dB(A) increase in Leq (24h) (hypertensive heart disease)

			separate exposure category.		
Banerjee et al., 2014	Road	No	Lden Noise exposure was grouped into two categories (<60 dB(A)) according to the facade Lden levels. The choice of 60 dB(A) as cutoff point was due the fact that, firstly, it was close to the median Lden value (62.5 dB(A)) and, secondly, most studies have reported 60 dB(A) for similar investigations.	>65 dB(A) Lden (for men) >60 dB(A) Lden (for women)	OR = 1.99 (95% CI: 1.66, 2.39) per 5 dB(A) increase in Lden (hypertension)
Foraster et al., 2014	Road	Yes	Night	Median indoor sound modelled = 27.1 dB(A)	OR = 1.06 (95% CI: 0.99, 1.13) per 5 dB(A) increase in Lnight (hypertension)
				Median sound modeled at bedroom façade = 53.5 dB(A)	OR = 1.07 (95% CI: 1.01, 1.14) per 5 dB(A) increase in Lnight (hypertension)
				Median sound modeled outdoors = 56.7 dB(A)	OR = 1.19 (95% CI: 1.02, 1.40) per 5 dB(A) increase in Lnight (hypertension)
Ischemic heart disease morbidity and mortality					
Recio et al., 2016	All	Yes	Lmax night (0-8h)	Mean (SD) = 63.9 (1.7) Range = 58.7 - 76.3 dB(A)	RR = 1.029 (95% CI: 1.010, 1.048) (mortality rate of ischemic heart disease) per 1 dB(A) increase in Lnmax at lag 0, ≥ 65 age
			Leq night (0-8h)	Mean (SD) = 60.2 (1.0) Range = 56.2 – 69.9 dB(A)	RR = 1.108 (95% CI: 1.042, 1.177) (mortality rate of ischemic heart disease) per 1 dB(A) increase in Leqn at lag 0, < 65 years of age

Sorensen et al., 2011a	Road	Yes	Lden Linear and categorical analyses performed with seven noise exposure categories (55–58, 58–61, 61–64, 64–67, 67–70, 70–73, and >73 dB) and a reference category (≤55 dB). 55 dB used as the reference because this is often the limit value for noise in outdoor residential areas, and used exposure categories of 3 dB because this difference is a doubling in acoustical energy. IRRs were calculated for above and below 64.5 years of age, corresponding to the median age at stroke diagnosis among the cases.		IRR = 1.14 (95% CI: 1.03, 1.25) (ischaemic stroke) per 10 dB increase in Lden
				Mean exposure < 64.5 years = 57.8 dB Mean exposure ≥ 64.5 years = 58.2 dB	IRR = 1.27 (95% CI: 1.13, 1.43), (ischaemic stroke) per 10 dB increase in Lden, ≥ 64.5 years of age
Systolic blood pressure					
Foraster et al., 2014	Road	Yes	Lnight	Median indoor sound modelled = 27.1 dB(A)	β = 0.72 (95% CI: 0.29, 1.15) per 5 dB(A) increase in Lnight (systolic blood pressure)
Cerebrovascular disease morbidity or mortality					
Recio et al., 2016	All	Yes	Lmax night (0-8h)	Mean (SD) = 63.9 (1.7) Range = 58.7 - 76.3 dB(A)	RR = 1.024 (95% CI 1.001,1.048) (mortality rate of cerebrovascular disease) per 1 dB(A) increase in Lnmax at lag 0, ≥ 65 age
Sorensen et al., 2011a	Road	Yes	Lden Linear and categorical analyses performed with seven noise exposure categories (55–58, 58–61, 61–64, 64–67, 67–70, 70–73, and >73 dB) and a		IRR = 1.14 (95% CI: 1.03, 1.25) (ischaemic stroke) per 10 dB increase in Lden

			reference category (≤ 55 dB). 55 dB used as the reference because this is often the limit value for noise in outdoor residential areas, and used exposure categories of 3 dB because this difference is a doubling in acoustical energy.		
			IRRs were calculated for above and below 64.5 years of age, corresponding to the median age at stroke diagnosis among the cases.	Mean exposure < 64.5 years = 57.8 dB(A) Mean exposure \geq 64.5 years = 58.2 dB(A)	IRR = 1.27 (95% CI: 1.13, 1.43), (ischaemic stroke) per 10 dB increase in Lden, \geq 64.5 years of age
Coronary heart disease mortality					
Gan et al., 2011	Road	Yes	Lden Continuous variable to calculate the relative risks of CHD mortality associated with a 10-dB(A) elevation in noise levels and categorical variable to examine exposure-response relations by dividing study subjects into deciles based on noise levels	Mean (SD) = 63.4 (5.0) Range = 33.0 – 90.0 Median (Interquartile Range) = 62.4 (59.8–66.4)	RR = 1.13 (95% CI: 1.06, 1.21) per 10 dB(A) increase in Lden (Coronary Heart Disease mortality when adjusting for PM _{2.5})
					RR = 1.29 (95% CI: 1.11, 1.50) per 10 dB(A) increase in Lden, noise > 70 dB(A) (Coronary Heart Disease mortality when adjusting for PM _{2.5})
					RR = 1.09 (95% CI: 1.01, 1.18) per 10 dB(A) increase in Lden (Coronary Heart Disease mortality when adjusting for PM _{2.5} and black carbon)
					RR = 1.22 (95% CI: 1.04, 1.43) per 10 dB(A) increase in Lden, noise > 70 dB(A) (Coronary Heart Disease mortality when adjusting for

					PM _{2.5} and black carbon)
Cognitive impairment (children)					
Pujol et al., 2013	All	No	The school average outdoor L _{Aeq, day} was selected for analysis.	Mean (SD) = 51.5 (4.5) Range = 38 – 58 dB	β = - 0.44 (95% CI: - 0.85, -0.02) (Math test scores) per 10 dB increase in L _{Aeq, day} , ages 8-9 β = - 0.44 (95% CI: - 0.85, -0.02) (French test scores) per 10 dB increase in L _{Aeq, day} , ages 8-9
van Kempen et al., 2012	Road	Yes	Leq (7-23h)	Mean (SD) = 48.7 (8.6) Range = 34.0 – 62.0	β = 0.30 (95% CI: 0.10, 0.50) (Attention scores: SAT, arrow)
	Aircraft			Mean (SD) = 48.6 (7.1) Range = 36.3 – 62.8	β = 0.92 (95% CI: - 0.02, -1.850) (Attention scores: SAT, switch)
Matheson et al., 2010	Road	No	Leq16h	Range = 32 to 71 dB	β = 0.065 (95% CI: 0.02, 0.11) (conceptual recall) per 5 dB(A) Leq16h increase, 8-10 years of age
Sleep disturbance					
Chum et al, 2015	Road	Used local traffic data (together with noise as a control variable) as a proxy for air pollution (common in other studies)	Self-reported level of noise disturbance	Neither agree or disagree - disturbed by noise at home	OR = 1.13 (95% CI: 1.01, 1.28) (≤ 6 vs. 7 hrs sleep)
				Agree - disturbed by noise at home)	OR = 1.66 (95% CI: 1.39, 1.98) (≤ 6 vs. 7 hrs sleep)
				Strongly agree - disturbed by noise at home	OR = 2.24 (95% CI: 1.77, 2.84) (≤ 6 vs. 7 hrs sleep)
				Disagree -disturbed by noise at home	OR = 1.15 (95% CI: 1.00, 1.31) (any vs. none: sleep problems)
				Neither agree or disagree - disturbed by noise at home	OR = 1.84 (95% CI: 1.65, 2.04) (any vs. none: sleep problems)
				Agree - disturbed by noise at home	OR = 2.74 (95% CI: 2.25, 3.34) (any vs. none: sleep problems)

				Strongly agree - disturbed by noise at home	OR = 3.03 (95% CI: 2.26, 4.07) (any vs. none: sleep problems)
Schreckenberget al., 2010	Aircraft	No	L _{Aeq, 16h}	Sleep quality is worst for residents exposed to 50 to 60 dB(A) at daytime and 50 to 55 dB(A) at night-time than for residents with less or higher noise exposure.	OR = 0.95 (95% CI: 0.93, 0.97) (bad sleep quality)
Annoyance among adults					
Dratva, et al., 2010	Road		Self-Reported Noise Exposures	The degree of noise annoyance was measured by a thermometer scale ranging from 0 (not at all) to 10 (strong and unbearable, Fig. 2) [10, 37–39]. We created a dichotomous noise annoyance variable, defining high noise annoyance as a value of >6 on the original 11-point scale, similar to the dichotomization presented by Li et al. and Conzelmann-Auer et al. [10, 37].	OR = 0.42 (95% CI: 0.24, 0.74) (high annoyance), countryside vs. heavy traffic location
					OR = 1.82 (95% CI: 1.38, 2.39) (high annoyance), moderate vs. light traffic
					OR = 1.46 (95% CI: 1.09, 1.95) (high annoyance), infrequent truck noise vs. no truck noise
					OR = 3.20 (95% CI: 2.17, 4.82) (high annoyance), constant truck noise vs. no truck noise
de Kluzenaar et al., 2011	Road	No	Lden (without quiet side dwelling) <45 defined as reference category	45 – 50 dB(A)	OR = 1.19 (95% CI: 1.03, 1.39)
				45 – 52.5 dB(A)	OR = 1.26 (95% CI: 1.09, 1.44)
				50 – 55 dB(A)	OR = 1.74 (95% CI: 1.47, 2.05)
				52.5 – 57.5 dB(A)	OR = 2.23 (95% CI: 1.87, 2.66)
				55 – 60 dB(A)	OR = 2.75 (95% CI: 2.27, 3.34)
				57.5 – 62.5 dB(A)	OR = 3.83 (95% CI: 3.09, 4.74)
				>60 dB(A)	OR = 6.93 (95% CI: 5.65, 8.50)
			>62.5 dB(A)	OR = 8.00 (95% CI: 6.30, 10.16)	
Lden (with quiet side dwelling)	50 – 55 dB(A)	OR = 1.63 (95% CI: 1.25, 2.13)			

			<45 defined as reference category	52.5 – 57.5 dB(A)	OR = 2.05 (95% CI: 1.67, 2.52)
				55 – 60 dB(A)	OR = 2.38 (95% CI: 1.99, 2.84)
				57.5 – 62.5 dB(A)	OR = 2.96 (95% CI: 2.52, 3.48)
				>60 dB(A)	OR = 5.30 (95% CI: 4.63, 6.07)
				>62.5 dB(A)	OR = 6.54 (95% CI: 5.64, 7.58)
Chronic obstructive pulmonary disease mortality					
Recio et al., 2016	All	Yes	Lmax night (0-8h)	Mean (SD) = 63.9 (1.7) Range = 58.7 - 76.3 dB(A)	RR = 1.04 (95% CI: 1.010, 1.070) (mortality rate of Chronic Obstructive Pulmonary Disease) per 1 dB(A) increase in Lmax at lag 1, ≥ 65 age
Pneumonia mortality					
Recio et al., 2016	All	Yes	Lmax night (0-8h)	Mean (SD) = 63.9 (1.7) Range = 58.7 - 76.3 dB(A)	RR = 1.03 (95% CI: 1.002, 1.058) (mortality rate of pneumonia) per 1 dB(A) increase in Lmax at lag 1 when NO2 > 30µg/m ³ , ≥ 65 age
Diabetes mortality					
Recio et al., 2016	All	Yes	Leq night (0-8h)	Mean (SD) = 60.2 (1.0) Range = 56.2 – 69.9 dB(A)	RR = 1.11 (95% CI: 1.040, 1.192) (mortality rate of diabetes) per 1 dB(A) increase in Leqn at lag1, ≥ 65 age
Depression					
Orban, et al., 2016	Road	No	Lden High noise exposure was defined as annual mean 24-hr noise levels > 55 dB(A) (High noise at night was also defined as >50 dB(A) Lnight and in general had similar associations)		RR = 1.29 (95% CI: 1.03, 1.62) (high depressive symptoms), middle-age
Quality of Life scores					

Schreckenberget al., 2010	Aircraft	No	L _{Aeq} , 16h	HQoL with regard to vitality and mental health decreases with increasing aircraft sound level at daytime from <45 dB(A) up to the sound level class 50–55 dB(A), but then increases again for residents exposed to higher sound level classes at daytime.	OR = 0.95 (95% CI: 0.93, 0.97) (vitality)
					OR = 0.96 (95% CI: 0.94, 0.98) (mental health)
Adverse behaviour among children					
Hjortebjerg et al., 2016	Road	Yes	Time-weighted mean exposure from birth to 7 years of age	For time-weighted mean exposure from birth to 7 years of age, estimated that a 10-dB higher exposure to road traffic noise was associated with a 7% increase in abnormal total difficulties scores (95% CI: 1.00, 1.14) (Table 2), which seemed to follow a monotonic exposure–response relationship until 60–65 dB, after which the curve leveled off (Figure 1A).	RR per 10 dB(A) increase (age 7, exposure from birth) = <ul style="list-style-type: none"> • 1.07 (95% CI: 1.00, 1.14) (abnormal vs. normal total difficulties) • 1.05 (95% CI: 1.00, 1.10) ("borderline and abnormal hyperactivity") • 1.09 (95% CI: 1.03, 1.18) ("borderline and abnormal inattention") • 1.05 (95% CI: 0.98, 1.14) ("abnormal conduct problems") • 1.06 (95% CI: 0.99, 1.12) ("peer relationship problems")
	Rail			≤ 60 dB In the cohort as a whole, exposure to railway noise ≤ 60 dB at the time of birth was positively associated with abnormal emotional	OR = 1.11 (95% CI: 1.00, 1.23) (abnormal emotional symptom scores), exposure at time of birth

				symptom scores (OR = 1.11; 95% CI: 1.00, 1.23 compared with unexposed children) but this outcome was not associated with railway noise > 60 dB (OR = 1.01; 95% CI: 0.83, 1.22).	
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EXHIBIT U



CNDDDB Data Use Guidelines

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Limitations of the GIS dataset, and how to get more details.

The CNDDDB GIS dataset is a balance of including enough of the key information to be useful, but holding back from including so much information that the file size would be overly large. The downside of this is that if you are trying to do detailed occurrence-level analysis, the GIS dataset does not contain all of the information that could be helpful.

To remedy this, you can utilize the dbf files that are part of the RareFind3 install to pull in additional details. In particular, the occ.dbf file contains some important comment fields that often contain critical additional details, such as threats (THRTCOM), ecology (ECOCOM), and general occurrence history (GENCOM).

This occ.dbf file and others are part of the “RareFind Data” package that is available from the CNDDDB website under “Maps and Data” > “Monthly CNDDDB Data”:
<http://www.dfg.ca.gov/biogeodata/cnddb/>

To best use these files, you will also need the data dictionary that describes each field within these files. This documentation is part of the “RareFind and CNDDDB Documentation” package in the same location as mentioned above.

Both of these packages should get installed on your PC under C:\cnddb3. The occ.dbf file will be under C:\cnddb3\rfdata, and the data dictionary document will be part of the full set of help files at C:\cnddb3\rfdocs\03data_dictionary.html.

You can view the entirety of the help files by starting with C:\cnddb3\rfdocs\index.html. Also of importance to review is the table relationship diagram C:\cnddb3\rfdocs\03relationships.html.

To use the occ.dbf or other dbfs, add the file to your ArcMap session and use the EONDX field to link (join) it to the GIS dataset. **As a cautionary note, do not use Excel to utilize these dbf files. Excel has a record limit of 65536, and some of these files have more records than that. Bring them into ArcMap directly, or use Access.**

Simply double-click to open the data dictionary file or any of the other help files in a browser.

Why are there so many different shapes and sizes of CNDDDB occurrences?

The CNDDDB collects information from a wide variety of sources and makes this data available in a standardized text and graphic format. The different sizes of circles and polygons indicate the level of location detail provided in the source document(s). We currently use 10 graphic accuracy classes:

Accuracy Class	Description
1	Specific bounded area with an 80 meter radius
2	Specific, non-circular bounded area
3	Non-specific bounded area
4	Non-specific, circular feature with a 150 meter radius (1/10 mile)
5	Non-specific, circular feature with a 300 meter radius (1/5 mile)
6	Non-specific, circular feature with a 600 meter radius (2/5 mile)
7	Non-specific, circular feature with a 1000 meter radius (3/5 mile)
8	Non-specific, circular feature with a 1300 meter radius (4/5 mile)
9	Non-specific, circular feature with a 1600 meter radius (1 mile)
10	Non-specific, circular feature with a 8000 meter radius (5 miles)

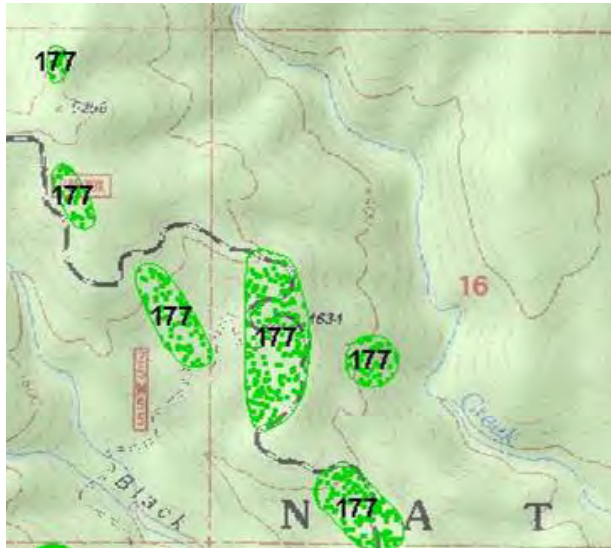
The larger the circular feature, the more vague the location. The occurrence below is for a northern goshawk. The location was described only as “Sentinel Meadow.” It is mapped as a 1 mile radius circle (Accuracy Class 9). If and when we receive updated information with a more precise location, the occurrence will be remapped more specifically.



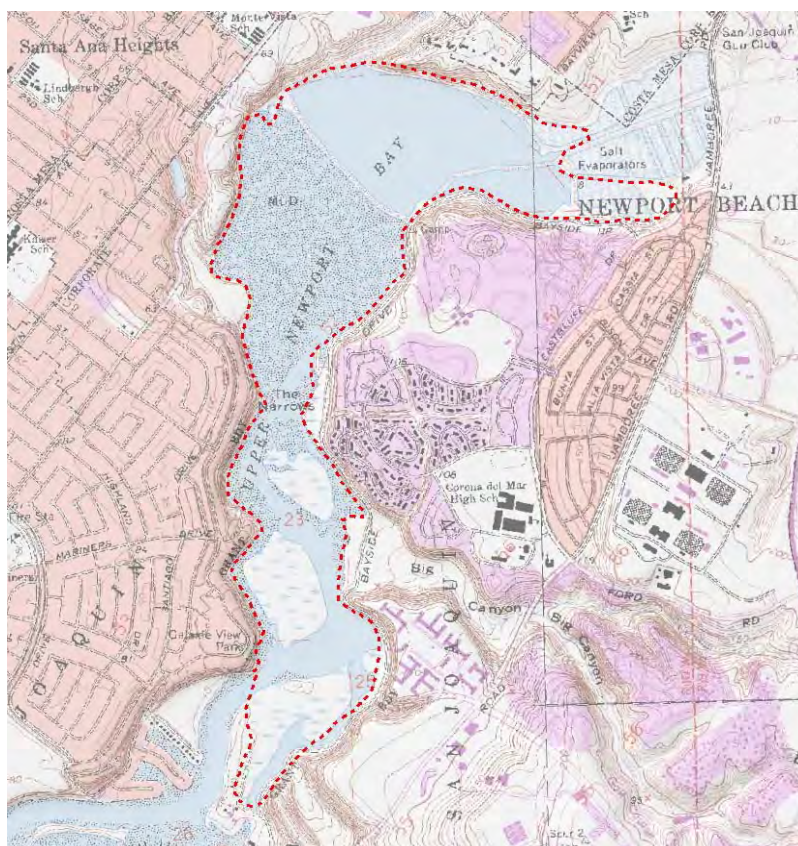
80 meter radius circles (Accuracy Class 1) represent very precise location data. For the occurrence below the mapped feature represents a specific pool where California tiger salamanders were found.



Non-circular features or irregular bounded areas (polygons) can be specific or non-specific in our terminology. The occurrence below, number 177 for Quincy lupine, is mapped as a series of specific bounded areas, indicating exactly where the plant was seen to occur at the time of the survey (Accuracy Class 2). This is still a single occurrence, made up of multiple parts; each part is less than 0.25 miles from the next nearest one. The CNDDB's default separation distance for occurrences is 0.25 miles.



Non-specific bounded areas (polygons) are used when we don't know exactly where the element was or may be found at that location (Accuracy Class 3). The occurrence below is for light-footed clapper rail in Upper Newport Bay. The entire bay is mapped since the exact location of the birds within the bay can vary from year to year and cannot be pinpointed.



What is the difference between the CNDDDB polygon layer and the CNDDDB point layer?

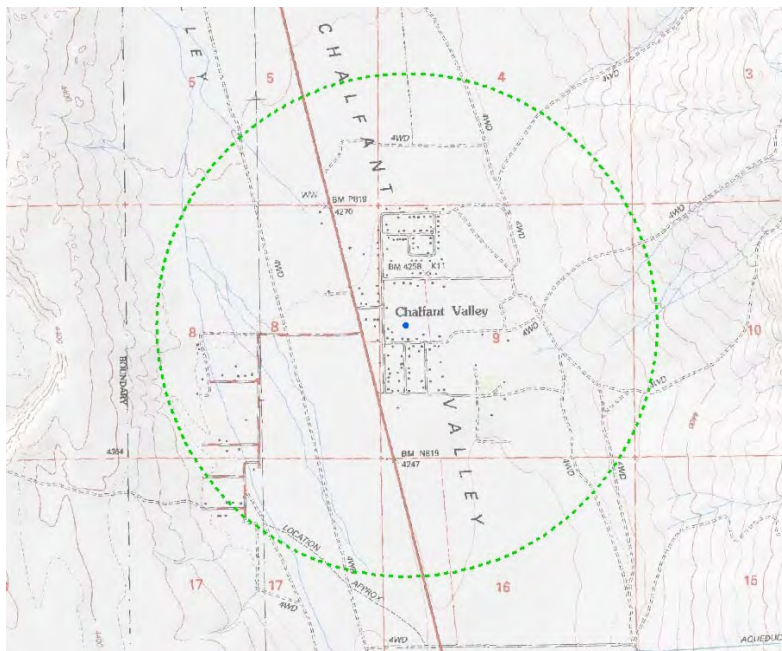
The point layer should only be used for gross graphic representations of the CNDDDB for large areas or areas which are densely populated with occurrences. The polygon layer houses more accurate occurrence location representations and information, and must be used when performing spatial analysis.

In the point layer, there is one point for each Element Occurrence. This point **is not** the point of the actual occurrence. Many CNDDDB users report that they use the point layer because they think the point is the actual point of the “site” and that the polygon is generated from the point. In fact, the opposite is the case.

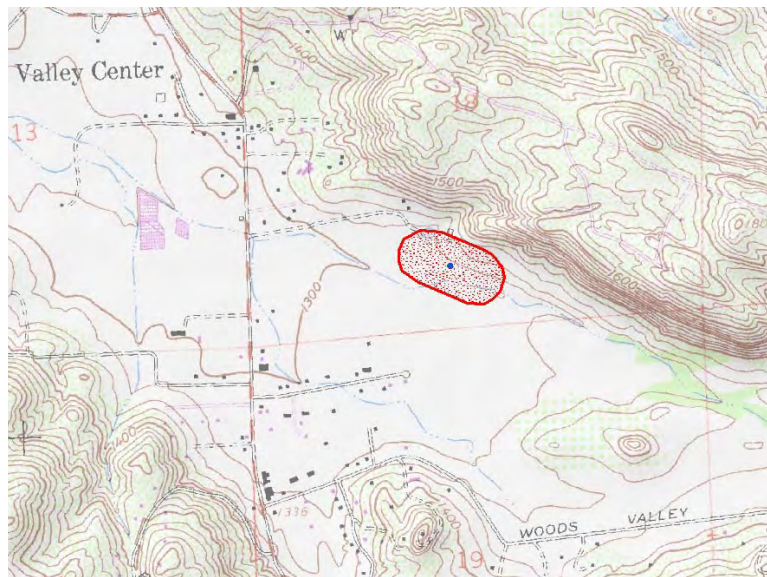
When a CNDDDB biologist digitizes an Element Occurrence as a polygon or multiple polygons (Accuracy Class values 2 or 3), the point is the interpreted “center” of the occurrence as determined by the biologist.

For occurrences requiring circles with varying radii (Accuracy Class values 1, 4-10), the point is generated at the center of the circle. But the circle represents a level of vagueness in the occurrence, and the center point is not a reflection of the true occurrence location.

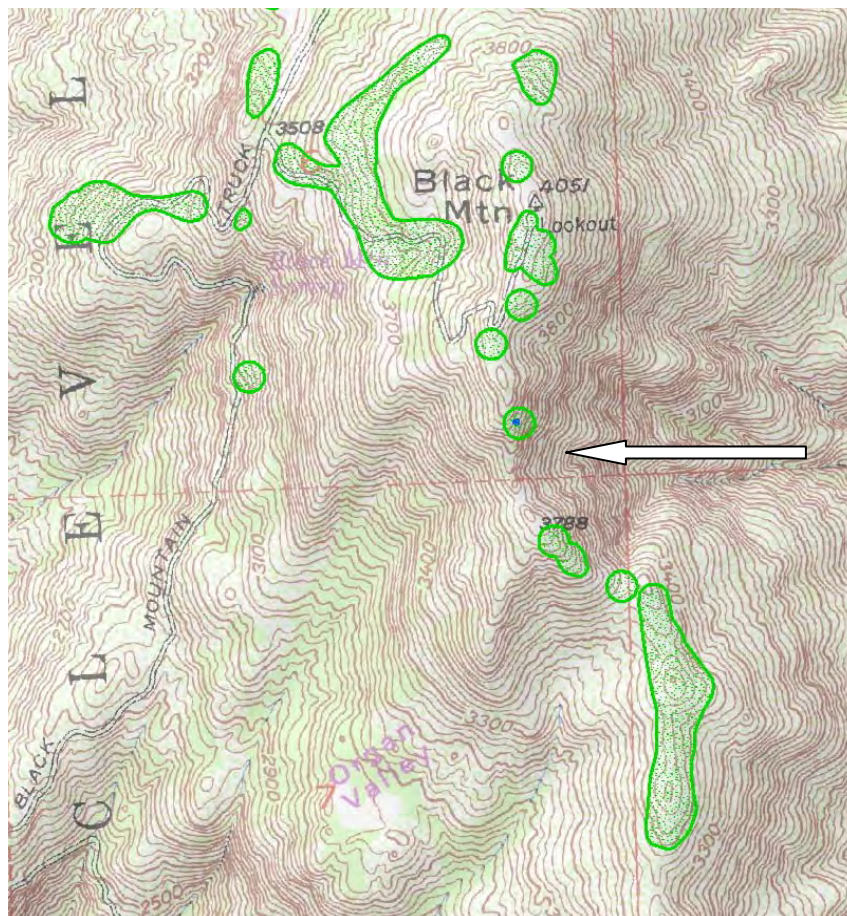
For the circular features the point is always the centroid.



For single bounded area (polygon) features, the point is approximately in the center of the polygon.



However, for Element Occurrences that consist of multiple bounded area (polygon) features, there is still only one point because it is still one Element Occurrence. The point is arbitrarily placed in one of the bounded area parts by the staff mapper. This example shows why the point layer is only useful at a very small (zoomed out) map scale. Too much information is lost at the larger (zoomed in) map scales.

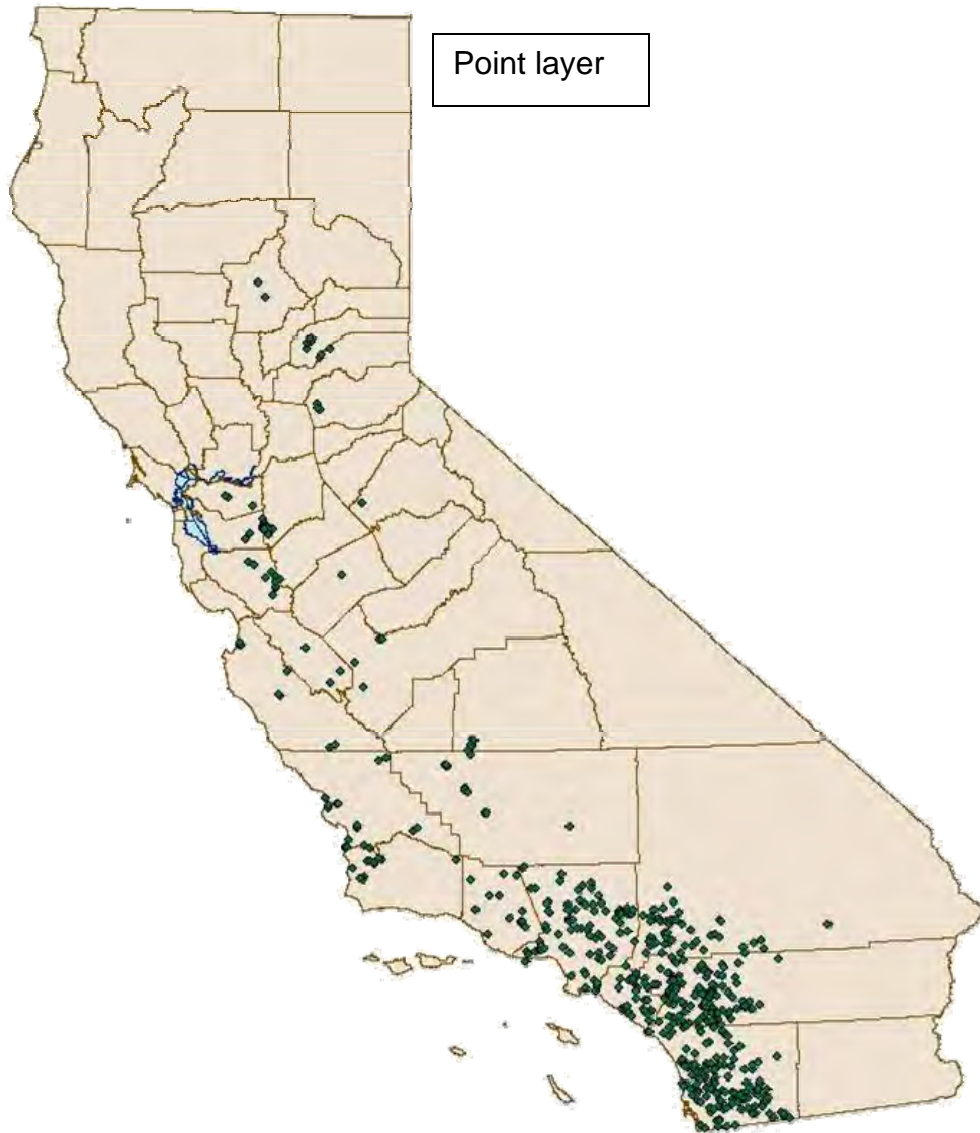


When should you use the point layer instead of the polygon layer?

The only time the point layer should be used is when the map scale is so small (zoomed out) that you can't see all of the polygon features. The point layer should never be used for any type of analysis.

The two maps below show the statewide distribution of coast horned lizard. The point layer is appropriate to use in this case because when the polygon layer is used, many of the smaller occurrences don't show up very well.





Can CNDDDB information be displayed on maps that will be publicly available?

Depending on the scale of the map, CNDDDB data can be displayed or summarized in some form. The concern is that, while it is important that the CNDDDB information is available to those whose job it is to conserve species, there is the very real possibility that some people will use the detailed location information to do harm to a species or its habitat. Because of the sensitivity of the data, we try to limit the level of location detail that is made readily available to the public.

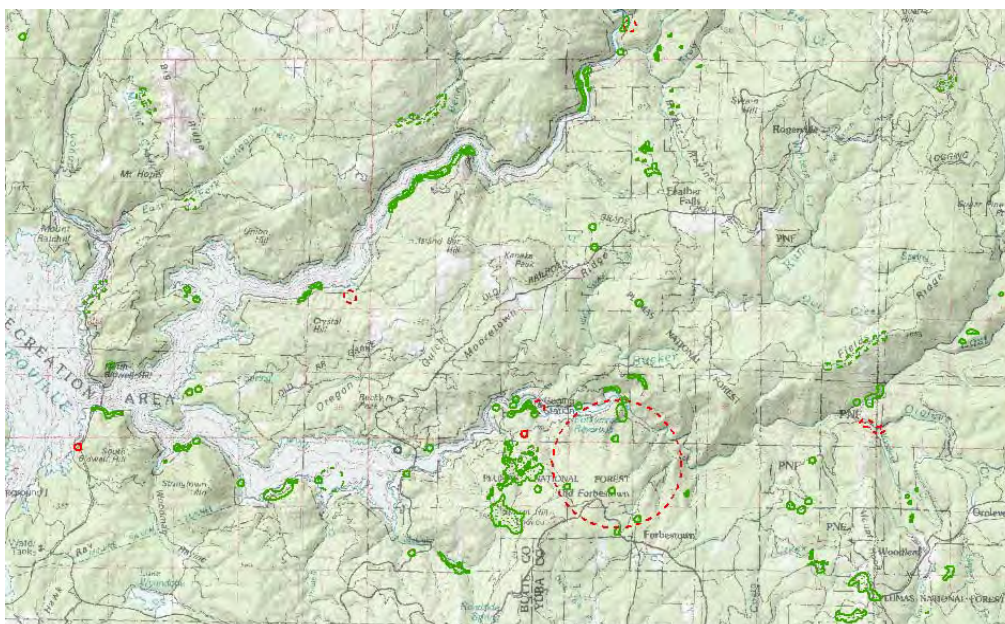
Please abide by the following guidelines when displaying CNDDDB data:

Symbology: Always use the standard CNDDDB symbology. The CNDDDB avl files can be found in the CNDDDB3\gis folder that you download with the Data Updates from the DFG Data Portal <https://nrmsecure.dfg.ca.gov>

Disclaimer/Date: Always include the CNDDDB disclaimer on your map, along with the month/year of the dataset you are using. The disclaimer text is:

"CNDDDB version MM/YYYY. Please Note: The occurrences shown on this map represent the known locations of the species listed here as of the date of this version. There may be additional occurrences or additional species within this area which have not yet been surveyed and/or mapped. Lack of information in the CNDDDB about a species or an area can never be used as proof that no special status species occur in an area."

For maps at a scale larger than 1:350,000: At any scale larger (more zoomed in) than 1:350,000 the polygon layer should not be shown on a public map. This is because at scales larger than 1:350,000, there is enough detail for a user to fairly easily determine exactly where a species is located and that is what we are trying to prevent. The map below is at a scale of 1:100,000. Section lines are visible and it would be easy to find these locations. Therefore, this is too detailed for use as a publicly displayed map.

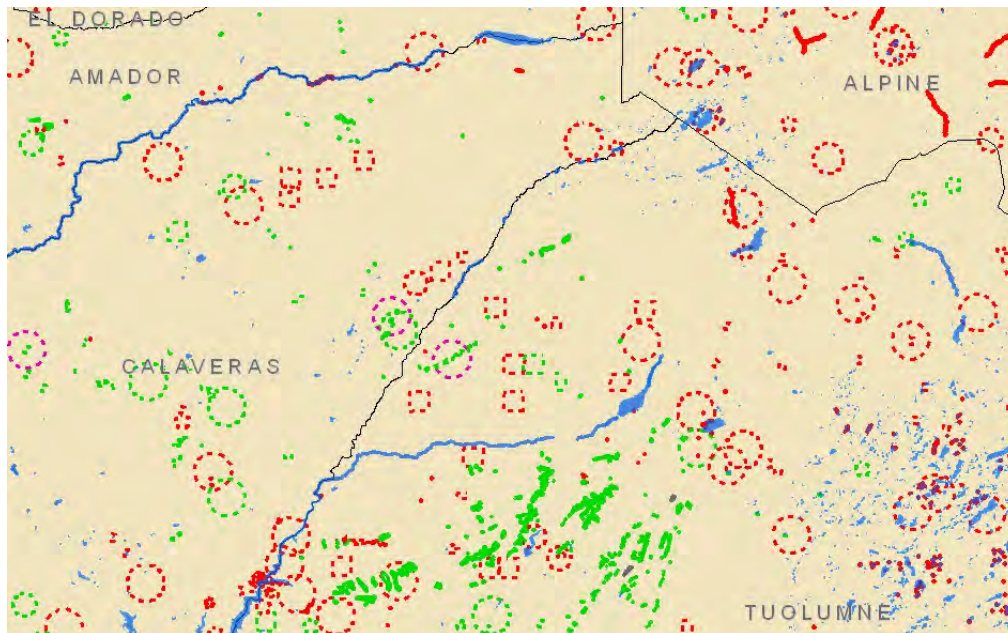


At map scales larger than 1:350,000, the area of interest should be shown without any CNDDDB Element Occurrences. A table (see below) can be included stating “The following species are known to occur within this area.”

Scientific Name	Common Name
<i>Rana boylei</i>	foothill yellow-legged frog
<i>Rana sierrae</i>	Sierra Nevada yellow-legged frog
<i>Pandion haliaetus</i>	osprey
<i>Haliaeetus leucocephalus</i>	bald eagle
<i>Accipiter gentiles</i>	northern goshawk
<i>Myotis yumanensis</i>	Yuma myotis
<i>Myotis evotis</i>	long-eared myotis
<i>Myotis thysanodes</i>	fringed myotis
<i>Myotis volans</i>	long-legged myotis
<i>Lasionycteris noctivagans</i>	silver-haired bat
<i>Lasiurus blossevillii</i>	western red bat
<i>Antrozous pallidus</i>	pallid bat
<i>Buxbaumia viridis</i>	buxbaumia moss
<i>Fissidens pauperculus</i>	minute pocket moss
<i>Peltigera hydrothyria</i>	aquatic felt lichen
<i>Sanicula tracyi</i>	Tracy's sanicle
<i>Packera eurycephala</i> var. <i>lewisrosei</i>	Lewis Rose's ragwort
<i>Packera layneae</i>	Layne's ragwort
<i>Wyethia reticulata</i>	El Dorado County mule ears
<i>Pyrrocoma lucida</i>	sticky pyrrocoma
<i>Lupinus dalesiae</i>	Quincy lupine
<i>Clarkia biloba</i> ssp. <i>brandegeae</i>	Brandegee's clarkia
<i>Clarkia gracilis</i> ssp. <i>albicaulis</i>	white-stemmed clarkia
<i>Clarkia mosquinii</i>	Mosquin's clarkia
<i>Carex vulpinoidea</i>	brown fox sedge
<i>Rhynchospora capitellata</i>	brownish beaked-rush
<i>Fritillaria eastwoodiae</i>	Butte County fritillary

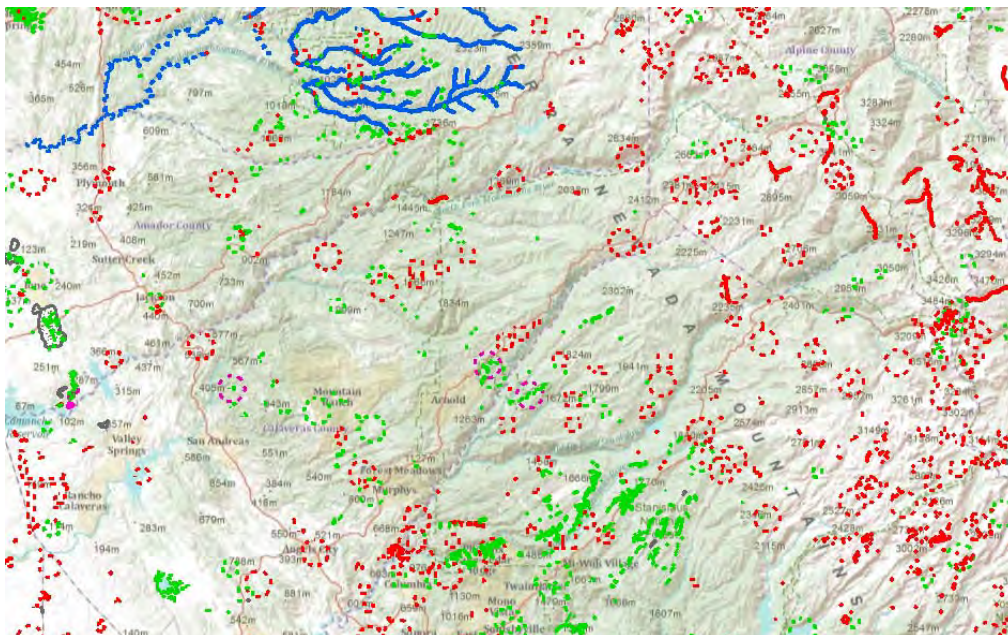
For maps at a scale between 1:350,000 and 1:500,000: within this range one may display the CNDDDB polygon layer information on a public map, but without labeling the individual features. Reference data should be very limited. Reference data can include county boundaries and water features (streams/lakes), and not much else. Much more in the way of reference features would again allow a viewer to fairly easily determine exactly where a species is located. Once again, one may provide a list of the species found within the map extent, but may not identify which graphic features belong to which species.

The following map is at a scale of 1:350,000. County lines and water features are shown along with the CNDDB polygon layer. No roads are displayed. A table like the one on page 10 could be added.



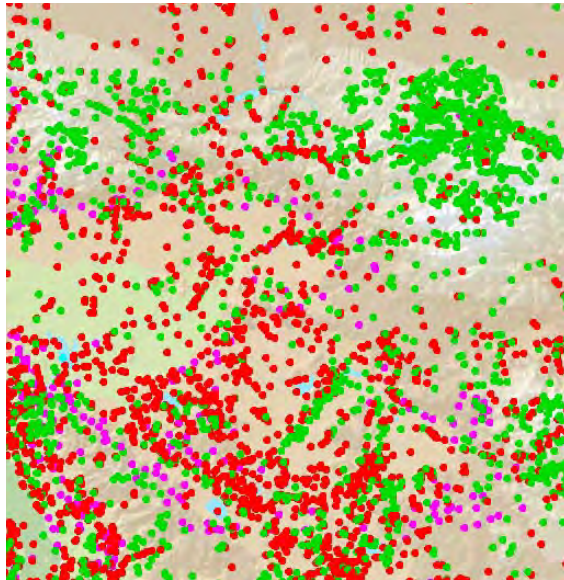
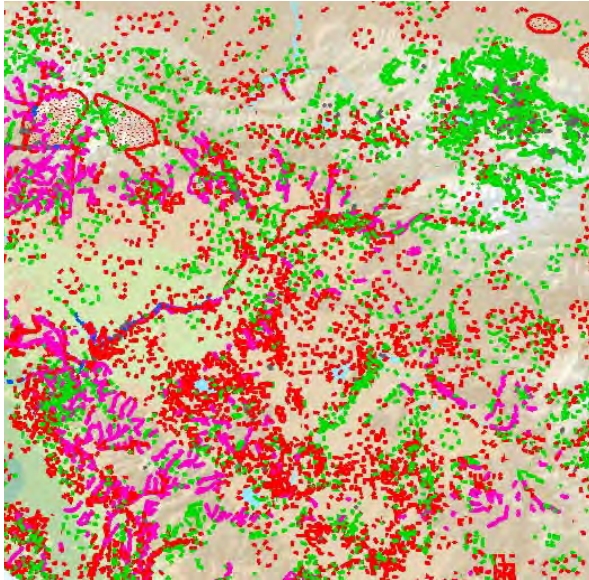
For maps at a scale of 1:500,000 and above: For maps at this scale and smaller (zoomed out), one may show CNDDB polygon layer data on a public map with whatever reference information is desired (roads, topography, imagery, etc).

The map below is at a scale of 1:500,000. Even though the base map contains a lot of detail, it is zoomed out enough to prevent pinpointing exact locations.



Consider switching to the point layer at scales smaller (more zoomed out) than 1:500,000 for better map clarity.

The maps below are at a scale of 1:750,000. The map on the left shows the polygon layer and the map on the right shows the point layer.



My project is only on one USGS quad, but I was told I should do a 9-quad search and look at all of the CNDDDB information on my quad and the surrounding 8 quads. Why do I need to do this?


The CNDDDB is a positive sighting database. It does not predict where something may be found. We map occurrences only where we have documentation that the species was found at the site. There are many areas of the state where no surveys have been conducted and therefore there is nothing on the map. That does not mean that there are no special status species present. By looking at what has been documented on your quad of interest and on the eight surrounding quads, you can estimate what might be found in similar habitats to those within your area of interest. The next step is to conduct surveys to document what is present and submit the information on special status species to the CNDDDB.

9-quad searches can be easily done in desktop GIS, or by using the free CNDDDB Quick Viewer (<http://www.dfg.ca.gov/biogeodata/cnddb/mapsanddata.asp>).

In the CNDDDB Quick Viewer, navigate to your quad of interest and click on the “waffle” tool at

the top of the page with the CNDDDB logo  to see what Elements CNDDDB has mapped for that quad and for the surrounding 8 quads.

To see unprocessed, unmapped Element information at CNDDDB, click on the waffle tool with the

file cabinet logo . This tool and its companion single quad “unprocessed data search” icon



provide the only access the public has to our “backlog” of data yet to be processed.

RESPONSE TO COMMENT A-25a

This comment is an introductory discussion that raises arguments which are expanded upon in subsequent sections of the letter. The comment asserts that the Draft EIR is inadequate in multiple areas, each of which is addressed below. No further response is warranted.

RESPONSE TO COMMENT A-25b

The comment asserts that the City is steering affordable housing projects away from west Mill Valley and east of Camino Alto. This is not a CEQA argument and does not allege any deficiency in the Draft EIR but rather raises a policy consideration. Refer to Response to Comment A-6a for a more detailed response to concerns regarding the City's selection of housing sites.

The comment also references two previous Soluri Meserve letters submitted to the City (Comment Letter A-25 Exhibits J and K) on the subject of the City's exclusive negotiating agreement with EAH Housing. Although this Draft EIR comment letter does not add anything on this subject, for purposes of completing the record, it is noted that a memorandum prepared by the City Attorney on September 20, 2021, addresses the relationship of the exclusive negotiating agreement between the City and EAH to the City's CEQA review of the Project. This memorandum is included in this Final EIR as Appendix C.

RESPONSE TO COMMENT A-25c

The comment asserts that the Project site does not qualify as an infill site eligible for CEQA streamlining pursuant to Public Resources Code Section 21094.5 and CEQA Guidelines Section 15183.3. These sections define an "infill site" as including a site that is situated so that at least 75 percent of the perimeter of the site is adjacent to parcels that are developed with existing "qualified urban uses" which is defined to include "residential, commercial, public institutional, transit ... facility, or retail use, or any combination of these uses." (Pub. Res. Code. Sec. 21072.) As noted in the Draft EIR (pages 4-8), the Project qualifies as an "infill project" under these sections because it is located within an urban area and immediately adjacent to residential uses to the north and east, multifamily residential developments to the south, and public recreational facilities and uses of Hauke Park to the west.

First, the commenter states that Hauke Park is not a "qualified urban use." The City disagrees and has determined that Hauke Park is a "public institutional" use and therefore eligible for infill streamlining under CEQA. While Hauke Park borders undeveloped wetlands and the Bay on the west, it is a developed urban park, providing a full range of recreational amenities to Mill Valley residents, including picnic tables, a playground, walking paths, multiple athletic fields, and parking. In fact, the land use designation for the Hauke Park area is "Community Facility". Hauke Park is fundamentally urban in its quality and use and is City-owned and operated for the benefit of Mill Valley residents. Similar to other "public institutional" uses such as schools and government offices (which also occur on the Project site in the PSB), Hauke Park provides services to surrounding residents in an overall urban context. Furthermore, locating affordable housing in close proximity to amenities like public parks is desirable as it promotes equity and access for low-income households, furthering the goals and intent of the legislature in support of affordable housing opportunities. Therefore, the City has determined that Hauke Park, and urban parks generally, are "public institutional" uses for purposes of determining whether a site is eligible for treatment as an infill site under Public Resources Code Section 21094.5.

Second, the commenter states that the Project site is not immediately adjacent to the residential uses to the east, or only separated by an improved right of way. This is incorrect. The Project

site, which would become a separate legal parcel with the City Council’s approval of a ground lease with EAH, extends to Roque Moraes Drive, an improved right of way that abuts directly on residential uses to the north and east. Furthermore, the Project site directly adjoins the City’s Public Safety Building (PSB), which is clearly a “public institutional” use as well as being closely proximate to multifamily residential uses to the south.

In conclusion, the Project site is surrounded on all sides by “qualified urban uses” as defined by Public Resources Code Sections 21072 and 21094.5.

However, even if the Project site had been determined ineligible to qualify as an “infill site” per CEQA, the Draft EIR fully addresses the environmental issues associated with placing up to 50 affordable housing units on the 1 Hamilton Housing Site. As stated on the first page of Section 8.0 in the Draft EIR (page currently labeled “Appendix G” but is revised per the errata in Section 3.9, Changes to Volume I Section 8.0, Other CEQA considerations, of this Final EIR, to be page 289, while “infill EIRs do not need to identify growth inducing impacts” the “HEU SEIR did evaluate the growth inducing impact of the growth included in the City’s Housing Element Update, which included the placement of 50 affordable multi-family housing units at the Project site and concluded that full buildout of the development considered in the Housing Element Update would not directly or indirectly induce substantial unplanned population growth” For further discussion, see Section 18.1 of the Housing Element SEIR (see pages 18-1 and 18-2), which included consideration of placing up to 50 affordable housing units at the Project site. Alternative sites are discussed in Section 7 of the Draft EIR under the context of alternatives considered but rejected for inclusion. Alternatives to the proposed Project are evaluated in Section 7.0 of the Draft EIR.

RESPONSE TO COMMENT A-25d

This comment presents a legal argument that the City should not utilize infill streamlining under the Public Resources Code because its previous amendment of the General Plan Land Use designation in connection with the Housing Element was improper or “piecemealing” under CEQA.

At the outset, the commenter is incorrect in asserting that the City’s actions constitute impermissible “piecemealing.” Under CEQA, a “project” means “the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.” (14 CCR §15378(a).) An entire project includes all interdependent components and facilities related to the proposed action—components that “depend on” each other for their respective development and operation. (See *Communities for a Better Env’t v. City of Richmond* (2010) 184 Cal.App.4th 70, 101 [reversing ruling based on “piecemealing” because one project did not “depend on” the other alleged project].) The mere fact that two separate projects share similar characteristics does not compel the conclusion that they are a unified project requiring a single CEQA analysis. (*Sierra Club v. W. Side Irr. Dist.* (2005) 128 Cal.App.4th 690, 699.) Nor should two separate projects be considered a single project for CEQA purposes simply because they share a common objective. (*Id.* at 699-700.) The dispositive issue in finding that two actions are a single project is whether the two actions have independent utility from one another. (*Id.* at 699-700 [if two proposed actions are “not interrelated and could be implemented independently of each other,” then CEQA does not require a single environmental review].) Of relevance here, “two projects may properly undergo separate environmental review (i.e., no piecemealing) when the projects have different proponents, serve different purposes, or can be implemented independently.” (*Banning Ranch Conservancy v. City of Newport Beach* (2012) 211 Cal.App.4th 1209, 1223-1224.)



Here, the Housing Element Update is separate from this Project. A Housing Element is a policy-level document that analyzes a community's housing needs for all income levels and provides strategies to respond to provide for those housing needs. As a result, the Housing Element Update has independent utility from this Project and, in fact, was required to be prepared and adopted. This City was required to, and did, prepare a Housing Element Update that analyzed housing sites throughout the City and an SEIR that analyzed the potential impacts, at a programmatic level, of development of those residential opportunities. On December 22, 2023, the California Department of Housing and Community Development [HCD] certified the City's Housing Element Update as substantially complying with state law. While the Project shares the goal of furthering housing opportunities in the City, it is a discrete and separate project located on a specific site, for proposed development of actual (not theoretical) housing units, is not a policy-level document, and involves an additional applicant (EAH Housing) than does the Housing Element (which is exclusively a City document). In short, the Housing Element and this Project are separate, discrete, and independent under CEQA, and therefore there is no impermissible piecemealing.

Furthermore, as discussed on page 1 of the Draft EIR, the City identified the Project site as being available for the development of housing on its Housing Element Sites Inventory as required by Government Code Section 65583(a) and, with the adoption of the Housing Element, updated the General Plan Land Use designation associated with the Project site consistent with the requirement that a General Plan be internally consistent (Government Code Section 65359). This did not compel a conclusion that a specific project would be approved on this site.

In compliance with CEQA, the City Council certified a Supplemental Environmental Impact Report for the Housing Element Update (HEU SEIR [SCH# 2013052005]) prior to approving the Sixth Cycle Housing Element and the Land Use Element modifications. State Housing Element Law expressly requires cities to identify sites adequate to provide housing for all economic segments of the community that have a "realistic and demonstrated potential for redevelopment during the planning period." (Government Code Section 65583(a)(3)). The selection of the Project site for the sites inventory occurred prior to the development of a conclusive and specific project description for this Project, when the design, site coverage, density, and other features of the Project were still under discussion and had not been formalized. The City was required to adopt a Housing Element in compliance with strict deadlines established by state law; as noted above, the City adopted its Housing Element update which HCD has certified as substantially complying with state law. The details of this Project had not developed to the point that the City could have conducted full project-level environmental analysis of the Project concurrent with Housing Element adoption as it would not have been feasible to delay Housing Element adoption until after the Project Description was finalized. Moreover, that level of detail in the HEU SEIR for a specific site would not have been appropriate nor was it required; that is the purpose of the project-level environmental analysis as occurs in this EIR. The purpose of the HEU SEIR, in contrast, was to analyze potential impacts at a programmatic level. (See discussion of "community EIR" or "program EIR" in HEU SEIR, pages 1-4.) The City did fully analyze the environmental impact of the Housing Element in the SEIR. Further, the City conducted robust public outreach prior to adopting the Housing Element as well as additional extensive public outreach on the design of the proposed Project. The City has proceeded in compliance with CEQA and State Housing Element Law, and there has been no piecemealing of the project under CEQA.

RESPONSE TO COMMENT A-25e

The comment is introductory in nature and asserts that the City violated CEQA by “piecemealing” review under CEQA and relying on that review to dismiss the “no project” alternative, set forth impermissibly narrow project objectives, falsely claim that the reduced-density alternative is infeasible, and fail to describe a reasonable range of alternatives including offsite alternatives. Responses to each issue are provided below.

RESPONSE TO COMMENT A-25f

The comment argues that the City manipulated the Project Objectives associated with the Project to exclude other feasible alternatives, including offsite alternatives. Specifically, the comment asserts that the City designed the Project Objectives to specify that the Project could only occur on the 1 Hamilton site.

First, the City notes that Public Resources Code Section 21094.5(b)(1) expressly provides that “alternative locations, densities, and building intensities to the project need not be considered” in the context of qualified infill project. As described in Response to Comment A-25c, the City has determined that the Project is subject to infill streamlining under CEQA. Nonetheless, the City did discuss alternative locations and analyzed alternative densities and building intensities in the Draft EIR, although not required to do so under CEQA.

The commenter is correct that two of the Project Objectives described in the Draft EIR reference the 1 Hamilton site specifically, and one objective notes the need to replace lost parking at Hauke Park and the Public Safety Building specifically. The City’s intent in referencing the site in the objectives was not to avoid consideration of other sites for development of affordable housing. In fact, the City did analyze approximately 75 parcels of City-owned land for the purpose of developing affordable housing, and more closely evaluated three other sites prior to selecting the 1 Hamilton site for an exclusive negotiating agreement with EAH (see Draft EIR pp. 254-255). One of the other sites was not immediately available for development due to an easement, however, the City plans to further explore options for the site. The other two sites were found to be infeasible for housing development due to policy direction from the City Council to avoid displacement of active recreational uses - specifically, unlike the Project site, residential development on those two sites would require the permanent cessation or relocation of some or all of the active recreation on the site, as contrasted with the temporary relocation of parking and restrooms associated with the proposed Project.

The comment argues that the City’s rejection of alternative sites was pretextual in nature, despite the explanation provided in the Draft EIR analysis. As noted above, the Edgewood site was not available for immediate development due to title issues (an easement granted by Marin Municipal Water District to the City with a covenant requiring that the property be used for park purposes), but the City nonetheless included a program in its Housing Element to explore removal of the covenant and to consider the possibility of housing on the site. With respect to the Boyle Park and Golf Course sites, these sites would not meet the project objective to maintain availability of and access to public parks, public parking spaces, and other public amenities as well as City Council policy direction to avoid sites for housing that would require the removal or displacement of active recreation, where possible. The City Council’s policy direction was legislative in nature. The City is not aware of any legal authority that precludes the City from developing policies to assist with determining which City-owned sites would be most appropriate for the development of housing. The City’s consideration of alternative sites was not pretextual.

Finally, the Draft EIR concludes that all of the potentially significant impacts of the Project with respect to Air Quality, Biological Resources, Cultural Resources, Tribal Cultural Resources, Geology and Soils, Greenhouse Gas Emissions, Noise, and Utilities and Service Systems can be reduced to a less-than-significant level. Therefore, the Project would not result in any significant unmitigable impacts. The commenter does not identify what environmental impacts the significance of which could be avoided or lessened by relocating the Project to a different site. Based on the nature of the Project (development of residential units), any alternative sites would potentially have similar environmental impacts as those that have been identified at the proposed Project site, and which in this case are mitigated to less than significant levels.

Notwithstanding the above, to clarify the City's intent with respect to Project Objectives, the City has revised the Project Objectives (at Draft EIR page 41) to remove the references to the 1 Hamilton site, as follows:

- To implement MV2040 General Plan Goal No. 2, to “encourage the continued diversity of housing, income levels and lifestyles within the community”, and Mill Valley Housing Element 2023-2031 Program No. 10, which includes consideration of building multi-family affordable rental housing Projects ~~at the 1 Hamilton Drive site.~~
- To provide new affordable housing units to meet the current and future housing needs of the community with very low, low, and affordable workforce incomes, including households with special needs.
- To provide affordable housing because of its positive impacts on diversity, equity and inclusion.
- To provide affordable housing because of its positive impact on families with more diverse economic backgrounds, joining Mill Valley schools and contributing to the community.
- To provide affordable housing near services, parks and schools.
- To affirm the City's commitment to satisfying its Regional Housing Needs Assessment (RHNA) goals. ~~The Project site is part of the City's sites inventory for the 2023-2031 Housing Element update.~~
- To construct a 100% affordable housing Project with at least 40 units, and up to 50 multifamily rental units ~~at the 1 Hamilton site~~ that is financially feasible by partnering with a non-profit affordable housing developer for the construction and on-going management of the housing facility.
- To maintain availability of and access to ~~at least 38 public parks, public parking spaces, and a public restroom facility adjacent to Hauke Park~~ other public amenities.

These changes to the Project Objectives also require minor changes to the discussions of the attainment of Project Objectives by Alternatives 2 and 3 in the Draft EIR. Therefore, the following revisions have been made to the discussions on pages 265 and 273 of the Draft EIR:

On page 265, the first two paragraphs have been revised to read:

As Alternative 2 proposes 32-34 DU on the Housing Site, this Alternative would not meet the Project's objectives to build a 40-50-unit 100% affordable housing project ~~on the Housing Site~~. As described in the HEU SEIR, the City's 6th cycle RHNA target is 865 residential units. Development of a smaller number of affordable residential housing units on the Project site would inhibit the City's ability to meet the Housing Element Update objective of meeting the RHNA target with the recommended “buffer” of at least 15



percent above the RHNA target and would require that these additional units be accommodated elsewhere in the City.

Alternative 2 would fully meet only one Project objective, would meet six other objectives to a lesser extent than the proposed Project, and would not meet one Project objective. However, significantly, by failing to meet the Project objective to develop at least 40 and up to 50 affordable units, Alternative 2 jeopardizes the financial feasibility of the Project and thereby eliminates this alternative's ability to satisfy any of the other Project objectives. The City's previous feasibility analysis conducted by the Housing Workshop supports EAH Housing's assumptions that building 100% affordable housing on the Project site is not economically feasible below 40- 45 units because, at a smaller scale, the property does not produce sufficient income to cover operating expenses or allow sufficient debt leverage (a bank loan). There are fixed baseline operating expenses, including items such as property staffing and property insurance. The income produced by rents after operating expenses are paid for is called net operating income (NOI), which is used to leverage debt in the form of a bank loan. For financial feasibility, the bank loan needs to cover a minimum of approximately 15% of the total development costs.

On page 273, the first paragraph has been revised to read:

Removing the podium building associated with the parking garage reduces the overall construction costs for the proposed Project, while also maintaining the maximum unit count to support property operations and project feasibility. ~~However, Alternative 3 would only partially meet all of the objectives of the proposed Project; however, it would meet one objective to a lesser extent than the Project.~~ Under this Alternative, approximately 50 affordable residential rental units would be constructed on the Project site, which would satisfy Project objectives related to providing affordable housing. However, this Alternative would not include designated residential parking spaces on the Housing Site. Approximately 25 designated residential parking spaces would be provided in the proposed Lot B on the northern side of the PSB. Residents of the proposed housing building would also be allowed to utilize nearby street parking. This Alternative, ~~however, would conflict with the Project objective to maintain the availability of 38 public parking spaces adjacent to Hauke Park, because it would instead~~ would provide 25 public parking spaces which would constitute a net reduction in public parking compared to the increase in public parking spaces offered by the proposed Project. Although Lot A of the reconfigured PSB lot would still be available to the public, these 25 parking spaces are farther away from Hauke Park. In addition, the City has received several public comments expressing concern about the removal of public parking spaces impacting Hauke and Bayfront Park visitors because the parking could be used by residents of the proposed housing development. Therefore, Alternative 3 would attain the Project objective of maintaining availability of and access to public parking spaces to a lesser extent than the proposed Project.

RESPONSE TO COMMENT A-25g

See Response to Comment A-6b. Contrary to the comment's assertion, the Project Objectives presented in the Draft EIR do not assume any minimum parcel size for the development of affordable housing. Additionally, the 40-unit threshold recognizes the fact that the City is

expected under Regional Housing Needs Assessment allocations to add a total of 413 extremely low income, very low income, and low income housing units over the 2023-2031 period (see 6th Cycle Housing Element Update, p. II-37). Thus, it is important to develop as many affordable units as feasible given site and environmental constraints in any project it pursues in order to carve into this allocation.

RESPONSE TO COMMENT A-25h

As discussed in Response to Comment A-25f, the City analyzed approximately 75 parcels of City-owned land for the purpose of developing affordable housing, and more closely evaluated three other sites. These sites were analyzed as potential alternatives to the Project despite the fact that CEQA does not require that an EIR for an infill project analyze off-site alternatives at all. (CEQA Guidelines 15183.3(e)).

Boyle Park and the Golf Course were considered as potential off-site alternatives but not moved forward for additional environmental analysis due to several factors, including the fact they would not meet the Project objective that a housing project maintain availability of and access to public parks, public parking spaces, and other public amenities, as well as policy direction from the City Council to staff to select a housing site that would not result in displacement of active recreational uses. Note that unlike the Project site, residential development on the Boyle Park or Golf Course sites would require the permanent cessation or relocation of some or all of the active recreation on the site, as contrasted with the temporary closure and ultimate relocation of parking and restrooms associated with the proposed Project.

CEQA Guidelines Section 15126.6(c) outlines the required process for selecting a reasonable range of alternatives, including the factors under which an agency may opt not to carry forward an alternative for further in depth analysis. Failure to meet project objectives, infeasibility, and, critically, inability to reduce significant environmental impacts, are all bases for opting not to carry forward an alternative for further environmental consideration. The development of housing at Boyle Park or the Golf Course would not avoid or substantially lessen any significant impacts associated with the Project. As described in the EIR, all of the significant environmental impacts created by the proposed Project can be mitigated to a less than significant level. We anticipate that the development of housing at Boyle Park or the Golf Course would likely result in similar environmental impacts as the Project.

Because the City Council determined through the above referenced sites analysis that the project should not be located where it would displace active recreational uses, analysis of a series of alternative sites that would be in direct conflict with that policy direction would not further CEQA's purposes of considering alternatives that are potentially feasible. The suggested alternate sites would change the basic nature of the project by requiring encroachment into active recreational uses, and given the policy direction, sites that would require displacement of active recreation to accommodate a residential project, were deemed unsuitable for further detailed environmental analysis because it would suggest that those sites were actually options for housing development when in fact they are not. Further, development of active recreational use areas would likely have greater environmental impacts on parks and recreational resources than would the proposed project, and the purpose of alternatives is to analyze other options that could reduce impacts.

For all of these reasons, the City disagrees that it had an obligation to further analyze either of the proposed sites as off-site alternatives under CEQA.

RESPONSE TO COMMENT A-25i

As described in Responses to Comments A-25f and A-25h, the Project is an infill project and therefore the EIR is not required to analyze off-site alternatives under CEQA Guidelines Section 15183.3. Nonetheless, several off-site alternatives, including the Boyle Park and Golf Course sites cited by the comment, were considered by the EIR although they were not forwarded for additional analysis. As described in Response to Comment A-25h, feasibility of a site as an alternative is one of several factors that an agency can consider when determining whether to forward a potential alternative for additional analysis. Other factors that may be considered are whether an alternative would achieve most project objectives, as well as whether it would result in reduced significant impacts. With respect to the Boyle Park and Golf Course sites, the development of housing on either of these alternative sites would likely result in very similar environmental impacts as the Project, but with greater potential impacts to parks and recreation facilities, which would not result in any impacts that could not be mitigated to a less than significant level under CEQA.

RESPONSE TO COMMENT A-25j

See Responses to Comments A-25f, A-25h, and A-25i. There is no obligation to analyze off-site alternatives for the Project, which meets the definition of an infill project under CEQA. CEQA Guidelines Section 15183.3(e). Furthermore, there is no obligation for an agency to evaluate every conceivable alternative to a Project. CEQA Guidelines Section 15126.6(a). Fundamentally, as provided by CEQA Guidelines Section 15126.6 (f)(2)(A): “The key question and first step in the analysis [or alternative locations] is whether any of the significant effects of the project would be avoided or substantially lessened by putting the project in another location. **Only locations that would avoid or substantially lessen any of the significant effects of the project need be considered in the EIR**” (emphasis added). Given that the alternative locations proposed by this comment would be likely to result in similar impacts as the Project, and that the proposed Project would not generate any significant environmental impacts that could not be mitigated to a less than significant level under CEQA, the commenter is incorrect that the City must provide justification for not exploring every possible off-site alternative for the project.

RESPONSE TO COMMENT A-25k

See Responses to Comment A-6b and A-25g. In addition, the City notes at the outset that the EIR has not “rejected” the Reduced Density Alternative. Instead, the Draft EIR has evaluated this Alternative’s potential environmental impacts and also its ability to meet Project objectives, both as required by CEQA Guidelines section 15126.6(a). The EIR does not make policy decisions or findings; that is the prerogative of the City Council with respect to the Project.

Furthermore, the Reduced Density Alternative was selected for further evaluation in Section 7, Alternatives, of the Draft EIR, to evaluate the comparative environmental benefits of constructing a project at the same site location with fewer units. The EIR provided a full analysis of the comparative impacts of the Reduced Density Alternative in pages 266-269 of the Draft EIR. We note that the proposed Project would result in no environmental impacts that could not be mitigated to a less than significant level. Therefore, the EIR determined that the Reduced Density Alternative would not avoid or substantially lessen any significant environmental impacts associated with the project.

The EIR also evaluated the Reduced Density Alternative for its consistency with all eight Project Objectives. In addition to the Reduced Density Alternative’s failure to satisfy objectives related to the City’s RHNA target, this Alternative is also inconsistent with Project Objectives (as revised in

this Final EIR) to “construct a 100% affordable housing Project with at least 40 units, and up to 50 multifamily rental units that is financially feasible by partnering with a non-profit affordable housing developer for the construction and on-going management of the housing facility.” It was in this context that the feasibility of the Reduced Density Alternative was discussed. As described in response to comment A-6b, the Reduced Density Alternative “is not feasible below 40 to 50 units because, at a smaller scale, the property does not produce sufficient income to cover operating expenses or allow sufficient debt leverage.” This means that, if the Reduced Density Alternative were to be constructed, the Project could not be a 100% affordable housing development because the Project would not generate sufficient income to cover its operating expenses. As such, the Reduced Density Alternative would not meet the Project Objectives to “construct a 100% affordable housing Project.”

RESPONSE TO COMMENT A-25l

See Responses to Comment A-6b, A-25g, and A-25k. As explained in Response to Comment A-25k, the EIR does not “reject” the Reduced Density Alternative; rather, it evaluated the Alternative to determine its environmental impacts relative to the proposed Project, as well as assessing its ability to meet the Project objectives as required by CEQA Guidelines Section 15126.6(d). Importantly, since the proposed Project would not result in any environmental impacts that could not be mitigated to a less than significant level, the Alternative would not avoid or substantially lessen any significant effect of the proposed Project.

Construction of a financially feasible affordable housing project is a Project objective, and this was analyzed further in the EIR. To that end, as noted in Response to Comment A-6b, the financial analysis provided by EAH, which has extensive experience in the development and management of affordable housing projects, illustrates how lowering the density of the Project can render a development impractical to proceed with. The argument is not that reducing the Project’s density would impose additional costs or make it less profitable (indeed, EAH is a non-profit entity); it is that the Project would potentially not qualify for the funding necessary to build new affordable housing units.

RESPONSE TO COMMENT A-25m

This comment asserts that because the City amended the General Plan Land Use designation of the property at the time it adopted the Sixth Cycle Housing Element, that the City Council would be constrained in its ability to reject the Project, as contemplated by the “no project” alternative, which was identified as the environmentally superior alternative in the Draft EIR. This is not the case.

It is correct that City generally may not *approve* a project, including authorizing the disposition of property in a ground lease, if such action would be inconsistent with the General Plan. (See e.g., Government Code Section 65402.) That said, the “no project” alternative would be rejection of the project such that no physical development would thereafter be contemplated. Under this option, no approval action or disposition of property would occur, and therefore no consistency finding would be required to maintain the status quo. The City Council would simply decline to approve the proposed Project or another alternative, leaving the site as-is. Any residual inconsistency between the General Plan and the Zoning Code could be addressed by the City within a reasonable timeframe pursuant to Government Code Section 65860.

RESPONSE TO COMMENT A-25n



The comment is correct in identifying the Draft EIR's statement (at page 70) that the HEU SEIR concluded that impacts to scenic vistas resulting from development of housing within the City would be less than significant. As is also noted in the Draft EIR (pages 70-74), the HEU SEIR included the consideration of housing development at the Project site. The Draft EIR analysis of visual impacts supplemented the HEU SEIR analysis by evaluating the impact of the specific Project design being proposed for the site. The Draft EIR correctly notes that the City does not have any designated scenic vistas that would be affected by the Project. However, the comment incorrectly implies that the Draft EIR's conclusion with respect to visual impact significance is based upon the fact that no City ordinances or regulations exist protecting scenic vistas in the vicinity of the Project site. The Draft EIR's analysis describes the limited impact of the Project on existing views from a variety of public vantagepoints, including Roque Moraes Drive and Hauke Park. While the judgment on whether a specific change to the existing visual environment is positive or negative is fundamentally a subjective one, the Draft EIR does identify the general character of these changes and concludes that none either singularly or in combination with the others would result in a substantial adverse effect on a scenic vista. Visual simulations of the proposed Housing project were prepared and included in the plans considered by the Planning Commission and the public during the design review process. These simulations were also consulted during the preparation of the Draft EIR's aesthetics analysis. These simulations have been added in Section 3, Changes to the Draft EIR, of this Final EIR to further support the conclusion on this issue.

RESPONSE TO COMMENT A-25o

The comment incorrectly implies that visual simulations are a necessary or required component of the analysis of project visual effects in an EIR. As stated in the comment quoted by the commenter, the City committed to include a "visual impact assessment" in this EIR's evaluation and has done so. While the story poles were indeed erected at the Project site as the comment states, their purpose was to provide the community with an understanding of the proposed height and mass of the Project and not to serve as a basis for the evaluation of Project impacts on scenic vistas in the Draft EIR. Although the photographs presented in the comment indicate that the Project would "obstruct" views, it would be more accurate to state that the Project would "alter" views from Roque Moraes Drive. As a public roadway, it is a basic premise that the viewer would be traveling along the street and not remaining stationary at any single spot along the Project frontage. Even in the included photographs, it is clear that the Project would not "obstruct" views of Hauke or Bayfront Parks along the entire length of Roque Moraes Drive. View obstructions would be greater at some points than others as one moves along the length of the street. However, no designated public vista points are present anywhere along the street. Thus, choosing one specific spot where visual obstructions would be the greatest mischaracterizes the actual extent of the overall degree of impact. The visual renderings of how the Project would appear from various neighborhood perspectives support this conclusion (see Section 3, Changes to the Draft EIR). The Draft EIR concludes that the amount and type of view obstruction that would result from the Project does not qualify as a "substantial adverse effect" on a scenic vista, which is the relevant CEQA standard.

Furthermore, the Draft EIR notes that the Project site is situated in an urbanized area (page 71). As such, the applicable CEQA Appendix G question, which asks, "In non-urbanized areas, would the project substantially degrade the existing visual character or quality of public views of the site and its surroundings? **If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?**" (emphasis added). The Draft EIR provides a discussion of the proposed Project's impacts as they relate to degradation of the



existing visual character or quality of public view of the site and its surroundings; however, as the Project site is in an urbanized area, the relevant CEQA issue is whether the Project conflicts with applicable zoning and other regulations governing scenic quality. The Project would change the zoning of the Housing Site to RM-B. The impacts of the Project related to applicable zoning and other regulations governing scenic quality are discussed on page 72 of the Draft EIR and were determined to be less than significant. The analysis focuses on the applicable standards of the RM-B zoning district and concludes that the Project, including the proposed waivers and concessions per the State Density Bonus Law (DBL), would not conflict with applicable zoning requirements or other regulations governing scenic quality. As such, the discussion regarding the Project's impacts as they relate to "visual character or quality of public views of the site and its surroundings" is provided for additional context but is not a required topic of analysis under CEQA.

RESPONSE TO COMMENT A-25p

Refer to Response to Comment A-25o. The comment mischaracterizes the basis for the Draft EIR's visual impact conclusion, which is not based upon the lack of complete view obstruction but instead on a determination that the degree and type of view obstruction or alteration that the Project would create does not rise to the level of a substantial degradation or substantial adverse effect, particularly given that no protected scenic vistas are present in the area. Renderings of the proposed housing building have been included in Section 3, Changes to the Draft EIR, as Figures 5.1-1 and 5.1-2.

In addition, as discussed in Response to Comment A-25o, because the Project is located in an urbanized area, the applicable CEQA threshold is whether the Project would "conflict with applicable zoning and other regulations governing scenic quality," and not whether the Project would "substantially degrade the existing visual character or quality of public view of the site and its surroundings." An analysis of the correct CEQA threshold is provided on page 72 of the Draft EIR, and no further discussion regarding degradation of visual character or quality of public views of the Project site is required under CEQA.

RESPONSE TO COMMENT A-25q

The comment asserts that noise levels below the Federal Transit Administration's (FTA's) recommended 90-dBA threshold for construction noise could result in human health impacts. The comment refers to several studies regarding health impacts associated with long-term exposure to ambient environmental noise levels. It should be noted that the health impacts evaluated in these studies are based on sources of long-term and continuous ambient noise, such as roadways, instead of the temporary and infrequent noise events from construction. For example, two of the studies cited in the comment letter (Sorensen and colleagues [2011a]⁴ and Seidler and colleagues [2016b]⁵) focus on the association between cardiovascular disease and long-term exposure to road traffic, aircraft, and/or railway noise. Similarly, the other study cited in the comment letter (King et al [2012, Exhibit S]) focuses on health effects from exposure to long-

⁴ Sørensen M, Hvidberg M, Andersen ZJ, Nordsborg RB, Lillelund KG, Jakobsen J, Tjønneland A, Overvad K, Raaschou-Nielsen O. 2011. Road traffic noise and stroke: a prospective cohort study. *Eur Heart J*. 32(6):737-44. March.

⁵ Seidler A, Wagner M, Schubert M, Dröge P, Römer K, Pons-Kühnemann J, Swart E, Zeeb H, Hegewald J. 2016. Aircraft, road and railway traffic noise as risk factors for heart failure and hypertensive heart disease-A case-control study based on secondary data. *Int J Hyg Environ Health*. 219(8):749-758. November.

term ambient noise levels associated with urban land use. The Project's long-term noise impact was evaluated on pages 182-185 of the Draft EIR. As stated in the Draft EIR, the operation of the Project would not double the existing traffic volume on roadway segments in the vicinity of the Project site, and therefore would result in less than a 3 dBA increase in ambient noise levels, making no perceptible difference in what people can hear.

As stated on page 179 of the Draft EIR, the Mill Valley Municipal Code does not establish noise criteria for assessing impacts from construction. Therefore, the FTA's general construction assessment criterion of 90 dBA 1-hour Leq at the nearest noise-sensitive receptor was used in the analysis. According to the FTA, if the combined noise level in 1 hour from the two noisiest pieces of equipment exceeds 90 dBA at a residential land use (or other noise-sensitive receptors), there may be a substantial adverse reaction.

As reported on page 182 of the Draft EIR, the Project's construction would result in noise levels of 75 to 84 dBA during the various phases of construction. Standard building structures provide approximately 12 to 15 dBA noise attenuation with windows open, and an average of 20 dBA attenuation with windows closed. Assuming windows closed, the interior noise levels at the nearest residential receptor would be around 55 to 64 dBA. According to California Department of Transportation (Caltrans) Technical Noise Supplement to the Traffic Noise Analysis Protocol,⁶ 55 to 64 dBA is about as loud as a commercial area on the upper bound, and as loud as a quiet urban area during daytime on the lower bound. In accordance with Caltrans Traffic Noise Analysis Protocol,⁷ 67 dBA is the approximate noise level at which the noise begins to interfere with human speech assuming two people are speaking. The noise levels of 55 to 64 dBA are not expected to interfere with human speech. In addition, due to the nature of construction activities, any increases in ambient noise levels in the project vicinity would be intermittent, short term, and temporary. Furthermore, as discussed on page 179 of the Draft EIR, the City's Noise Ordinance (Mill Valley Municipal Code Section 7.16) limits the use of heavy equipment and power tools from between 8:00 a.m. and 5:00 p.m. on weekdays, which ensures that there will not be construction noise from such activities in the early morning, evening, nighttime, and weekend hours (i.e., the hours that residents are typically at home).

The following revision is made to the last paragraph on page 181 of the Draft EIR to further explain the significance of the construction noise levels:

In accordance with guidance from the FTA (FTA 2006), construction noise impacts were evaluated by quantifying the maximum noise levels that would result from simultaneous operation of the two noisiest pieces of equipment near the perimeter of the Project site closest to a sensitive receptor. As shown in Table 5.6-3, the Project's construction noise levels were estimated at the nearest noise-sensitive receptor, a single-family residence located approximately 55 feet east of the Project site boundary and approximately 130 feet east of the closest structural wall of the proposed multifamily housing building. Based on this analysis, Project construction would ~~not~~ generate noise levels between 75 to 84 dBA at the nearest noise-sensitive receptor, above which would be below the 90 dBA Leq threshold at the nearest noise-sensitive receptor. Standard building structures provide approximately 12 to 15 dBA noise attenuation with windows open, and an average of 20 dBA attenuation with windows closed. Assuming windows closed, the

⁶ California Department of Transportation, 2013. Technical Noise Supplement to the Traffic Noise Analysis Protocol, September.

⁷ California Department of Transportation, 2020. Traffic Noise Analysis Protocol for New Highway Construction, Reconstruction, and Retrofit Barrier Projects, April

interior noise levels at the nearest residential receptor would be around 55 to 64 dBA. According to Caltrans Technical Noise Supplement to the Traffic Noise Analysis Protocol (Caltrans, 2013), 55 to 64 dBA is about as loud as a commercial area on the upper bound, and as loud as a quiet urban area during daytime on the lower bound. In accordance with Caltrans Traffic Noise Analysis Protocol (Caltrans 2020b), 67 dBA is the approximate noise level at which the noise begins to interfere with human speech assuming two people are speaking. The noise levels of 55 to 64 dBA are not expected to interfere with human speech. In addition, due to the nature of construction activities, any increases in ambient noise levels in the project vicinity would be intermittent, short term, and temporary. It is to be noted that tThis analysis conservatively did not account for the steep slope between the eastern edge of the construction area and Roque Moraes Drive, which would provide additional noise attenuation at the single-family residential receptor. Additionally, the noise analysis used the distance between the property boundary along Roque Moraes Drive and the nearest residential receptor (55 feet) rather than the greater distance between this receptor and the proposed housing structure (130 feet) where most of the construction noise would be generated.

The Draft EIR identifies temporary construction noise impacts as a potentially significant impact and requires the implementation of HEU SEIR Mitigation Measure 10-2 to minimize construction noise impacts to the extent feasible. This mitigation will include the implementation of a project-specific construction noise mitigation plan.

The following revisions are made to Noise references of the Draft EIR:

[Caltrans 2013] California Department of Transportation, 2013. Technical Noise Supplement to the Traffic Noise Analysis Protocol, September.

[Caltrans 2020a] California Department of Transportation. 2020a. Transportation and Construction Vibration Guidance Manual.

[Caltrans 2020b] California Department of Transportation, 2020b. Traffic Noise Analysis Protocol for New Highway Construction, Reconstruction, and Retrofit Barrier Projects, April.

RESPONSE TO COMMENT A-25r

While the California Natural Diversity Database (CNDDDB) and similar databases are a valuable resource and often referenced when determining species potential for occurrence, other factors were considered during the impacts assessment including current site conditions and habitats present, current land use, and adjacent land use and habitat. WRA analyzed species potential based on their likelihood to occupy habitat within the Study Area, or otherwise rely on the Study Area for critical life functions, rather than their simple known presence in the greater vicinity or region. Natural and semi-natural habitats in the greater vicinity are variable and include Pickleweed Inlet and associated tidal marsh and large expanses of open space within Golden Gate National Recreation Area and Mount Tamalpais State Park to the west. Birds may be observed foraging over the inlet and tidal marsh, flying between suitable habitat patches or during longer-distance migrations in a manner that is largely incidental to the conditions of the Project site.

Dr. Smallwood states that WRA misuses the CNDDDB by querying for occurrence records within the San Rafael 7.5-minute Quadrangle and eight neighboring quadrangles and that this use screens out many special-status species from consideration. However, the CNDDDB Data Use Guidelines state that “by looking at what has been documented on your quad of interest and on

the eight surrounding quads, you can estimate what might be found in similar habitats to those within your area of interest.” WRA references the results of the CNDDDB in addition to several other resources listed in Draft EIR Section 3.4.2 and the conditions documented within and adjacent to the Project site to determine which species may occur in the vicinity. The database results alone are not used to determine a species’ absence.

It is important to note that CEQA does not require an exhaustive list of all bird species that could occur on a site, only an analysis of potential impacts to special-status birds and/or nesting habitat for common birds or other special-status species that rise to the level of significance, which is provided.

On February 4, 2022, WRA biologists completed an initial field review to document: (1) land cover types (e.g., vegetation communities, aquatic resources), (2) existing conditions and to determine if such provide suitable habitat for any special-status plant or wildlife species, (3) if and what type of aquatic land cover types (e.g., wetlands) are present, and (4) if special-status species are present. Following the initial site visit, WRA conducted two formal wetland delineations within the Project site on March 8, 2022, and June 14, 2023, as well as a focused protocol-level rare plant survey on July 14, 2023, to further support the determinations made in this assessment. Four site visits of the 3.67-acre Project site are sufficient to adequately assess baseline conditions.

Botanical Surveyor Qualifications and Survey Approach

The July 14, 2023, special-status plant survey was conducted by WRA botanist Scott Batiuk. Mr. Batiuk is a Certified Consulting Botanist (#0026) and has a 2081(a) Plant Voucher Collection Permit from the California Department of Fish and Wildlife. He holds a Bachelor of Science degree in Forest Resources from the University of Washington. Mr. Batiuk has worked as a botanist in a professional capacity since 2008 and has worked as a consulting botanist in California since 2013, during which time he has conducted rare plant surveys and vegetation mapping in much of California. Based in the San Francisco Bay Area, Mr. Batiuk is experienced with rare and common flora of Marin County.

Prior to the July 14, 2023, survey in the Project Area, Mr. Batiuk visited reference sites for late-blooming taxa that were determined had moderate or high potential to occur in the Project Area. On July 12, 2023, Mr. Batiuk visited a reference site for woolly-headed lessingia (*Lessingia hololeuca*), located near San Quentin Prison. Plants were budding but were still evident and identifiable. On July 14, 2023, Mr. Batiuk visited reference sites for Tiburon buckwheat (*Eriogonum luteolum* var. *caninum*) and Marin western flax (*Hesperolinon congestum*), located on Ring Mountain. Tiburon buckwheat was in full bloom. Marin western flax was past peak bloom but was still evident and identifiable. Mr. Batiuk surveyed the Project Area by walking tightly spaced transects across the entirety of the undeveloped portions of the site to ensure complete visual coverage. Developed areas (hardscape, buildings) were evaluated at a much coarser resolution. The survey was floristic in nature, with all observed species recorded and included on a species list (see Appendix B of the Biological Resources Technical Report, included as Appendix E of the Draft EIR). The survey was conducted by visually surveying all habitat suitable for moderate to high-potential plant species determined during the database search prior to the site visits (included in Appendix C of the Biological Resources Technical Report [Draft EIR Appendix E], Special-Status Species Potential Table).

RESPONSE TO COMMENT A-25s

Section 5.2 of the Biological Resources Technical Report, included as Appendix E of the Draft EIR, adequately assesses the likely occurrence of special-status species (see Appendix C of the Biological Resources Technical Report, Special-Status Species Potential Table).

Dr. Smallwood states that he observed 61 species of vertebrate wildlife including 12 with special-status across two site visits at the Project site, which he suggests is somehow inconsistent with only eight observed by WRA. It is important to note that while observed species were documented during the latter visit, it was not intended to constitute a dedicated bird/wildlife survey (e.g., a point-count survey) or a protocol-level special-status species survey. As described above, bird species (and other wildlife) are generally assessed based on the likelihood of a site to support critical life functions, rather than the potential for the species to simply fly over the site. Many of these species listed by Dr. Smallwood were noted as off-site or flying over.

Although the details of approaches may vary somewhat, species typically regarded as “special-status” in this context include those that have been formally listed, or are candidates for such listing under the federal Endangered Species Act (ESA) and/or California Endangered Species Act (CESA); CDFW Fully Protected Species (CFP); and, CDFW Species of Special Concern (SSC). Although SSCs generally have no special legal status, they are given special consideration under CEQA. Bat species are also evaluated for conservation status by the Western Bat Working Group (WBWG), a non-governmental entity; bats named as a “High Priority” or “Medium Priority” species for conservation by the WBWG are typically considered special-status. The majority of the observed species that Dr. Smallwood classifies as “special-status” are common and widespread species that are not typically given special consideration under CEQA or even included on CDFW’s highly inclusive Special Animals List. For example, simply being referenced in the California Fish and Game Code (e.g., all birds of prey) does not indicate that a species is special-status. Many of the species described as very close or nearby by Dr. Smallwood have very limited ranges or specific habitat requirements that are not present within or adjacent to the Project site. For example, red-bellied newt typically inhabits redwood forest or other forest streams with the nearest population in southern Sonoma County.

Dr. Smallwood posits that special-status species were not sufficiently addressed in the report, and specifically references several bird species. As noted above, natural and semi-natural habitats in the greater vicinity are variable and include tidally-influenced marsh, open water, oak woodland, open hills, and other land cover types that are not comparable in quality or extent to that which exists on the Project site. While several special-status species including white-tailed kite and northern harrier may forage and nest in nearby habitat, the Project site itself does not provide the open habitat these species typically utilize for nesting. All trees within the Project site are relatively exposed and are within 50 feet of a roadway or parking area subject to regular anthropogenic disturbance including pedestrian and vehicular traffic. This is a deterrent to nesting for several special-status bird species. Regardless, the Draft EIR requires mitigation to address potential impacts to nesting birds (Mitigation Measure BIO-2) which, when implemented as prescribed, would reduce impacts to nesting birds to a less-than-significant level.

Dr. Smallwood specifically calls out monarch butterfly as one of the special-status species inadequately discussed. As stated by Dr. Smallwood, monarch is currently a candidate for listing under the Endangered Species Act. As such this species does not receive statutory protection. While winter roosts are protected by the California Fish and Game Code, the Project site does not contain wind protected tree groves (eucalyptus, Monterey pine, Monterey cypress) typically used for winter roosting.

RESPONSE TO COMMENT A-25t

Dr. Smallwood states that the Project site needs to be further analyzed for potential impacts to wildlife movement in the region, and that the Essential Connectivity Area dataset published by CDFW was misused. However, the dataset was referenced in addition to aerial imagery and an assessment of current site conditions and habitats present, current land use, and adjacent land use and habitat. Based on surrounding land use and potential habitat, it is not warranted to consider the site critical to wildlife movement in the area. Above all, wildlife corridors must link two areas of core habitat and should not direct wildlife to developed areas or areas that are otherwise void of core habitat. The Draft EIR acknowledges that “common, urban-adapted species, including native birds, and mammals such as squirrels, raccoons or opossums, presumably utilize the Project site for movement at a local scale”. However, most of the species observed on-site are tolerant of anthropogenic activities and disturbance; these species often occur year-round, inclusive of successful breeding, in developed areas (e.g., Anna’s hummingbird, American crow, northern mockingbird, California scrub-jay, house finch). Therefore, the proposed development of the Project site is not anticipated to result in any significant impacts to local or regional wildlife movement, let alone result in the loss of critically important habitat.

This comment also expresses concern regarding the Project’s impacts on wildlife resulting from bird strikes and traffic. There is increasing awareness that collision with buildings and structures is a noteworthy cause of avian mortality worldwide. A number of design factors are associated with the average rate of bird collisions, including the total extent of exterior glazing (glass; e.g., windows), size of individual contiguous glazing panels, glazing reflectivity, placement and types of landscaping, details of on-site artificial night lighting, and other factors. As is shown on Draft EIR Figures 4-6 and 4-7, exterior glazing would comprise only a small portion of the overall exterior of the Project’s housing structure and the size of contiguous glazing panels would be relatively small. Artificial night lighting within the Project is proposed to be minimal, restricted to that necessary for safety and wayfinding. Thus, there is no basis for concluding that the Project would represent a particular danger to bird traffic or a draw for bird strikes.

Dr. Smallwood references a study along Vasco Road as a basis to estimate the number of potential wildlife fatalities from traffic associated with the Project. While WRA did not have access to this report, the location (Vasco Road) is a rural highway connecting Livermore through the Diablo Range to Brentwood. This road has a typical speed limit of approximately 55 miles per hour and is surrounded by large rural habitats on both sides, including grassland, oak woodlands, streams, agricultural lands, and other habitat areas which are highly conducive to animal movement across roads. In this case, the commenter erroneously applies a case study where movement between intact habitats occurs along a high-speed two-lane highway, which is substantially different from an urbanized part of Mill Valley along the Highway 101 corridor. Because the Draft EIR (and the Project’s Transportation Impact Assessment) concludes that the proposed Project would not produce significant increases in vehicle traffic on area roadways, impacts to wildlife associated with the Project are not likely to substantially exceed baseline levels.

In addition, Dr. Smallwood states that the introduction of new house cats by residents of the proposed residential units would pose significant threats to vertebrate animals in the vicinity of the Project site. However, given that the site occurs within a greater context of urban and residential development, it is unlikely that the number of cats introduced by this proposed development alone would significantly increase the number of house cats that already exist in the area. Additionally, while the introduction of cats may result in a relatively higher mortality of

common wildlife species that occur within the Project site, the loss of common species is not a significant impact pursuant to CEQA.

RESPONSE TO COMMENT A-25u

Special-status Plants

The comment asserts that the identification of mitigation for the Project's special-status plant impacts has been improperly deferred. However, as discussed in the Draft EIR Section 5.3 and Response to Comment A-25r above, a focused protocol-level rare plant survey of the Project site was conducted on July 14, 2023, by WRA botanist Scott Batiuk. Prior to the July 14, 2023, survey, Mr. Batiuk visited reference sites for late-blooming taxa that were determined had moderate or high potential to occur in the Project vicinity. On July 12, 2023, Mr. Batiuk visited a reference site for woolly-headed lessingia (*Lessingia hololeuca*), located near San Quentin Prison. Plants were budding but were still evident and identifiable. On July 14, 2023, Mr. Batiuk visited reference sites for Tiburon buckwheat (*Eriogonum luteolum* var. *caninum*) and Marin western flax (*Hesperolinon congestum*), located on Ring Mountain. Tiburon buckwheat was in full bloom. Marin western flax was past peak bloom but was still evident and identifiable. Mr. Batiuk surveyed the Project Area by walking tightly spaced transects across the entirety of the undeveloped portions of the site to ensure complete visual coverage. Developed areas (hardscape, buildings) were evaluated at a much coarser resolution. The survey was floristic in nature, with all observed species recorded and included on a species list (see Appendix B of the Biological Resources Technical Report, included as Appendix E of the Draft EIR). The survey was conducted by visually surveying all habitat suitable for moderate to high-potential plant species determined during the database search prior to the site visits (included in Appendix C of the Biological Resources Technical Report [Draft EIR Appendix E], Special-Status Species Potential Table).

In summary, the most conclusive survey of the potential for special-status plant species presence on the Project site that was possible was conducted. To ensure that no additional special-status plant species are present prior to the commencement of Project construction activities, the Draft EIR includes a companion pair of mitigation measures, BIO-1a and BIO-1b. Mitigation Measure BIO-1a, requiring additional botanical surveys during the narrow timeframe when specific plants with low to moderate potential to occur on the site are evident and identifiable. These times are specified as mid-April and mid-May in Mitigation Measure BIO-1a, which also explicitly states actions that must be taken at the Project site if populations or individuals are observed during either of these surveys. Pre-site disturbance surveys during specific time windows are commonly used in CEQA mitigation for potential impacts to biological resources.

The Draft EIR also includes Mitigation Measure BIO-1b, specifying actions to be taken if the supplemental surveys required under Mitigation Measure BIO-1a reveal the presence of special-status plants on-site that the Project cannot avoid impacting. In order to provide more details concerning these actions, Mitigation Measure BIO-1b has been modified as follows, to provide additional detail. These revisions do not change the impact conclusion prior to, or with inclusion of, mitigation:

Special-status plants that are not listed under the Federal Endangered Species Act, the California Endangered Species Act, or the Native Plant Protection Act. If special-status plants are present and impacts to those plant populations cannot be avoided, seed or other propagules shall be harvested from at least 50 percent of plants within areas of

impact. Harvested seed or propagules shall be stored for reintroduction into the preserved portion of the Project site.

Plants listed under the Federal Endangered Species Act, the California Endangered Species Act, or the Native Plant Protection Act. Of the special-status plants that require additional surveys, only two-fork clover (*Trifolium amoenum*), which is federally endangered, has a listing under any of the above acts. If two-fork clover is observed on the Project site, a determination will be made as to whether project-related impacts will cause “jeopardy” to the species. If it is determined that the project will not cause jeopardy to the species, then the measures described above for non-listed plants will apply. If it is determined that the project will cause jeopardy to the species, a Habitat Management Plan (HMP), or similar document(s) by a different name(s), will be prepared by the City for the reintroduction area for two-fork clover. The HMP shall be approved by the U.S. Fish and Wildlife Service (USFWS) along with a summary of what species and mitigation measures it complies with. The HMP will include monitoring methods and performance criteria for post-construction monitoring, including criteria for the successful establishment and preservation of special-status plants within the reintroduction area. Success criteria will include:

- Habitat acreage for special-status plants in the reintroduction area will be equivalent to the acreage occupied by those species during the most recent survey that occurs prior to construction.
- Populations of special-status plants will be monitored annually for a minimum of 5 years following establishment of the reintroduction area.
- Management of invasive species such that species rated as “High” by the California Invasive Plant Council, with the exception of common non-native grasses that dominate undeveloped habitats in the surrounding area, will not collectively exceed 5 percent absolute cover within the reintroduction area.
- Based on the results of post-construction monitoring, adaptive management actions will be implemented, if necessary. Adaptive management actions may include reseeding and treatment of invasive species.

If propagation efforts do not meet performance standards, then the loss of individuals of special-status plants shall be compensated for through the acquisition, protection, and subsequent management of other existing occurrences. Before the implementation of compensation measures, the City shall provide detailed information to the USFWS on the quality of preserved habitat, location of the preserved occurrences, provisions for protecting and managing the areas, the responsible parties involved, and other pertinent information that demonstrates the feasibility of the compensation. A mitigation plan identifying appropriate mitigation ratios at a minimum ratio of 1:1 shall be developed in consultation with, and approved by, the USFWS prior to the commencement of any activities that would impact special-status plant species that occur at the Project site. A mitigation plan may include but is not limited to the following: the acquisition of off-site mitigation areas presently supporting the special-status species that would be unavoidably impacted by the Project or payment of in-lieu fees to a public agency or conservation organization (e.g., a local land trust) for the preservation and management of existing populations of special-status plants.

RESPONSE TO COMMENT A-25u



Dr. Smallwood states that “the DEIR lacks the evidence necessary to demonstrate that the project’s incremental effect and the effects of other projects is not significant, especially with regards to special-status species and nesting birds.” However, as described in the Biological Resources Technical Report (Appendix E of Volume II of the Draft EIR) and summarized in Section 5.3 of the Draft EIR, the Project will not have significant impacts to special-status species. When implemented as prescribed, Mitigation Measure BIO-2 would reduce impacts to nesting birds to a less-than-significant level. Most of the species observed on-site are tolerant of anthropogenic activities and disturbance and these species often occur in developed areas.

Dr. Smallwood also states that the bird breeding season recognized by CDFW is now from February 1 to September 15. The nesting bird period as defined in Draft EIR Mitigation Measure BIO-2 is consistent with recent Lake and Streambed Alteration Agreements issued by the CDFW, which recognize the nesting bird season as February 1 through August 31. While EIR measures for nesting birds can vary slightly by county and extend into September in some cases, the City prefers to use the nesting period that has been defined on recent CDFW-issued permits.

Cumulative impacts to biological resources are addressed in Section 5.3.9 of the Draft EIR. The Housing Element Update Supplemental EIR (HEU SEIR) provided a cumulative impact analysis of the biological resources impacts of housing development at multiple sites throughout the City of Mill Valley, including the Project site. The HEU SEIR concluded that implementation of the Housing Element Update would not have a cumulatively considerable impact on biological resources. The proposed Project will comply with Mitigation Measures 7-1 and 7-2 of the HEU SEIR and would not conflict with other General Plan policies related to biological resources. The Project would mitigate its site-specific biological resource impacts to a less-than-significant level via implementation of Mitigation Measures BIO-1a, BIO-1b, and BIO-2. Therefore, the impact of the proposed Project on biological resources would not be cumulatively significant.

RESPONSE TO COMMENT A-25w

The comment is a summary of previously presented, more detailed critiques of the Draft EIR and does not present any new issues requiring response. See above Responses A-25a through A-25v for detailed responses on each issue. No further response is warranted.

LETTER A-26. LORETTA FIGUEROA



Comment Letter A-26

From: [Loretta Figueroa](#)
To: [Steven Ross](#)
Cc: [Loretta Figueroa](#)
Subject: [External] 1 Hamilton - Asbestos in Serpentinite
Date: Friday, December 15, 2023 11:27:39 PM

A-26a

Dear Mr. Ross,

The Draft EIR states that:

"Any exposure to asbestos fibers involves some risk of disease, depending on how and to what degree a person is exposed to the fibers."

The University of California reports that Serpentine soils or rock containing naturally occurring asbestos (NOA) particles should be left undisturbed and stabilized to reduce exposing or releasing fibers into the environment. As long as fibers remain bound in soil or rock, they pose very little health risk."

This project should not be approved until every concern for Public Health and Safety has been addressed.

There's a lesson to be learned from the "two windstorms that swept through the eastern Oregon fields in August of 2003, scattering flea-sized seeds well beyond the designated control area. Roundup-resistant pollen fertilized conventional bentgrass plants as far as 13 miles away. There was no calling it back."

<https://www.hcn.org/issues/50.11/plants-genetically-modified-grass-creeps-across-eastern-oregon>

Here are some questions regarding the Draft EIR:

A-26b

**Excerpt from Draft EIR Volume 2,
page 26 of 562 pages**

A portion of the Project site is underlain by a rock unit known as "serpentinite". Serpentinite is an ultramafic rock that is made up of a group of minerals known as "serpentine" minerals that contain naturally occurring asbestos (NOA) particles. The most common NOA particle in ultramafic rocks is chrysotile. Asbestos has been classified as a carcinogen by state, federal, and international agencies, and thus NOA particles are a known hazard to human health. If dust containing asbestos fibers is inhaled, these fibers can cause cancer and other diseases in the lungs, lining of the lungs, or abdominal cavity. Any exposure to asbestos fibers involves some risk of disease, depending on how and to what degree a person is exposed to the fibers. Scientists have suggested that children have a higher risk of exposure to asbestos fibers than adults in similar environments due to their faster breathing rates, time spent outdoors, and longer time period for disease to develop (University of California Division

of Agriculture and Forestry Resources 2009).

Soil disturbing activities in areas underlain by rocks containing NOA particles can increase human exposure to asbestos. Human activities and natural processes that can release dust containing NOA particles include disturbing dry soils, exposing asbestos fibers to the soil surface by erosion from wind and water, storm water runoff which can concentrate fibers that become airborne when dried, and forms of mechanical exposure or disturbance of NOA-containing bedrock (serpentinite). County of Marin maps show that the Project site is situated in an area underlain by serpentinite of the Coast Range Ophiolite formation from the Late to Middle Jurassic Age (County of Marin 2022). In addition, the BAAQMD facilitated the collection of bedrock samples from the project site to be tested for NOA particles in January 2023. The results of the sampling from SGS Forensic Laboratories confirmed a sample from the site to be Chrysotile Type asbestos with a percentage asbestos of 0.50.

1 - MarinMap shows that the Project site is underlain by serpentinite and states that the BAAQMD facilitated the collection of bedrock samples from the Project site to be tested for naturally occurring asbestos (NOA) particles in January 2023. The results of the sampling from SGS Forensic Laboratories confirmed a sample from the site to be Chrysotile Type asbestos with a percentage asbestos of 0.50.

A-26b

Question: Does MarinMap show the entire extent of the NOA-containing bedrock (serpentinite) on parcel 030-250-01 and the land neighboring this parcel? Page 451 of 562 pages of the Draft EIR Volume 2 appears to show a different outline for the serpentinite than is shown on MarinMap.

A-26c

Question: Page 451 of 562 pages of the Draft EIR Volume 2 shows five approximate boring locations. One of these five sites is located in the outline for the serpentinite that is shown on MarinMap. Which of the five boring location samples contained asbestos?

A-26d

2 - **Question:** Are there any baseline studies to detect asbestos inside the existing city structures on the site or in the landscaped area around the existing structures? These structures should be monitored for asbestos during the project.

A-26e

3 - The University of California Division of Agriculture and Natural Resources, Publication 8399, August 2009, states that "no safe level of exposure to asbestos has been established and that any exposure to asbestos fibers involves some risk of disease.

Taking simple, common sense precautions helps reduce the risk to residents who have serpentine soil or rocks on their property. Serpentine soils or rock should be left undisturbed and stabilized to reduce exposing or releasing fibers into the environment. As long as fibers remain bound in soil or rock, they pose very little

health risk."

A-26e

Best management practices suggests NOT disturbing the serpentinite to reduce exposing or releasing fibers into the environment,

A-26f

Due to the known presence of NOA and size of the proposed development, the project developer must submit an Asbestos Dust Mitigation Plan Application and Asbestos Dust Mitigation Plan (ADMP) to the BAAQMD for review and approval.

Question: The California Code of Regulations, Title 17, Section 93105, has detailed requirements for asbestos airborne toxic control. Constant air monitoring must be required to protect public health and public safety. Where will the air monitoring occur? Has the City considered a temporary containment structure to reduce the movement of asbestos fibers?

FINAL REGULATION ORDER

ASBESTOS AIRBORNE TOXIC CONTROL MEASURE FOR CONSTRUCTION, GRADING, QUARRYING, AND SURFACE MINING OPERATIONS

Section 93105. Asbestos Airborne Toxic Control Measure for Construction, Grading, Quarrying, and Surface Mining Operations.

Thank you for the opportunity to comment on this project.

Be well. Be safe.

LJ

Loretta (Lorri) Figueroa

millvalleyfig@yahoo.com

when you have more than you need, build a longer table not a higher fence.

“In the past, we have asked one thing of our gardens: that they be pretty. Now they have to support life, sequester carbon, feed pollinators and manage water.”— Doug Tallamy

RESPONSE TO COMMENT A-26a

This comment identifies concerns about the Project but does not state a specific concern or question regarding the sufficiency of the Draft EIR in identifying and analyzing environmental impacts of the Project and ways to reduce or avoid these impacts. Impacts from naturally occurring asbestos at the site are addressed in Section 5.2, Air Quality, and impacts will be mitigated through an ADMP, as specified in Mitigation Measure AQ-1. No further response is warranted.

RESPONSE TO COMMENT A-26b

The map shown on page 451 of Draft EIR Volume II is based on data from a map assembled by Blake, Graymer and Jones in 2000.⁸ MarinMap data is obtained from Marin County GIS Open Data, which states that Marin county-wide geology data is compiled from four United States Geological Survey publications and 2004 topographic mapping.⁹ Different maps may show slight differences in the mapped portion of serpentinite on the Project site, and therefore the map on page 451 of Draft EIR Volume II and the data on MarinMap may differ slightly. The mapped area of serpentinite is very similar on both maps and any differences between them would not affect the proposed mitigation.

RESPONSE TO COMMENT A-26c

As stated on page 430 of Draft EIR Volume II, “very dense, highly to moderately weathered serpentinite rock was encountered at a depth of approximately 14 feet below site grade within Boring No. B-5.” Boring No. B-5 is the boring located within the mapped portion of serpentinite on the Project site, as shown on the site map on page 451 of the Draft EIR Volume II and on MarinMap.

RESPONSE TO COMMENT A-26d

A Phase I Environmental Site Assessment Report (PIERS Environmental Services 2022) did not identify asbestos or any other recognized environmental conditions on the Housing Site. No subsequent studies have been conducted to detect asbestos inside the existing City structures on the PSB Site or in the landscaped area around existing structures. The potential risk from NOA is during ground disturbing activities during site preparation and construction. Air monitoring will take place during Project construction at various locations around the Project site. A detailed description of air monitoring protocols is included in Section 11.0, Air Monitoring, of the Draft ADMP (pages 290 through 295 of Draft EIR Volume II). The Draft ADMP states that “the airborne asbestos dust monitoring network will consist of five (5) high volume air sampling instruments that are stationed around the perimeter of the subject site...If air monitoring stations detect levels of airborne asbestos above the action level, onsite work will be suspended until such time that the reported asbestos levels have declined below action levels” (page 291 of Draft EIR Volume II). Although no monitoring will occur within the PSB building, monitoring instruments around the site perimeter would ensure that no hazardous levels of airborne asbestos are occurring in the surrounding areas.

⁸ Blake, M.C. Jr., Graymer, R. W., & Jones, D. L. 2000. Geologic Map of Parts of Marin, San Francisco, Alameda, Contra Costa, and Sonoma Counties, California.

⁹ County of Marin. 2023. Geology. <https://gisopendata.marincounty.gov/datasets/marincounty::geology-1/about>. Accessed January 2, 2023.

RESPONSE TO COMMENT A-26e

California regulatory agencies, including the California Air Resources Board (CARB) and the BAAQMD, have recognized that development will occasionally require disturbance of serpentinite because the rock is abundant within the state. As stated on page 100 of the Draft EIR, CARB has adopted Asbestos Airborne Toxic Control Measures (ATCM) for Construction, Grading, Quarrying, and Surface Mining Operations, which requires construction and grading projects to implement best available dust mitigation measures where NOA rock is likely to be encountered. Further, the California Code of Regulations, Title 17, Section 93105, requires that construction projects on sites greater than one acre in size must prepare and submit an ADMP to the applicable air quality management district for review and approval. Per Mitigation Measure AQ-1, the proposed Project will comply with all CARB and BAAQMD regulations, including ATCM and ADMP requirements.

RESPONSE TO COMMENT A-26f

As described above in Response to Comment A-26d, air monitoring protocols are discussed in Section 11.0, Air Monitoring, of the Draft ADMP (pages 290 through 295 of Draft EIR Volume II). The Draft ADMP is subject to review and approval by the BAAQMD, and therefore, air monitoring measures may be subject to change per BAAQMD's input. The Final ADMP as approved by the BAAQMD will be required to be implemented prior to building permit issuance and the start of earth-disturbing activities at the Project site.



LETTER A-27. LISA EDSON



Comment Letter A-27

From: [Lisa](#)
To: [Steven Ross](#)
Cc: [Hannah Politzer](#)
Subject: EIR: [External] 1 Hamilton Disabled Access
Date: Friday, December 15, 2023 5:48:34 PM

A-27a

Mr. Ross,

I appreciate submitting my last-minute concerns on the Draft EIR for 1 Hamilton.

I do not support this site for many reasons related to disabled access. Most critical is lack of sidewalks from 1 Hamilton transit and amenities. The closest transit is the Blithedale bus. The only access to the bus is via severely steep Kipling hill with no sidewalks— paved or delineated, on half of the hill.

Roque Moraes is a more level route to shopping, but it also lacks continuous sidewalks, notably by PG&E tower. Both routes would be a challenge to navigate for able-bodied residents, let alone those with walking devices.

Instead, the City focuses on how ideal this site is to **bike** or walk across Hauke Park. But this is Family Housing, which presumably include residents who are elderly and/or disabled. These individuals can't jump on a bike to go shopping. Nor should they navigate a sole pathway that is a designated city cycling route, with no access or safety signage for pedestrians. The wooden bridge with various surface levels is out of compliance, as noted in City Transition plan.

I've brought concerns about disability access to Danielle Staude frequently over the past two years. Each time, she promised me that issues of access, curb cuts, safe walking routes would be addressed in the EIR.

I find no reference to these concerns, or disability access in general in the EIR. This report is deficient. It ignores mention of geographical barriers of the site, that no safe sidewalks or routes exist, or that any will be built to accommodate disabled populations.

Regards,
Lisa Edson

7 Coleridge Drive
Mill Valley, CA 94941

RESPONSE TO COMMENT A-27a

The comment raises questions about disability access at the Project. Disability access is not an environmental issue that is required to be considered under CEQA. In general, it is presumed that projects must comply with applicable ADA requirements concerning accessibility. The proposed Project would be required to do so. However, the Draft EIR addresses pedestrian access and circulation within and adjacent to the Project. As stated in Section 4.0, Project Description, of the Draft EIR (page 40), “the Project would also include pedestrian facility safety upgrades to the three existing crosswalks across Hamilton Drive between the Project site and Hauke Park, such as updated high-visibility crosswalk markings, advanced pavement warning markings, and reflective cross warning signs.” Crosswalk improvements are further described in Section 4.3.4, Crosswalk Improvements, of the Draft EIR (page 43).

In addition to pedestrian safety improvements, as stated on page 43 of the Draft EIR, “the Project would install continuous sidewalk on Hamilton Drive along the Project frontage, including new ADA-compliant curb ramps for Crosswalk 1 and Crosswalk 2 on the east side of Hamilton Drive.” As stated in the TIA (Appendix H, Volume II of the Draft EIR, page 52), “this configuration would have an increased offset from the proposed driveway entrance to the southern pedestrian crosswalk across Hamilton Drive, which would result in greater (improved) reaction time for motorists exiting the Project driveway and public parking lot to yield to pedestrians crossing Hamilton Drive.”

The proposed crosswalk improvements were recommended in the TIA in accordance with the Federal Highway Administration’s *Guide for Improving Pedestrian Safety at Uncontrolled Crossing Locations*, based on the expected conditions along Hamilton Drive in the Cumulative Plus Project Scenario. The implementation of these pedestrian safety features as part of the proposed Project is in accordance with nationally recognized standards and will better ensure pedestrian safety as compared to existing conditions along Hamilton Drive. The Project is not responsible for addressing off-site pedestrian access deficiencies that exist elsewhere in the neighborhood or in other parts of the City.

2.3 Verbal Comments on the Draft EIR and Responses to Comments

Verbal comments were received regarding the proposed Project and on the Draft EIR at a regularly scheduled Planning Commission meeting held on Tuesday, November 28, 2023, at 6:30 P.M. in the City Council Chambers at Mill Valley City Hall. The Draft Planning Commission meeting minutes are included in Appendix B to this Final EIR. The following is a summary of the verbal comments on the Draft EIR and responses to those comments that raise CEQA and environmental-related issues. Note that many of the comments are similar to the written comments submitted by the same individuals, and many of the responses refer back to the responses to the written comments presented in the previous section.

Verbal Comment B-1, Elizabeth O'Donnell

The commenter was concerned over the airborne asbestos mitigation plan for the Project because the sport fields for children and the toddler park are located across the street and the Mill Valley Middle School is located 1,000 feet downwind from the Project site. The commenter stated that the Draft EIR contains only the minimum required measures to mitigate the release of toxic airborne asbestos and that a more comprehensive effort should be made to prevent as much asbestos as possible from being released. She added that a more comprehensive effort should also be made to monitor any airborne asbestos, because the Draft EIR outlines only a minimum air monitoring effort that does not include holidays and weekends, but it is essential that air monitoring occur 24/7. She asked if the City planned to close Hauke Park during the months of construction.

RESPONSE TO VERBAL COMMENT B-1, ELIZABETH O'DONNELL

See Response to Written Comment A-23a.

Verbal Comment B-2, Carolyn Heyder

The commenter stated that she had previously expressed concern that the Project is too large and that the Draft EIR identifies several areas of potential significant environmental impacts. She said two alternative density plans were considered but dismissed on the grounds that recommended mitigation would reduce these impacts, but she disagreed and asked the Commission to consider these alternatives: (1) Reduce the overall height to three stories, reduce the number of units to 32, reduce the amount of cut into the hillside, and reduce the developable net floor area to 51,000 square feet. (2) Eliminate the east wing, which would reduce the number of units to 34, a 32% reduction, reduce the amount of cut into the hillside, and reduce the net floor area to 54,000 square feet. She said either alternative reduces the Project's air quality, cultural resources, and geology/soils impacts compared to the proposed Project.

RESPONSE TO VERBAL COMMENT B-2, CAROLYN HEYDER

See Responses to Written Comments A-14a and A-14b.

Verbal Comment B-3, Dave Wygant

The commenter stated that he lives near Hauke Park where he and his kids go every day, and he coaches soccer there. He said there are peak times when there are traffic safety issues for kids because Hamilton Drive does not have good visibility, the park abuts right next to Hamilton, Roque Moraes curves around, the intersection at Roque and Hamilton is unorthodox, the bathrooms are across the street, kids crossing the street without looking both ways, soccer balls going into the street, and because the chain fence along Hamilton has been broken for many

years. He said he has brought these issues up for years and nothing is being done, and at this point the City needs to prove that it can protect kids' safety; affirming this project now would say the opposite. He suggested a decision be deferred for further exploration and deliberation and to make changes.

RESPONSE TO VERBAL COMMENT B-3, DAVE WYGANT

See Responses to Written Comments A-4b and A-10a.

Verbal Comment B-4, Eileen Fisher

The commenter stated that she is excited this Project is moving forward and appreciates the work done by EAH Housing and the City of Mill Valley. She is not a close neighbor of Hauke Park but hoped the concern of the nearby neighbors would be addressed, because this project is so important that it is equal to the concerns of the neighbors. She requested the Commission advise the City Council to approve the project and move forward.

RESPONSE TO VERBAL COMMENT B-4, EILEEN FISHER

The comment expresses support for the Project but does not identify any concerns with respect to the content of the Draft EIR. No further response is warranted.

Verbal Comment B-5, Nona Dennis (Marin Conservation League)

The commenter stated that she represents the Marin Conservation League and said the site is ideal for this kind of use, and this kind of site for this kind of 100% affordable housing in Marin County is very, very rare. The Marin Conservation League is a conservation organization, but they understand the changing times and now have a housing policy statement, and the subject site ticks off all the boxes for an ideal site for this kind of affordable housing.

RESPONSE TO VERBAL COMMENT B-5, NONA DENNIS (MARIN CONSERVATION LEAGUE)

The comment expresses support for the Project but does not identify any concerns with respect to the content of the Draft EIR. No further response is warranted.

Verbal Comment B-6, Nanette Zavala

The commenter said that the City needs to get moving on this Project, because affordable housing is so desperately needed. She believed the concerns of the neighbors have been met. The comment expresses support for the Project but does not identify any concerns with respect to the content of the Draft EIR.

RESPONSE TO VERBAL COMMENT B-6, NANETTE ZAVALA

The comment expresses support for the Project but does not identify any concerns with respect to the content of the Draft EIR. No further response is warranted.

Verbal Comment B-7, David Kennedy

The commenter believes that one part of the Draft EIR contains an error: Section 7.4.2; Alternative to Reduced Density, Table 7-1, Example of Financial Analysis Feasibility. The line in the table titled "Bank Loan" has numbers that look too high by a factor of ten, and this calls into question the financial viability of the Project based on the assumptions that are presented in the Draft EIR, and it needs to be clarified.

RESPONSE TO VERBAL COMMENT B-7, DAVID KENNEDY

See Response to Comment A-6b.

Verbal Comment B-8, Mark Breitbart

The commenter said that he supports affordable housing and lives near an EAH property in Mill Valley, but this Project has been conflicted since the beginning. He thought the Draft EIR was inadequate and addressed two issues: 1) It confirms there is a conflict between what alternative is reasonable for this location given the slope and different aspects of it and the number of units required to make the project financially viable. This is a fundamental conflict, meaning that what is right for Mill Valley and the neighborhood is not necessarily right for EAH and this Project, and that conflict needs to be addressed. 2) They did an independent study of asbestos, and not only is it uniquely bad in this location but particularly hazardous. He believed that what the Planning Commission considers mitigation to meet a threshold of significance is not adequate for the neighborhood and is a major danger.

RESPONSE TO VERBAL COMMENT B-8, MARK BREITBARD

The comment expresses an opinion regarding the proposed Project but does not state a specific concern over the content of the Draft EIR. With respect to the issue of naturally occurring asbestos, see Response to Written Comment A-23a.

Verbal Comment B-9, Delia Murillo

The commenter stated that she is an EAH resident in San Rafael. She waited ten years for her Section 8 approval and it was such a struggle to find one apartment. She believed Mill Valley is overdue for EAH apartments for teachers and the workforce, etc. She thought the proposed apartment building was beautiful.

RESPONSE TO VERBAL COMMENT B-9, DELIA MURILLO

The comment expresses support for the Project but does not identify any concerns with respect to the content of the Draft EIR. No further response is warranted.

Verbal Comment B-10, Jeralyn Seiling

The commenter said that during the February 28, 2023, Planning Commission meeting, many residents expressed their concern about the General Plan land use designation change for the proposed site, and the City Attorney stated that taking action on it would in no way limit the City's discretion to keep the status quo for the site, in other words, decline to approve the project. The City Attorney further stated that, "We can go through the whole process and if the City Council doesn't like the final result, they can just revert to a parking lot or keep it status quo." The Draft EIR now asserts the exact opposite and confirms the residents' fears that a no-project alternative would no longer be an option. She added that this language in the Draft EIR is a fancy way of stating that the City will be without any discretion to approve the no-project alternative, because the City cannot make land use decisions that are inconsistent with its General Plan, and Mill Valley's General Plan specifically requires consistency and states, "State law requires that the actions and decisions of each local government concerning both its own projects and the private projects it approves be consistent with its adopted General Plan." She asked the Commission to note the reference to the City's own projects, which is what the City Attorney relied on to assert that the City would have continuing discretion, so there will be no going back from this. She urged the Commission to pause the process and check the facts, because every time this project comes before the Planning Commission and City Council there is frantic pressure to push it through that is not seen with other sites.

RESPONSE TO VERBAL COMMENT B-10, JERALYN SEILING

See Response to Written Comment A-25m.

Verbal Comment B-11, Regina Bianucci Rus (League of Women Voters)

The commenter spoke on behalf of the League of Women Voters of Marin County. They believe the Project would result in much needed affordable family housing for Mill Valley and building on City-owned land would result in a lower development cost. The Project is consistent with the City's General Plan goals and the City Council's interest in increasing the diversity of the available housing, and the Project would provide housing for many who must now commute from outside the community. She urged the Commission to forward the project to the City Council. The comment expresses support for the Project but does not identify any concerns with respect to the content of the Draft EIR.

RESPONSE TO VERBAL COMMENT B-11, REGINA BIANUCCI RUS (LEAGUE OF WOMEN VOTERS)

The comment expresses support for the Project but does not identify any concerns with respect to the content of the Draft EIR. No further response is warranted.

Verbal Comment B-12, Marta Villella and Judith Bloomberg (Marin Organizing Committee)

Co-commenters stated that they represent the Marin Organizing Committee and asked the Commission to recommend approval of the 1 Hamilton Drive project to the City Council. One reason is the Project is 100% affordable and would generate 45 affordable apartments. Another benefit is the location, perfect for families with quick access to schools, Hauke Park, stores, etc. They were sure any defects found in the Draft EIR would be mitigated so the Project can move forward.

RESPONSE TO VERBAL COMMENT B-12, MARTA VILLELLA AND JUDITH BLOOMBERG (MARIN ORGANIZING COMMITTEE)

The comment expresses support for the Project but does not identify any concerns with respect to the content of the Draft EIR. No further response is warranted.

Verbal Comment B-13, Margaret Fisher

The commenter stated that she is proud of Mill Valley for doing this, because the City needs this housing. She appreciated the Planning Commission's methodical process that encompasses people's input. She supported the enhanced crosswalks for safety and the air quality monitoring. She asked for a contact number for people who have complaints.

RESPONSE TO VERBAL COMMENT B-13, MARGARET FISHER

The comment expresses support for the Project but does not identify any concerns with respect to the content of the Draft EIR. No further response is warranted.

Verbal Comment B-14, Jennifer Silva (Marin Environmental Housing Collaborative)

The commenter spoke as the board chair for the Marin Environmental Housing Cooperative. They strongly support the Project and urge the Commission to accept the Draft EIR and recommend it for City Council approval. She said the EIR experts on their board have reviewed the Draft EIR and say it is comprehensive and complete, the impacts are mitigated, and they believe this is a strong Draft EIR that should be supported. She also urged the Commission to move with haste, because this is overdue and the need for housing is great. She said this is actually a very small

project, and the complaints made come up with every single project, no matter the size or location.

RESPONSE TO VERBAL COMMENT B-14, JENNIFER SILVA (MARIN ENVIRONMENTAL HOUSING COLLABORATIVE)

The comment expresses support for the Project but does not identify any concerns with respect to the content of the Draft EIR. No further response is warranted.

Verbal Comment B-15, Paula McGrath

The commenter addressed the section of the Draft EIR related to parking and traffic beginning on page 207, which states that excess on-street parking exists in the vicinity and is available in the first 500 feet of Kipling North from Roque Moraes but overlooks the fact that due to its narrowness Kipling Drive becomes a one-lane street when cars are parked on both sides. She added that the traffic data collection discussion beginning on page 211 is incomplete, because although it summarizes traffic volumes and collision history near the project, it does not consider the issue of excessive speed, and the interaction of more street parking and excessive speed on Kipling is concerning. She also noted the Project provided no guest parking, so those guests would likely park on Kipling. She thought there needed to be further study on this issue and asked the Planning Commission to delay a recommendation until that has been addressed.

RESPONSE TO VERBAL COMMENT B-15, PAULA MCGRATH

See Response to Written Comment A-13a.

Verbal Comment B-16, Ruth Holly

The commenter lives in the neighborhood and is opposed to the project as well as to the State laws that led to this Project, the Housing Element recommendations that were created through a flawed process, and the City acting as a housing developer against the interests of her neighborhood. She said the way to get affordable housing is to have a free land with opportunity for everybody to thrive and be creative, and if there needs to be low-income housing, there should be a charitable way of providing that.

RESPONSE TO VERBAL COMMENT B-16, RUTH HOLLY

The comment expresses opposition to the Project but does not identify any concerns with respect to the content of the Draft EIR. No further response is warranted.

Verbal Comment B-17, Nicole Champagne

The commenter strongly supports the Project and urged the Planning Commission to support it as well and allow it to move forward quickly. She said the Bay Area faces an enormous affordable housing crisis and they need to build affordable housing. She thought the Project's design was beautiful and this space is ideal because it is walkable to schools, stores, and open space.

RESPONSE TO VERBAL COMMENT B-17, NICOLE CHAMPAGNE

The comment expresses support for the Project but does not identify any concerns with respect to the content of the Draft EIR. No further response is warranted.

Verbal Comment B-18, Kathleen Foote

The commenter stated that, as Mayor of Mill Valley in 1986, she cut the ribbon at the grand opening of Pickleweed Apartments, and in 1991 as a City Council member was part of the groundbreaking at Alto Station. Her Council redid the General Plan that involved a drastic reduction in development potential for all the open areas, because it was recognized at the time and incorporated in the General Plan that there was a tradeoff, which was infill and affordable housing particularly, and that has been carried forward. She said if the City had not actively initiated Alto Station and Pickleweed they would not have happened, and if the City had not done it in this case it would not have happened. She said this Project is in the same level of scale as the other projects, the site is appropriate, focusing on 100% affordable workforce housing is the most efficient use of what little land there is available for this, and it hits the target in terms of need.

RESPONSE TO VERBAL COMMENT B-18, KATHLEEN FOOTE

The comment expresses support for the Project but does not identify any concerns with respect to the content of the Draft EIR. No further response is warranted.

Verbal Comment B-19, Katy Butler

The commenter stated that she lives a block from a small public housing development that fits into the neighborhood. She said a positive environmental impact of this Project would be 30-50 people would not be driving from the East Bay, and that should be taken into account. She urged the Commission to move the project forward.

RESPONSE TO VERBAL COMMENT B-19, KATY BUTLER

The comment expresses support for the Project but does not identify any concerns with respect to the content of the Draft EIR. No further response is warranted.

Verbal Comment B-20, Victoria Holdridge (Marin Conservation League and Union Marin)

The commenter said that she is in favor of affordable housing and supports the Project. She was also in favor of asbestos monitoring 24/7, because five days a week is not good enough. She asked the Commission to recommend approval to the City Council.

RESPONSE TO VERBAL COMMENT B-20, VICTORIA HOLDRIDGE (MARIN CONSERVATION LEAGUE AND UNION MARIN)

With respect to asbestos monitoring, see Response to Written Comment A-23a. Otherwise, the comment expresses support for the Project but does not identify any other concerns with respect to the content of the Draft EIR. No further response is warranted.

Verbal Comment B-21, Kate McGerity

The commenter expressed concerns regarding the potential impacts of the EIR, the safety issue, and the high-density planning. She confirmed that the middle school and high school are within walking distance of the subject site, however, no primary or TK is within walking distance. She said one way to reduce potential accidents in Hauke Park is to reduce the size of the Project, reduce the amount of traffic, and also installing “sleeping policemen” in the road at 1 Hamilton, and Kipling and Longfellow.

RESPONSE TO VERBAL COMMENT B-21, KATE MCGERITY

With respect to the issue of pedestrian safety for park users, see Responses to Written Comments A-4b and A-10a. Otherwise, the comment expresses concern over various aspects of the Project but does not raise a specific concern about the content of the Draft EIR. No further response is warranted.

Verbal Comment B-22, Betsy Bickley

The commenter said that she looked at the serpentine soils issue and asked if there is a case history they could read about to be reassured. She said the Mill Valley Church has discussed the Project and very strongly supports affordable housing. She thought it would be wonderful to plant some native plants that are specific to serpentine soil where children could play. She was pleased with the amount of native plants that were being advised and said she would love to see the non-native plants along the front of the building changed to native.

RESPONSE TO VERBAL COMMENT B-22, BETSY BICKLEY

With respect to the subject of serpentine soils, see Response to Written Comment A-23a. Otherwise, the comment expresses support for the Project but does not raise a specific concern about the content of the Draft EIR. No further response is warranted.

Verbal Comment B-23, Françoise Rothstein

The commenter appreciated that Mill Valley was considering this type of affordable housing for the workforce, and she supports the Project.

RESPONSE TO VERBAL COMMENT B-23, FRANCOISE ROTHSTEIN

The comment expresses support for the Project but does not identify any concerns with respect to the content of the Draft EIR. No further response is warranted.

Verbal Comment B-24, Dennis Klein (Mill Valley Affordable Housing Committee)

The commenter spoke for the Mill Valley Affordable Housing Committee. He said if developed this would be the first affordable housing project in over 20 years. He said the design was excellent but needed some softening, and suggested if more money could be found that balconies should be added to each unit, softening the flat elevations into an exquisite monument to Mill Valley's decision to reintroducing income diversity, as in the days of old. He cited Dick Spotswood's comment that if they want more of such housing, make it pretty enough to make everybody want more of it, and there is plenty of time to make that happen, as construction will not begin for another two years.

RESPONSE TO VERBAL COMMENT B-24, DENNIS KLEIN (MILL VALLEY AFFORDABLE HOUSING COMMITTEE)

The comment expresses support for the Project and some critiques of the proposed Project design but does not identify any concerns with respect to the content of the Draft EIR. No further response is warranted.

Verbal Comment B-25, Brian Donohue

The commenter said that he fiercely supports the Project, because over 71,000 people commute from the East Bay and North Bay into Marin County, because there is limited housing here. He said Mill Valley needs this project, it is close to perfect, and he encouraged the Planning Commission to recommend it.

RESPONSE TO VERBAL COMMENT B-25, BRIAN DONOHUE

The comment expresses support for the Project but does not identify any concerns with respect to the content of the Draft EIR. No further response is warranted.

Verbal Comment B-26, Tay Franklin

The commenter said that the EIR is thorough and shows there are no significant, unavoidable impacts and that all the impacts of the Project could be addressed through standard mitigation measures. She added that so many Bay Area residents are low-income, and this is exactly the kind of project needed. She encouraged the Planning Commission to move the Project forward to the City Council.

RESPONSE TO VERBAL COMMENT B-26, TAY FRANKLIN

The comment expresses support for the Project but does not identify any concerns with respect to the content of the Draft EIR. No further response is warranted.

Verbal Comment B-27, Janet O.

The commenter said that the Project directly impacts her neighborhood and that they already have the sewage treatment plant, the PG&E substation, all existing affordable housing projects, and the densest housing in Mill Valley already. She noted staff's comment regarding the reduced parking plan and that there would be parking on the street but said there is not a lot of parking in the streets at all, because they have the densest housing already, so she is opposed to this parking plan and asked for it to be explored further. She said she believes in the environmental stewardship in Mill Valley and this Project reduces that by its location.

RESPONSE TO VERBAL COMMENT B-27, JANET O.

With respect to the issue of street parking, see Responses to Written Comments A-9a and A-10a. Otherwise, the comment raises general concerns about the Project but does not raise specific concerns over the content of the Draft EIR. No further response is warranted.

3.0 CHANGES TO THE DRAFT EIR

3.1 CEQA Requirements

CEQA Guidelines Section 15132 requires that a final EIR contain either the draft EIR or a revision of the draft EIR. This Final EIR incorporates the Draft EIR by reference and includes the revisions to the Draft EIR, as presented on the following pages.

This section contains text from the Draft EIR with changes indicated. Additions to the text are shown with underlined text (underline) and deletions are shown with strikethrough text (~~strikethrough~~). Explanatory notes in italic text (*italic*) precede each revision. The changes to the Draft EIR are organized and presented below by Draft EIR section number and title, with the Draft EIR page numbers (and paragraph numbers) also provided for each specific revision.

3.2 Changes to Volume I Section 1.0, Introduction

None.

3.3 Changes to Volume I Section 2.0, Summary

SECTION 2.3. SUMMARY OF SIGNIFICANT IMPACTS AND MITIGATION MEASURES

(Table 2.1 Summary of Significant Impacts and Mitigation Measures) The following revisions are made to individual mitigation measures in the third column from left “Mitigation Measure(s)”:

AIR QUALITY Mitigation Measure AQ-1

In accordance with CCR, Title 17, Section 93105, a Draft ADMP for the proposed Project has been prepared by Krazan & Associates (Appendix F). The ADMP shall be approved by BAAQMD prior to the start of construction activities at the Project site. The Draft ADMP identifies BMPs to reduce air particulate emissions resulting from soil disturbance or excavation associated with demolition, grading, utility work, construction of Project site infrastructure, and foundation construction. The ADMP shall be implemented in conjunction with the Project’s Site- Specific Health and Safety Plan (HASp). The ADMP also includes monitoring and reporting requirements. Air monitoring shall occur on a 24-hour/7-day per week basis during all periods of Project construction when native soils are exposed to wind within the Project work zone. The proposed Project shall implement all requirements of the Final ADMP as approved by the BAAQMD.

BIOLOGICAL RESOURCES Mitigation Measure BIO-1b

Special-status plants that are not listed under the Federal Endangered Species Act, the California Endangered Species Act, or the Native Plant Protection Act. If special-status plants are present and impacts to those plant populations cannot be avoided, seed or other propagules shall be harvested from at least 50 percent of plants within areas of impact. Harvested seed or propagules shall be stored for reintroduction into the preserved portion of the Project site.

Plants listed under the Federal Endangered Species Act, the California Endangered Species Act, or the Native Plant Protection Act. Of the special-status plants that require additional surveys, only two-fork clover (*Trifolium amoenum*), which is federally endangered, has a listing under any of the above acts. If two-fork clover is observed on the Project site, a determination will be made as to whether project-related impacts will



cause “jeopardy” to the species. If it is determined that the project will not cause jeopardy to the species, then the measures described above for non-listed plants will apply. If it is determined that the project will cause jeopardy to the species, a Habitat Management Plan (HMP), or similar document(s) by a different name(s), will be prepared by the City for the reintroduction area for two-fork clover. The HMP shall be approved by the U.S. Fish and Wildlife Service (USFWS) along with a summary of what species and mitigation measures it complies with. The HMP will include monitoring methods and performance criteria for post-construction monitoring, including criteria for the successful establishment and preservation of special-status plants within the reintroduction area. Success criteria will include:

- Habitat acreage for special-status plants in the reintroduction area will be equivalent to the acreage occupied by those species during the most recent survey that occurs prior to construction.
- Populations of special-status plants will be monitored annually for a minimum of 5 years following establishment of the reintroduction area.
- Management of invasive species such that species rated as “High” by the California Invasive Plant Council, with the exception of common non-native grasses that dominate undeveloped habitats in the surrounding area, will not collectively exceed 5 percent absolute cover within the reintroduction area.
- Based on the results of post-construction monitoring, adaptive management actions will be implemented, if necessary. Adaptive management actions may include reseeding and treatment of invasive species.

If propagation efforts do not meet performance standards, then the loss of individuals of special-status plants shall be compensated for through the acquisition, protection, and subsequent management of other existing occurrences. Before the implementation of compensation measures, the City shall provide detailed information to the USFWS on the quality of preserved habitat, location of the preserved occurrences, provisions for protecting and managing the areas, the responsible parties involved, and other pertinent information that demonstrates the feasibility of the compensation. A mitigation plan identifying appropriate mitigation ratios at a minimum ratio of 1:1 shall be developed in consultation with, and approved by, the USFWS prior to the commencement of any activities that would impact special-status plant species that occur at the Project site. A mitigation plan may include but is not limited to the following: the acquisition of off-site mitigation areas presently supporting the special-status species that would be unavoidably impacted by the Project or payment of in-lieu fees to a public agency or conservation organization (e.g., a local land trust) for the preservation and management of existing populations of special-status plants.

SECTION 2.4. SUMMARY OF ALTERNATIVES

(Page 28) The following correction is made to the number of alternatives evaluated in the DEIR:

This Draft EIR evaluates the environmental impacts of the following ~~four~~ three alternatives to the proposed Project.

(Page 28) The following correction is made to the first paragraph under “2.4.1 Alternative 1: No Project”:

CEQA Guidelines Section 15126.6 (e) requires the “No Project” alternative be evaluated along with its impacts. The “No Project” alternative analysis must discuss the existing

conditions, as well as what would be reasonably expected to occur in the foreseeable future if the Project were not approved, based on current plans and consistent with available infrastructure and community services. For this Project, there are two scenarios which might occur under the No Project Alternative, both of which will be described and analyzed in this Draft EIR. A description of each scenario is provided below.

(Page 29) The following correction is made to the last paragraph at the bottom of the page:

Implementation of the Reduced Density Alternative/Alternative 2, under either scenario, in place of the proposed Project would not avoid any of the Project's significant impacts; however, it would reduce the Project's air quality, cultural resources, and geology/soils impacts as compared with the proposed Project. As with the proposed Project, all of the Reduced Density Alternative's significant impacts could be reduced to a less-than-significant level with implementation of the mitigation measures presented in this EIR. The Reduced Density Alternative would fully meet one Project objective, would meet five ~~six~~ Project objectives to a lesser extent than the proposed Project, and would not meet ~~two~~one of the Project objectives.

(Page 30) The following correction is made to the last paragraph under "2.4.3. Alternative 3: Reduced Parking":

Implementation of the Reduced Parking Alternative/Alternative 3 in place of the proposed Project would not avoid any of the Project's significant impacts; however, it would reduce the Project's air quality, cultural resources, and geology/soils impacts as compared with the proposed Project. As with the proposed Project, all of the Reduced Parking Alternative's significant impacts could be reduced to a less-than-significant level with implementation of the mitigation measures presented in this EIR. The Reduced Parking Alternative would fully meet seven Project objectives and would not meet one of the Project objectives to a lesser extent than the proposed Project.

3.4 Changes to Volume I Section 3.0, Environmental Setting

None.

3.5 Changes to Volume I Section 4.0, Project Description

SECTION 4.2. PROJECT OBJECTIVES

(Page 41) The following changes are made to the Project objectives:

- To implement MV2040 General Plan Goal No. 2, to "encourage the continued diversity of housing, income levels and lifestyles within the community", and Mill Valley Housing Element 2023-2031 Program No. 10, which includes consideration of building multi-family affordable rental housing Projects at the 1 Hamilton Drive site.
- To provide new affordable housing units to meet the current and future housing needs of the community with very low, low, and affordable workforce incomes, including households with special needs.
- To provide affordable housing because of its positive impacts on diversity, equity and inclusion.
- To provide affordable housing because of its positive impact on families with more diverse economic backgrounds, joining Mill Valley schools and contributing to the community.

- To provide affordable housing near services, parks and schools.
- To affirm the City’s commitment to satisfying its Regional Housing Needs Assessment (RHNA) goals. ~~The Project site is part of the City’s sites inventory for the 2023-2031 Housing Element update.~~
- To construct a 100% affordable housing Project with at least 40 units, and up to 50 multifamily rental units ~~at the 1 Hamilton site~~ that is financially feasible by partnering with a non-profit affordable housing developer for the construction and on-going management of the housing facility.
- To maintain availability of and access to ~~at least 38 public parks, public parking spaces, and a public restroom facility adjacent to Hauke Park~~ other public amenities.

SECTION 4.4. CONSTRUCTION

(Page 47) The following correction is made to the final sentence on the page:

Runoff must not be allowed to run under or around the wattle.

3.6 Changes to Volume I Section 5.0, Environmental Analysis

SECTION 5.1. AESTHETICS

(Page 72) Figures 5.1-1 and 5.1-2 are added which include renderings of the Project site as it would appear during Project operation (see following pages).

(Page 72) The following reference to Figures 5.1-1 and 5.1-2 is added to the second paragraph under “Operation”:

The proposed housing building would be constructed against a hillside on the western side of Roque Moraes Drive. Due to the topography of the Housing Site, the mass and height of the housing building would be substantially obstructed from views from public streets to the north and east. In addition, public views of Pickleweed Inlet, Richardson Bay, and adjacent open space areas (including Mount Tamalpais) would not be completely obstructed by the proposed Project given its construction against the hillside and other intervening buildings and vegetation that limit some of these views to the public. Renderings of the proposed housing building as it would appear on the Project site from multiple vantage points are shown in Figure 5.1-1 and Figure 5.1-2.



View from residential side of Roque Moraes Drive



View from Roque Moraes Drive at Keats Drive



View from mound at Hauke Park



View from the baseball field at Hauke Park

Figure 5.1-1. Project Site Renderings

1 Hamilton Drive Affordable Housing Development
Mill Valley, California





View facing south on Hamilton Drive



View from Hauke Park



View from Hamilton Drive Across from Fire Station



View of the main entrance from Hamilton Drive

Figure 5.1-2. Project Site Renderings

1 Hamilton Drive Affordable Housing Development
Mill Valley, California



SECTION 5.2. AIR QUALITY

(Page 103) *The following changes are made to Mitigation Measure AQ-1 under “Air Monitoring”:*

Airborne asbestos dust monitoring is required when earth disturbing activities are active. The airborne asbestos dust monitoring network will consist of a network of high-volume air sampling instruments that are stationed around the perimeter of the Project site. If air monitoring stations detect levels of airborne asbestos above the action level, on-site work will be suspended until such time that the reported asbestos levels have declined below action levels. A detailed explanation of airborne asbestos dust monitoring is provided in Appendix D. Air monitoring shall occur on a 24-hour/7-day per week basis during all periods of Project construction when native soils are exposed to wind within the Project work zone.

SECTION 5.3. BIOLOGICAL RESOURCES

(Page 122) *The following changes are made to Mitigation Measure BIO-1b:*

Special-status plants that are not listed under the Federal Endangered Species Act, the California Endangered Species Act, or the Native Plant Protection Act, If special-status plants are present and impacts to those plant populations cannot be avoided, seed or other propagules shall be harvested from at least 50 percent of plants within areas of impact. Harvested seed or propagules shall be stored for reintroduction into the preserved portion of the Project site.

Plants listed under the Federal Endangered Species Act, the California Endangered Species Act, or the Native Plant Protection Act. Of the special-status plants that require additional surveys, only two-fork clover (*Trifolium amoenum*), which is federally endangered, has a listing under any of the above acts. If two-fork clover is observed on the Project site, a determination will be made as to whether project-related impacts will cause “jeopardy” to the species. If it is determined that the project will not cause jeopardy to the species, then the measures described above for non-listed plants will apply. If it is determined that the project will cause jeopardy to the species, a Habitat Management Plan (HMP), or similar document(s) by a different name(s), will be prepared by the City for the reintroduction area for two-fork clover. The HMP shall be approved by the U.S. Fish and Wildlife Service (USFWS) along with a summary of what species and mitigation measures it complies with. The HMP will include monitoring methods and performance criteria for post-construction monitoring, including criteria for the successful establishment and preservation of special-status plants within the reintroduction area. Success criteria will include:

- Habitat acreage for special-status plants in the reintroduction area will be equivalent to the acreage occupied by those species during the most recent survey that occurs prior to construction.
- Populations of special-status plants will be monitored annually for a minimum of 5 years following establishment of the reintroduction area.
- Management of invasive species such that species rated as “High” by the California Invasive Plant Council, with the exception of common non-native grasses that dominate undeveloped habitats in the surrounding area, will not collectively exceed 5 percent absolute cover within the reintroduction area.



- Based on the results of post-construction monitoring, adaptive management actions will be implemented, if necessary. Adaptive management actions may include reseeding and treatment of invasive species.

If propagation efforts do not meet performance standards, then the loss of individuals of special-status plants shall be compensated for through the acquisition, protection, and subsequent management of other existing occurrences. Before the implementation of compensation measures, the City shall provide detailed information to the USFWS on the quality of preserved habitat, location of the preserved occurrences, provisions for protecting and managing the areas, the responsible parties involved, and other pertinent information that demonstrates the feasibility of the compensation. A mitigation plan identifying appropriate mitigation ratios at a minimum ratio of 1:1 shall be developed in consultation with, and approved by, the USFWS prior to the commencement of any activities that would impact special-status plant species that occur at the Project site. A mitigation plan may include but is not limited to the following: the acquisition of off-site mitigation areas presently supporting the special-status species that would be unavoidably impacted by the Project or payment of in-lieu fees to a public agency or conservation organization (e.g., a local land trust) for the preservation and management of existing populations of special-status plants.

SECTION 5.6. NOISE

(Page 181) The following changes are made to the last paragraph to explain the significance of construction noise levels:

In accordance with guidance from the FTA (FTA 2006), construction noise impacts were evaluated by quantifying the maximum noise levels that would result from simultaneous operation of the two noisiest pieces of equipment near the perimeter of the Project site closest to a sensitive receptor. As shown in Table 5.6-3, the Project's construction noise levels were estimated at the nearest noise-sensitive receptor, a single-family residence located approximately 55 feet east of the Project site boundary and approximately 130 feet east of the closest structural wall of the proposed multifamily housing building. Based on this analysis, Project construction would not generate noise levels between 75 to 84 dBA at the nearest noise-sensitive receptor, above which would be below the 90 dBA Leq threshold at the nearest noise-sensitive receptor. Standard building structures provide approximately 12 to 15 dBA noise attenuation with windows open, and an average of 20 dBA attenuation with windows closed. Assuming windows closed, the interior noise levels at the nearest residential receptor would be around 55 to 64 dBA. According to Caltrans Technical Noise Supplement to the Traffic Noise Analysis Protocol (Caltrans, 2013), 55 to 64 dBA is about as loud as a commercial area on the upper bound, and as loud as a quiet urban area during daytime on the lower bound. In accordance with Caltrans Traffic Noise Analysis Protocol (Caltrans 2020b), 67 dBA is the approximate noise level at which the noise begins to interfere with human speech assuming two people are speaking. The noise levels of 55 to 64 dBA are not expected to interfere with human speech. In addition, due to the nature of construction activities, any increases in ambient noise levels in the project vicinity would be intermittent, short term, and temporary. It is to be noted that this analysis conservatively did not account for the steep slope between the eastern edge of the construction area and Roque Moraes Drive, which would provide additional noise attenuation at the single-family residential receptor. Additionally, the noise analysis used the distance between the property



boundary along Roque Moraes Drive and the nearest residential receptor (55 feet) rather than the greater distance between this receptor and the proposed housing structure (130 feet) where most of the construction noise would be generated.

SECTION 5.9. TRANSPORTATION

(Page 208) The figure reference in the first paragraph under “Parking Supply and Demand” is corrected as follows:

Parking supply and demand analysis was conducted for the four parking lots in the study area and along five street segments in the vicinity of the Project site (Figure TRAN5.9-3).

(Page 208) The table reference in the second paragraph under “Parking Supply and Demand” is corrected as follows:

Overall parking supply and occupancy data collected for each supply location was averaged over the daily data collection period from 10:00 AM to 8:00 PM and summarized in Table TRAN5.9-5).

(Page 214) The table reference in the first paragraph under “Existing Conditions” is corrected as follows:

Synchro intersection operations analysis yields intersection LOS results for the four Existing Condition peak hours as displayed in Table TRAN5.9-8.

(Page 214) The table reference in the last paragraph under “Cumulative Conditions” is corrected as follows:

Cumulative intersection operations analysis results are displayed in Table TRAN5.9-9.

(Page 217) The figure references in the first paragraph under “Cumulative Plus Project Level of Service” are corrected as follows:

“Cumulative Plus Project” estimated peak hour intersection turning movement volumes are shown in Figure TRAN5.9-4 and Figure TRAN5.9-5.

(Page 217) The table references in the second paragraph under “Cumulative Plus Project Level of Service” are corrected as follows:

“Cumulative Plus Project” LOS analysis results for weekday AM and PM peak hours and results for Saturday and Saturday with Soccer peak hours are displayed in Table TRAN5.9-10 and Table TRAN5.9-11.

(Page 226) The table reference at the end of the first partial paragraph at the top of the page is corrected as follows:

Trip generation rates account for trips made by all residents and are listed in Table TRAN5.9-12.

(Page 226) The table reference in the third full paragraph is corrected as follows:

Based on the Project development plans for up to 50 DU and daily trip generation rate of 7.92 trips per DU, the Project would generate a maximum of 396 trips per day, as displayed in Table TRAN5.9-13.

(Page 226) The table reference at the end of the last paragraph at the bottom of the page is corrected as follows:



Vehicle trip distribution gateways were identified for the Project study area, and trips were assigned to gateways based on trip distribution patterns (Table TRAN5.9-14).

(Page 228) The table reference in the last sentence of the paragraph under “Regional: TAM Congestion Management Program (2021)” is corrected as follows:

As shown in Table TRAN5.9-13, the Project would generate 26 total PM peak hour trips, and a CMP analysis is not required.

3.7 Changes to Volume I Section 6.0, Effects Determined Not to be Significant

None.

3.8 Changes to Volume I Section 7.0, Alternatives

SECTION 7.2. PROJECT OBJECTIVES AND SIGNIFICANT EFFECTS

(Page 253) The following changes are made to the Project objectives:

- To implement MV2040 General Plan Goal No. 2, to “encourage the continued diversity of housing, income levels and lifestyles within the community”, and Mill Valley Housing Element 2023-2031 Program No. 10, which includes consideration of building multi-family affordable rental housing Projects at the ~~1 Hamilton Drive~~ site.
- To provide new affordable housing units to meet the current and future housing needs of the community with very low, low, and affordable workforce incomes, including households with special needs.
- To provide affordable housing because of its positive impacts on diversity, equity and inclusion.
- To provide affordable housing because of its positive impact on families with more diverse economic backgrounds, joining Mill Valley schools and contributing to the community.
- To provide affordable housing near services, parks and schools.
- To affirm the City’s commitment to satisfying its Regional Housing Needs Assessment (RHNA) goals. ~~The Project site is part of the City’s sites inventory for the 2023-2031 Housing Element update.~~
- To construct a 100% affordable housing Project with at least 40 units, and up to 50 multifamily rental units at the ~~1 Hamilton~~ site that is financially feasible by partnering with a non-profit affordable housing developer for the construction and on-going management of the housing facility.
- To maintain availability of and access to ~~at least 38 public parks, public parking spaces, and a public restroom facility adjacent to Hauke Park~~ other public amenities.

SECTION 7.4. ALTERNATIVES CONSIDERED

(Page 265) The first two paragraphs under “Alternative 2 Attainment of Project Objectives” have been revised to read:

As Alternative 2 proposes 32-34 DU on the Housing Site, this Alternative would not meet the Project’s objectives to build a 40-50-unit 100% affordable housing project on the Housing Site. As described in the HEU SEIR, the City’s 6th cycle RHNA target is 865

residential units. Development of a smaller number of affordable residential housing units on the Project site would inhibit the City’s ability to meet the Housing Element Update objective of meeting the RHNA target with the recommended “buffer” of at least 15 percent above the RHNA target and would require that these additional units be accommodated elsewhere in the City.

Alternative 2 would fully meet only one Project objective, would meet six other objectives to a lesser extent than the proposed Project, and would not meet one Project objective. However, Ssignificantly, by failing to meet the Project objective to develop at least 40 and up to 50 affordable units, Alternative 2 jeopardizes the financial feasibility of the Project and thereby eliminates this alternative’s ability to satisfy any of the other Project objectives. The City’s previous feasibility analysis conducted by the Housing Workshop supports EAH Housing’s assumptions that building 100% affordable housing on the Project site is not economically feasible below 40- 45 units because, at a smaller scale, the property does not produce sufficient income to cover operating expenses or allow sufficient debt leverage (a bank loan). There are fixed baseline operating expenses, including items such as property staffing and property insurance. The income produced by rents after operating expenses are paid for is called net operating income (NOI), which is used to leverage debt in the form of a bank loan. For financial feasibility, the bank loan needs to cover a minimum of approximately 15% of the total development costs.

(Page 265) The following corrections are made to Table 7-1:

Table 7-1. Example of Financial Analysis Feasibility

	20 UNITS	30 UNITS	40 UNITS	50 UNITS
Rent Collected (\$1000 per month)	\$240,000	\$360,000	\$480,000	\$600,000
Salaries	\$150,000	\$150,000	\$150,000	\$150,000
NOI	\$90,000	\$210,000	\$330,000	\$450,000
Annual Supportable Debt Payment	\$78,261	\$182,609	\$286,957	\$391,304
Income (Cash Flow)	\$11,739	\$27,391	\$43,043	\$58,696
Bank Loan*	\$13,833,586	\$32,278,368	\$50,723,150	\$69,167,932
	\$971,142	\$2,265,999	\$3,560,855	\$4,855,712

*Assumes DSREGDSCR 1.15, 30-year loan at 4.25 7 percent

(Page 273) The paragraph under “Alternative 3 Attainment of Project Objectives” has been revised as follows:

Removing the podium building associated with the parking garage reduces the overall construction costs for the proposed Project, while also maintaining the maximum unit count to support property operations and project feasibility. However, Alternative 3 would only partially meet all of the objectives of the proposed Project; however, it would

meet one objective to a lesser extent than the Project. Under this Alternative, approximately 50 affordable residential rental units would be constructed on the Project site, which would satisfy Project objectives related to providing affordable housing. However, this Alternative would not include designated residential parking spaces on the Housing Site. Approximately 25 designated residential parking spaces would be provided in the proposed Lot B on the northern side of the PSB. Residents of the proposed housing building would also be allowed to utilize nearby street parking. This Alternative, however, ~~would conflict with the Project objective to maintain the availability of 38 public parking spaces adjacent to Hauke Park, because it would instead~~ would provide 25 public parking spaces which would constitute a net reduction in public parking compared to the increase in public parking spaces offered by the proposed Project. Although Lot A of the reconfigured PSB lot would still be available to the public, these 25 parking spaces are farther away from Hauke Park. In addition, the City has received several public comments expressing concern about the removal of public parking spaces impacting Hauke and Bayfront Park visitors because the parking could be used by residents of the proposed housing development. Therefore, Alternative 3 would attain the Project objective of maintaining availability of and access to public parking spaces to a lesser extent than the proposed Project.

(Page 273) The second sentence in the paragraph under “Air Quality” is corrected as follows:

Specifically, the Reduced ~~Density~~ Parking Alternative would reduce the amount of cut into the hillslope by 3,700 cubic yards as compared to the proposed Project.

(Page 275) The second sentence in the paragraph under “Public Services” is corrected as follows:

Therefore, the impact of the Reduced ~~Density~~ Parking Alternative on public services would remain less than significant, the same as the proposed Project.

(Page 276) The first partial sentence at the top of the page and the subsequent paragraph are corrected as follows:

Reduced ~~Density~~ Parking Alternative would have a less than significant impact related to conflicts with programs, plans, ordinances, or policies addressing the circulation system.

The proposed Project would result in a less than significant impact related to CEQA Guidelines Section 15064.3(b), which pertains to VMT. The Draft EIR determined that the proposed Project meets VMT screening thresholds for affordable housing development and therefore would be presumed to have less than significant VMT impacts. The Reduced ~~Density~~ Parking Alternative would also meet the affordable housing screening criteria and would therefore result in less than significant VMT impacts. Similar to the proposed Project, the Reduced ~~Density~~ Parking Alternative would result in less than significant impacts associated with hazards caused by geometric design features and emergency access. A CMP would be prepared for the Reduced ~~Density~~ Parking Alternative which would include measures to maintain vehicle safety and emergency vehicle access during construction. Operational impacts associated with hazards caused by geometric design features and emergency access would remain less than significant, the same as the proposed Project.

SECTION 7.5. ENVIRONMENTALLY SUPERIOR ALTERNATIVE

(Page 276) The last paragraph at the bottom of the page has been corrected as follows:



Based on the analysis provided in the above sections and in the Alternatives Comparison 2, it has been determined that Alternative 1: No Project would be the environmentally superior alternative. Of the other “build” alternatives, Alternative 3: ~~No~~ Reduced Parking would be the environmentally superior alternative.

(Table 7-3: Alternatives Comparison – Ability to Meet Basic Objectives of the Project) The following changes are made to the Project objectives listed in the left-side “Project Objective” column of the table:

- To implement MV2040 General Plan Goal No. 2, to “encourage the continued diversity of housing, income levels and lifestyles within the community”, and Mill Valley Housing Element 2023-2031 Program No. 10, which includes consideration of building multi-family affordable rental housing Projects ~~at the 1 Hamilton Drive site.~~
- To provide new affordable housing units to meet the current and future housing needs of the community with very low, low, and affordable workforce incomes, including households with special needs.
- To provide affordable housing because of its positive impacts on diversity, equity and inclusion.
- To provide affordable housing because of its positive impact on families with more diverse economic backgrounds, joining Mill Valley schools and contributing to the community.
- To provide affordable housing near services, parks and schools.
- To affirm the City’s commitment to satisfying its Regional Housing Needs Assessment (RHNA) goals. ~~The Project site is part of the City’s sites inventory for the 2023–2031 Housing Element update.~~
- To construct a 100% affordable housing Project with at least 40 units, and up to 50 multifamily rental units ~~at the 1 Hamilton site~~ that is financially feasible by partnering with a non-profit affordable housing developer for the construction and on-going management of the housing facility.
- To maintain availability of and access to ~~38 public parks,~~ public parking spaces, and restroom facilities ~~adjacent to Hauke Park~~ other public amenities.

(Table 7-3: Alternatives Comparison – Ability to Meet Basic Objectives of the Project) The following changes are made to the table rows shown below (the wording of the Project objectives reflects the revised wording per the previous changes listed above):

PROJECT OBJECTIVE	PROPOSED PROJECT	ALTERNATIVE 1: NO PROJECT	ALTERNATIVE 2: REDUCED DENSITY	ALTERNATIVE 3: REDUCED PARKING
To implement MV2040 General Plan Goal No. 2, to “encourage the continued diversity of housing, income levels and lifestyles within the community”, and Mill Valley Housing Element 2023-2031 Program No. 10, which includes consideration of building multi-family affordable rental housing Projects. at the 1 Hamilton Drive site.	Yes	No	Yes, but to a lesser extent	Yes
To provide new affordable housing units to meet the current and future housing needs of the community with very low, low, and affordable workforce incomes, including households with special needs.	Yes	No	Yes, but to a lesser extent	Yes
To provide affordable housing because of its positive impacts on diversity, equity and inclusion.	Yes	No	Yes, but to a lesser extent	Yes
To provide affordable housing because of its positive impact on families with more diverse economic backgrounds, joining Mill Valley schools and contributing to the community.	Yes	No	Yes, but to a lesser extent	Yes
To provide affordable housing near services, parks and schools.	Yes	No	Yes, but to a lesser extent	Yes
To affirm the City’s commitment to satisfying its Regional Housing Needs Assessment (RHNA) goals. The Project site is part of the City’s sites inventory for the 2023-2031 Housing Element update.	Yes	No	No-Yes	Yes
To construct a 100% affordable housing Project with at least 40 units and up to 50 multi-family rental units at the 1 Hamilton site that is financially feasible by partnering with a non-profit affordable housing developer for the construction and on-going management of the housing facility.	Yes	No	No	Yes

PROJECT OBJECTIVE	PROPOSED PROJECT	ALTERNATIVE 1: NO PROJECT	ALTERNATIVE 2: REDUCED DENSITY	ALTERNATIVE 3: REDUCED PARKING
To maintain availability of and access to 38 public parks, public parking spaces, and restroom facilities adjacent to Hauke Park. other public amenities.	Yes	Yes	Yes	No Yes, but to a lesser extent

3.9 Changes to Volume I Section 8.0, Other CEQA Considerations

(Page labeled “Appendix G” that is the first page of Section 8.0, other CEQA Considerations) This page and all following page numbers are revised to correct a page numbering error in the Draft EIR. The first page of this section shall be page 289, the second shall be page 290, and so on.

3.10 Changes to Volume I Section 9.0, Sources and Report Preparers

SECTION 9.1. SOURCES

(Page currently unlabeled that is the first page of Section 9.0, Sources and Report Preparers) This page and all following page numbers are revised to correct a page numbering error in the Draft EIR. The first page of this section shall be page 291, the second shall be page 291, and so on.

(Page currently unlabeled that is revised per the comment above to be Page 292) The following references have been added that were included in-text in the Draft EIR but were missing the full citation in Section 9.0:

[OEHHA 2015] Office of Environmental Health Hazard Assessment. 2015. Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments.

[PIERS 2022] PIERS Environmental Services. 2022. Phase I Environmental Site Assessment Report. Project No. 22015. Mill Valley.

[USEPA 2023] United States Environmental Protection Agency. 2023. Accessed October 19, 2023. <https://www.epa.gov/criteria-air-pollutants#:~:text=The%20Clean%20Air%20Act%20requires,known%20as%20%22%20criteria%20air%20pollutants.>

(Page currently unlabeled that is revised per the comment above to be Page 297) The following references under “Noise” have been revised or added:

[Caltrans 2013] California Department of Transportation, 2013. Technical Noise Supplement to the Traffic Noise Analysis Protocol, September.

[Caltrans 2020a] California Department of Transportation. 2020a. Transportation and Construction Vibration Guidance Manual.

[Caltrans 2020b] California Department of Transportation, 2020b. Traffic Noise Analysis Protocol for New Highway Construction, Reconstruction, and Retrofit Barrier Projects, April.

(Page currently unlabeled that is revised per the comment above to be Page 299) The following references at the top of the page have been revised or added:

[DWR 2019] Department of Water Resources. 2019 Sustainable Groundwater Management Act 2019 Basin Prioritization, State of California. Accessed October 16, 2023. [https://water.ca.gov/programs/groundwater-management/basin-prioritization.](https://water.ca.gov/programs/groundwater-management/basin-prioritization)

[MMWD 2021] Marin Municipal Water District. 2021. 2020 Urban Water Management Plan for Marin Municipal Water District. Public Review Draft May 2021. Accessed October 2023.

[Marin Water 2022] Marin Water. 2022. Water Watch. Accessed November 17, 2022. <https://www.marinwater.org/waterwatch>



3.11 Changes to Volume II Appendix F, Geologic Engineering/Geologic Hazards Investigation

A revised version of this study was completed too late for inclusion in the Draft EIR; however, the analysis in the Draft EIR relied upon the content of the revised version. This revised version, now included as Appendix B of this Final EIR, replaces the earlier version of the same report that was included as Appendix F of the Draft EIR. The revisions consist of adding missing references and clarifying the discussion of pre-Quaternary faulting in the area.



4.0 MITIGATION MONITORING AND REPORTING PROGRAM

4.1 Introduction

CEQA Guidelines (California Code of Regulations, Title 14), Section 15097, requires public agencies to adopt reporting or monitoring programs when they approve projects to an EIR or negative declaration that includes mitigation measure to avoid significant environmental effects. The reporting or monitoring program shall be designed to ensure compliance with conditions of project approval during project implementation in order to avoid significant adverse environmental effects.

This Mitigation Monitoring and Reporting Program (MMRP) has been prepared pursuant to CEQA Guidelines Section 16097, which state the following:

“In order to ensure that the mitigation measures and project revisions identified in the EIR or negative declaration are implemented, the public agency shall adopt a program for monitoring or reporting on the revisions which it has required in the project and the measures it has imposed to mitigate or avoid significant environmental effects. A public agency may delegate reporting or monitoring responsibilities to another public agency or to a private entity which accepts the delegation; however, until mitigation measures have been completed the lead agency remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with the program.

The public agency may choose whether its program will monitor mitigation, report on mitigation, or both. “Reporting” generally consists of a written compliance review that is presented to the decision-making body or authorized staff person. A report may be required at various stages during project implementation or upon completion of the mitigation measure. “Monitoring” is generally an ongoing or periodic process of project oversight. There is often no clear distinction between monitoring and reporting and the program best suited to ensuring compliance in any given instance will usually involve elements of both.”

4.2 Mitigation Monitoring and Reporting Program

The basis for this MMRP are the mitigation measures included in the Project EIR. These mitigation measures are designed to eliminate or reduce significant adverse environmental effects of the Project to less than significant levels. The City has agreed to implement the mitigation measures as required, before and during implementation of the proposed Project.

Table 4-1 below presents the potentially significant impacts and proposed mitigation measures identified in the 1 Hamilton Drive Affordable Housing Development Draft EIR, the timing of implementation of the mitigation measures (i.e., when the measure will be implemented), the City staff or individual responsible for ensuring implementation of each mitigation measure, and the City staff member or individual responsible for monitoring the mitigation measures.



Table 4-1. Mitigation Monitoring and Reporting Program

MITIGATION MEASURES	MONITORING RESPONSIBILITY	MONITORING/REPORTING ACTION & SCHEDULE	MONITORING COMPLIANCE RECORD (NAME/DATE)
AIR QUALITY			
<p>Mitigation Measure AQ-1: In accordance with CCR, Title 17, Section 93105, a Draft ADMP for the proposed Project has been prepared by Krazan & Associates (Appendix F of the Draft EIR). The ADMP shall be approved by BAAQMD prior to the start of construction activities at the Project site. The Draft ADMP identifies BMPs to reduce air particulate emissions resulting from soil disturbance or excavation associated with demolition, grading, utility work, construction of Project site infrastructure, and foundation construction. The ADMP shall be implemented in conjunction with the Project’s Site-Specific Health and Safety Plan (HASP). The ADMP also includes monitoring and reporting requirements. Air monitoring shall occur on a 24-hour/7-day per week basis during all periods of Project construction when native soils are exposed to wind within the Project work zone.</p> <p>The proposed Project shall implement all requirements of the Final ADMP as approved by the BAAQMD.</p>	<p>City of Mill Valley Planning & Building Department; BAAQMD; Developer’s Construction Manager</p>	<p>ADMP Approval: prior to issuance of building permit; ADMP Implementation and Monitoring: Ongoing daily throughout demolition, grading, and dust generation phases of construction period.</p>	<p>Initials _____</p> <p>Date _____</p>
BIOLOGICAL RESOURCES			
<p>HEU SEIR Mitigation Measure 7-1: The City of Mill Valley will impose a standard condition of approval to be complied with prior to the approval of project plans for: 1) undeveloped housing sites, 2) housing sites within 100 feet of aquatic habitat, or 3) housing sites supporting native vegetation or trees, requiring that applicants of such sites submit a biological resources assessment prepared by a qualified biologist to the City of Mill Valley Planning and Building Department for review and approval. The biological resource assessment shall include the following information as necessary to determine whether special status species are likely to be on the site:</p> <p style="margin-left: 40px;">a. Database searches to determine if special-status species have been recorded as occurring within the general vicinity. Databases include the California Department of Fish and Wildlife’s California Natural Diversity Database, the</p>	<p>City of Mill Valley</p>	<p>Completed Biological Resources Technical Report was prepared as part of Draft EIR. See project-specific mitigation below.</p>	<p>Initials <u>SDR</u></p> <p>Date <u>11/1/2023</u></p>

MITIGATION MEASURES	MONITORING RESPONSIBILITY	MONITORING/REPORTING ACTION & SCHEDULE	MONITORING COMPLIANCE RECORD (NAME/DATE)
<p>California Native Plant Society Rare and Endangered Plant Inventory, the US Fish and Wildlife Service Endangered Species Program, the US Fish and Wildlife Service National Wetland Inventory; and other biological studies conducted in the vicinity of the housing site, if available.</p> <p>b. Field surveys to:</p> <ul style="list-style-type: none"> i. Identify and map the principal plant communities; ii. Determine the potential for special-status species and their habitats, wildlife movement corridors, potentially jurisdictional wetlands and waterways, regulated trees, and other significant biological resources to occur; and iii. Identify and map any observed locations of special-status species and/or habitats. <p>c. The biological resources assessment report shall include a description of existing habitats and plant and animal species found on the housing site, and the occurrence of and/or potential for special-status species and their habitats. One or more figures shall be prepared to illustrate habitat types and the location(s) of special-status species occurring on or in the vicinity of the housing site. If potential impacts to biological resources are identified, the applicant shall be required to work with the appropriate local, regional, state, or federal agency to determine what measures are required in order to minimize or avoid impacts to special-status species and incorporate those measures into the project.</p>			
<p>HEU SEIR Mitigation Measure 7-2: The City shall require, prior to construction of the housing sites identified above in mitigation measure 7-1, measures for the protection of biological resources identified in the biological resources assessment report or by another regional, state, or federal</p>	<p>City of Mill Valley</p>	<p>Completed Biological Resources Technical Report was prepared as part of Draft</p>	<p>Initials <u>SDR</u></p> <p>Date <u>11/1/2023</u></p>

MITIGATION MEASURES	MONITORING RESPONSIBILITY	MONITORING/REPORTING ACTION & SCHEDULE	MONITORING COMPLIANCE RECORD (NAME/DATE)
<p>agency with jurisdiction shall be incorporated into the project design and documentation of compliance shall be submitted to the City of Mill Valley's Planning and Building Department prior to the issuance of building permits.</p> <p>Measures may include, but are not limited to:</p> <ol style="list-style-type: none"> 1. Focused plant surveys conducted during the appropriate time of year; 2. Protocol-level wildlife surveys; 3. Preconstruction surveys; 4. Incidental take permits from the California Department of Fish and Wildlife and/or U.S. Fish and Wildlife Service; 5. Permits from the U.S. Army Corps of Engineers, California Department of Fish and Wildlife, and/or Regional Water Quality Control Board for impacts to jurisdictional aquatic features; and/or 6. Arborist or forestry reports for projects requiring tree removal or the protection of trees adjacent to an impact area. 		EIR. See project-specific mitigation below.	
<p>Mitigation Measure BIO-1a: Pre-construction botanical surveys shall be conducted within the Project site by a qualified biologist during the appropriate timeframe when plants with moderate potential to occur are evident and identifiable. One survey shall be conducted in mid-April, and one in mid-May. If observed, populations or individuals shall be flagged and fully avoided by a 10-foot no-disturbance buffer.</p>	City of Mill Valley Planning and Building Department	During specified timeframes and prior to building permit issuance and any demolition, grading, or construction activities.	<p>Initials _____</p> <p>Date _____</p>
<p>Mitigation Measure BIO-1b:</p> <p>Special-status plants that are not listed under the Federal Endangered Species Act, the California Endangered Species Act, or the Native Plant Protection Act. If special-status plants are present and impacts to those plant populations cannot be avoided, seed or other propagules shall be harvested from at least 50 percent of plants within areas of impact. Harvested seed or propagules</p>	City of Mill Valley Planning and Building Department	<p>Seed and/or propagule collection shall occur prior to the start of demolition, grading, or construction activities.</p> <p>Reintroduction of seed and/or propagules shall occur during the first autumn following</p>	<p>Initials _____</p> <p>Date _____</p>

MITIGATION MEASURES	MONITORING RESPONSIBILITY	MONITORING/REPORTING ACTION & SCHEDULE	MONITORING COMPLIANCE RECORD (NAME/DATE)
<p>shall be stored for reintroduction into the preserved portion of the Project site.</p> <p>Plants listed under the Federal Endangered Species Act, the California Endangered Species Act, or the Native Plant Protection Act. Of the special-status plants that require additional surveys, only two-fork clover (<i>Trifolium amoenum</i>), which is federally endangered, has a listing under any of the above acts. If two-fork clover is observed on the Project site, a determination will be made as to whether project-related impacts will cause “jeopardy” to the species. If it is determined that the project will not cause jeopardy to the species, then the measures described above for non-listed plants will apply. If it is determined that the project will cause jeopardy to the species, a Habitat Management Plan (HMP), or similar document(s) by a different name(s), will be prepared by the City for the reintroduction area for two-fork clover. The HMP shall be approved by the U.S. Fish and Wildlife Service (USFWS) along with a summary of what species and mitigation measures it complies with. The HMP will include monitoring methods and performance criteria for post-construction monitoring, including criteria for the successful establishment and preservation of special-status plants within the reintroduction area. Success criteria will include:</p> <ul style="list-style-type: none"> • Habitat acreage for special-status plants in the reintroduction area will be equivalent to the acreage occupied by those species during the most recent survey that occurs prior to construction. • Populations of special-status plants will be monitored annually for a minimum of 5 years following establishment of the reintroduction area. • Management of invasive species such that species rated as “High” by the California Invasive Plant Council, with the exception of common 		<p>completion of construction activities.</p>	



MITIGATION MEASURES	MONITORING RESPONSIBILITY	MONITORING/REPORTING ACTION & SCHEDULE	MONITORING COMPLIANCE RECORD (NAME/DATE)
<p>non-native grasses that dominate undeveloped habitats in the surrounding area, will not collectively exceed 5 percent absolute cover within the reintroduction area.</p> <ul style="list-style-type: none"> Based on the results of post-construction monitoring, adaptive management actions will be implemented, if necessary. Adaptive management actions may include reseeding and treatment of invasive species. <p>If propagation efforts do not meet performance standards, then the loss of individuals of special-status plants shall be compensated for through the acquisition, protection, and subsequent management of other existing occurrences. Before the implementation of compensation measures, the City shall provide detailed information to the USFWS on the quality of preserved habitat, location of the preserved occurrences, provisions for protecting and managing the areas, the responsible parties involved, and other pertinent information that demonstrates the feasibility of the compensation. A mitigation plan identifying appropriate mitigation ratios at a minimum ratio of 1:1 shall be developed in consultation with, and approved by, the USFWS prior to the commencement of any activities that would impact special-status plant species that occur at the Project site. A mitigation plan may include but is not limited to the following: the acquisition of off-site mitigation areas presently supporting the special-status species that would be unavoidably impacted by the Project or payment of in-lieu fees to a public agency or conservation organization (e.g., a local land trust) for the preservation and management of existing populations of special-status plants.</p>			
<p>Mitigation Measure BIO-2: To the extent feasible, Project-related activities shall be avoided during the nesting bird season, generally defined as February 1 – August 31. If Project work must occur during the nesting bird season, pre-construction nesting bird surveys shall be conducted within 7 days of ground disturbance or tree/vegetation</p>	<p>City of Mill Valley Planning and Building Department</p>	<p>Surveys must be conducted within seven days of initial ground disturbance or tree/vegetation removal. Any active nests identified during the survey shall be avoided</p>	<p>Initials _____</p> <p>Date _____</p>

MITIGATION MEASURES	MONITORING RESPONSIBILITY	MONITORING/REPORTING ACTION & SCHEDULE	MONITORING COMPLIANCE RECORD (NAME/DATE)
<p>removal to avoid disturbance to active nests, eggs, and/or young of nesting birds. These surveys shall determine the presence or absence of active nests that may be affected by Project activities.</p> <p>If an active nest is identified, a no disturbance buffer shall be established around the nest until all young have fledged or the nest otherwise becomes inactive (e.g., due to predation). Suggested buffer zone distances differ depending on species, location, baseline conditions, and placement of nest and shall be determined and implemented in the field by a qualified biologist.</p>		<p>during construction until a qualified biologist determines that they are no longer active.</p>	
CULTURAL AND TRIBAL CULTURAL RESOURCES			
<p>HEU SEIR Mitigation Measure 13-1: Consultation with the Federated Indians of Graton Rancheria is required for each proposed housing project in the 6th Cycle Housing Element. Consultation may result in mitigation measures beyond those identified herein. The Planning Department will ensure that all acceptable mitigation measures are implemented prior to issuance of a grading permit.</p>	<p>City of Mill Valley Planning and Building Department</p>	<p>Consultation commenced during preparation of Draft EIR. See project-specific mitigation below.</p>	<p>Initials <u>SDR</u></p> <p>Date <u>11/1/2023</u></p>
<p>HEU SEIR Mitigation Measure 13-2: The City of Mill Valley shall impose the following standard condition of approval for all sites identified in the Housing Element Update that are: 1) not completely developed and 2) original surface soils are visible: an archaeological inspection and archaeological records search shall be required prior to approval of the project. The archaeological inspection and records search may result in mitigation measures beyond those identified herein. The Planning Department will ensure that acceptable mitigation measures are implemented prior to issuance of a grading permit.</p>	<p>City of Mill Valley Planning and Building Department</p>	<p>An Archaeological Resources Inventory was prepared as part of the Draft EIR. See project-specific mitigation below.</p>	<p>Initials <u>SDR</u></p> <p>Date <u>11/1/2023</u></p>
<p>HEU SEIR Mitigation Measure 13-5: The City of Mill Valley shall impose the following standard condition of approval for all sites identified in the Housing Element Update: work shall be halted within 50 feet of potential archaeological resources when uncovered or discovered. Construction workers shall avoid altering the materials and their context. Project personnel shall not collect</p>	<p>City of Mill Valley Planning and Building Department</p>	<p>During ground-disturbing activities. Also see corresponding project-specific mitigation below.</p>	<p>Initials _____</p> <p>Date _____</p>

MITIGATION MEASURES	MONITORING RESPONSIBILITY	MONITORING/REPORTING ACTION & SCHEDULE	MONITORING COMPLIANCE RECORD (NAME/DATE)
<p>cultural materials. Prehistoric materials might include obsidian and/or chert flaked-stone tools such as projectile points, knives, or scraping implements, the debris from making, sharpening, and using them (“debitage”); culturally darkened soil containing shell, dietary bone, heat-altered rock, and carbonized plant material (“midden”); or stone milling equipment such as mortars, pestles, handstones, or milling slabs. A qualified professional archaeologist shall evaluate the find and provide appropriate recommendations. If the archaeologist determines that the find potentially qualifies as a historic resource or unique archaeological resource for purposes of CEQA (per CEQA Guidelines Section 15064.5), all work must remain stopped in the immediate vicinity to allow the archaeologist to evaluate any materials and recommend appropriate treatment. A Native American monitor shall be present for the investigation, if the local Native American tribe request. Avoidance of impacts to the resource are preferable. In considering any suggested measures proposed by the consulting archaeologist in order to mitigate impacts to historical resources or unique archaeological resources, the City shall determine whether avoidance is feasible in light of factors such as the nature of the find, Project design, costs, and other considerations. If avoidance is infeasible, other appropriate measures are recommended by the archaeologist (e.g., data recovery) shall be instituted. Work may proceed on other parts of the Project while mitigation for the historic resources or unique archaeological resources is being carried out.</p>			
<p>HEU SEIR Mitigation Measure 13-6: The City of Mill Valley shall impose the following standard condition of approval for all sites identified in the Housing Element Update: If human remains, associated grave goods, or items of cultural patrimony are encountered during construction, the City shall halt work in the vicinity of the find and notify the County Coroner immediately. The City shall follow the procedures in Public Resources Code § 5097.9 and Health and Safety Code § 7050.5. If the human remains are determined to be of Native American origin,</p>	<p>City of Mill Valley Planning and Building Department</p>	<p>During ground-disturbing activities. Also see corresponding project-specific mitigation measure CUL-2 below.</p>	<p>Initials <u>SDR</u></p> <p>Date <u>11/1/2023</u></p>

MITIGATION MEASURES	MONITORING RESPONSIBILITY	MONITORING/REPORTING ACTION & SCHEDULE	MONITORING COMPLIANCE RECORD (NAME/DATE)
<p>the Coroner shall notify the Native American Heritage Commission within 24 hours of the determination. The Native American Heritage Commission shall then notify the Most Likely Descendant (MLD), who has 48 hours to make recommendations to the landowners for the disposition of the remains. A qualified archaeologist, the City and the MLD shall make all reasonable efforts to develop an agreement for the treatment, with appropriate dignity, of any human remains and associated or unassociated funerary objects. The agreement would take into consideration the appropriate excavation, removal recordation, analysis, custodianship, and final disposition of the human remains and associated or unassociated funerary objects.</p>			
<p>HEU SEIR Mitigation Measure 13-7: Identified cultural resources shall be recorded on DPR 523 historic resource recordation forms, prior to issuance of a building permit.</p>	<p>City of Mill Valley Planning and Building Department</p>	<p>Prior to occupancy if resources are identified during construction.</p>	<p>Initials _____ Date _____</p>
<p>Mitigation Measure CUL-1: Project construction crews shall be trained in “basic cultural and tribal resources identification” and have access to a Cultural Resources Awareness Sheet. The sheet shall photographically depict shell midden and associated indicators of precontact and historic-era archaeological sites, and clearly outline the procedures in the event of a new archaeological discovery. These procedures include temporary work stoppage (Stop-Work Order) of all ground disturbance, short-term physical protection of artifacts and their context, and immediate advisement of the cultural resources team and City representatives. Any Stop-Work Order would contain a description of the work to be stopped, special instructions or requests for the Contractor, suggestions for efficient mitigation, and a time estimate for the work stoppage. The archaeologist, in coordination with the consulting tribe (as appropriate) shall examine the findings and assess their significance and offer recommendations for any procedures deemed appropriate to further investigate</p>	<p>City of Mill Valley Planning and Building Department</p>	<p>Prior to issuance of a building permit and ongoing throughout the demolition, grading, and ground-disturbing activities.</p>	<p>Initials _____ Date _____</p>

MITIGATION MEASURES	MONITORING RESPONSIBILITY	MONITORING/REPORTING ACTION & SCHEDULE	MONITORING COMPLIANCE RECORD (NAME/DATE)
and/or mitigate adverse impacts to archaeological and tribal resources that have been encountered.			
<p>Mitigation Measure CUL-2: Upon discovery, the Coroner Division of the Marin County Sheriff’s Office will be contacted for identification of human remains. The coroner has 48 hours to examine the remains after being notified. If the remains are Native American, the Coroner must notify the Native American Heritage Commission (NAHC) of the discovery within 24 hours. The NAHC will then identify and contact a Most-Likely Descendant (MLD). The MLD may make recommendations to the owner, or representative, for the treatment or disposition, with proper dignity, of the remains and funerary items. Once formal notification and consultation has occurred, a procedure that may include the preservation, excavation, analysis, and curation of artifacts and/or reburial of those remains and associated artifacts will be developed and implemented in collaboration with the MLD and the City.</p> <p>If the remains are not Native American, the Coroner will consult with the cultural resources team and the lead agency to develop a procedure for the proper study, documentation, and ultimate disposition of the remains. If a determination can be made as to the likely identity, either as an individual or as a member of a group, of the remains, an attempt should be made to identify and contact any living descendants or representatives of the descendant community. As interested parties, these descendants may make recommendations to the owner, or representative, for the treatment or disposition, with proper dignity, of the remains and funerary items.</p>	City of Mill Valley Planning and Building Department	Ongoing throughout project demolition, grading, and ground-disturbing activities. Should any remains be identified, the NAHC shall be notified of the discovery within 24 hours.	<p>Initials _____</p> <p>Date _____</p>

MITIGATION MEASURES	MONITORING RESPONSIBILITY	MONITORING/REPORTING ACTION & SCHEDULE	MONITORING COMPLIANCE RECORD (NAME/DATE)
GEOLOGY AND SOILS			
<p>Mitigation Measure GEO-1: The Project shall incorporate into design and implementation the recommendations of the <i>Geotechnical Engineering/Geologic Hazards Investigation</i> prepared by Krazan (Appendix F). The purpose of these recommendations is to stabilize the surface soils on the housing development site to reduce risks associated with geologic hazards.</p>	<p>City of Mill Valley Planning and Building Department</p>	<p>Prior to issuance of a building permit and ongoing throughout the demolition, grading, and construction period.</p>	<p>Initials _____</p> <p>Date _____</p>
<p>Mitigation Measure GEO-2: Project construction crews shall be trained in “basic paleontological resource identification” procedures, including the use of illustrative examples. Should paleontological resources be encountered during Project subsurface construction activities, all ground-disturbing activities within 25 feet shall be redirected and a qualified paleontologist contacted to assess the situation, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. If the resources are found to be significant, and they cannot be avoided by Project activities, adverse effects on such resources shall be mitigated. Mitigation may include monitoring, recording of the fossil locality, data recovery and analysis, a final report, and accessioning of the fossil material and technical report to a paleontological repository. Public educational outreach may also be appropriate. Upon completion of the assessment, a report documenting methods, findings, and recommendations shall be prepared and submitted to the City for review, and (if paleontological materials are recovered) a paleontological repository, such as the University of California Museum of Paleontology.</p>	<p>City of Mill Valley Planning and Building Department</p>	<p>Prior to issuance of a building permit and ongoing throughout the demolition, grading, and ground-disturbing activities. Should any resources be identified, the report shall be completed prior to project occupancy.</p>	<p>Initials _____</p> <p>Date _____</p>
GREENHOUSE GAS EMISSIONS			
<p>HEU SEIR Mitigation Measure 9-1: Applicants for all new individual development projects proposed to implement the 6th Cycle Housing element and for which applications are deemed complete by the City prior to the City adopting and updated, qualified climate action plan,</p>	<p>City of Mill Valley Planning and Building Department</p>	<p>Prior to issuance of a building permit and prior to final inspection and occupancy.</p>	<p>Initials _____</p> <p>Date _____</p>



MITIGATION MEASURES	MONITORING RESPONSIBILITY	MONITORING/REPORTING ACTION & SCHEDULE	MONITORING COMPLIANCE RECORD (NAME/DATE)
<p>incorporate the project design performance standards identified in items “a” and “b”:</p> <p>a. No permanent natural gas infrastructure shall be permitted as part of the improvement plans for individual development projects. Individual projects shall be all electric; and</p> <p>Electric vehicle infrastructure (e.g., electric vehicle parking spaces, charging station infrastructure, chargers, etc.) consistent with CAL Green Tier 2 mandatory standards in effect at the time individual building permits are issued shall be installed in all individual development projects.</p>			
NOISE			
<p>HEU SEIR Mitigation Measure 10-2: The City of Mill Valley shall impose the following standard condition of approval for all sites identified in the Housing Element Update: a Construction Noise Management Plan shall be prepared by the construction contractor and implemented prior to the start of and throughout construction to reduce noise impacts on the nearby existing land uses. The plan will rely on project-level calculations of construction noise and achievable noise level reduction. The plan will establish the procedures the contractor will take to reasonably minimize construction noise at the nearby existing land uses. Additionally, consistent with the MVMC Section 7.16.090(D), the plan would include, but not be limited to, the following measures to reduce construction noise levels as low as practical:</p> <ul style="list-style-type: none"> • Limit construction to the hours of 7:00 AM to 6:00 PM on weekdays. No noise generating construction activities shall occur on weekends or holidays. • Limit noise from construction workers’ radios to the point where they are not audible at existing residences that border the project site. • Locate stationary noise-generating equipment and staging areas as far as 	<p>City of Mill Valley Planning and Building Department</p>	<p>Prior to issuance of a building permit and ongoing throughout the demolition, grading, and construction period.</p>	<p>Initials _____</p> <p>Date _____</p>

MITIGATION MEASURES	MONITORING RESPONSIBILITY	MONITORING/REPORTING ACTION & SCHEDULE	MONITORING COMPLIANCE RECORD (NAME/DATE)
<p>possible from sensitive receptors when sensitive receptors adjoin or are near a construction project area.</p> <ul style="list-style-type: none"> • Prohibit unnecessary idling of internal combustion engines. • Consider temporary noise barriers during construction phases involving earth moving equipment (e.g., grading operations) where they would be effective in reducing the construction noise impact, when directly adjoining sensitive receptors. An eight-foot plywood noise barrier could reduce noise levels by at least 5 dBA. • Notify residents adjacent to the project site of the construction schedule in writing. <p>Post the project's approved construction management plan on the site, which shall include the address, project information, allowable truck route, carpooling requirements, allowable construction hours, site supervisor, and emergency contact.</p>			
UTILITIES AND SERVICE SYSTEMS			
<p>HEU SEIR Mitigation Measure 14-1: The City of Mill Valley shall impose the following standard condition of approval for all sites identified in the Housing Element Update are proposed prior to approval of an updated MMWD Urban Water Management Plan, shall be required to obtain verification from MMWD prior to approval of planning applications that adequate water supplies exist to support the project.</p>	<p>City of Mill Valley Planning and Building Department</p>	<p>Prior to building permit issuance.</p>	<p>Initials _____</p> <p>Date _____</p>

APPENDIX A.
PLANNING COMMISSION MEETING MINUTES



MILL VALLEY PLANNING COMMISSION

MINUTES

REGULAR MEETING OF TUESDAY, NOVEMBER 28, 2023

COUNCIL CHAMBERS, CITY HALL, 6:30 PM

26 CORTE MADERA AVENUE

PLANNING COMMISSION MEMBERS:

Jon Yolles – Chair
Eric Macris – Vice Chair
Ernest Cirangle
Gregory Hildebrand
Kevin Skiles

(00:00:00)

CALL TO ORDER:

(00:00:06)

ROLL CALL:

(00:00:20)

PUBLIC OPEN TIME: Time for comments from members of the public on issues not on this Planning Commission agenda. (Limited to 3 minutes per person.)

None.

(00:00:50)

APPROVAL OF AGENDA:

It was **M/s** by Vice Chair Macris/Commissioner Hilderbrand to approve the agenda as presented.

The motion was carried 5/0.

(00:01:09)

DISCLOSURE OF CONFLICTS OF INTEREST OR EX PARTE COMMUNICATIONS:

None.

PUBLIC HEARING:

(00:01:19)

- 1. 1 Hamilton Drive – Affordable Multi-Family Housing Project – PL23-5167 (Ross)**

A Design Review application to construct an affordable housing development on the northerly portion of the City-owned property at 1 Hamilton Drive (Assessor's Parcel 030-250-01). The project includes the construction of a four-story podium-style building with 45 affordable housing units, ground floor parking garage with 63 residential parking spaces and outdoor courtyard for residents. The project also includes the replacement of the existing 38 public parking spaces and public restroom facilities on the site. The existing Public Safety Building (PSB) parking lot will be reconfigured to include up to 50 public parking spaces, public restrooms, and electric vehicle charging. Secured parking for police and fire vehicles will be provided in the rear of the PSB parking lot. A Tree Removal Permit is required to remove approximately 45 trees with replacement landscaping proposed. The project also includes an amendment to the Zoning Map to rezone the 1.75-acre housing site from Open Area (O-A) to Multi-Family Bayfront (RM-B). The City of Mill Valley Planning Department, as lead agency under the California Environmental Quality Act (CEQA), has prepared a Draft Environmental Impact Report (EIR) for the proposed project. The Planning Department will accept written public comments on the Draft EIR through December 15, 2023. Oral comments on the Draft EIR will be received at the November 28 Planning Commission meeting. At the close of the public hearing Planning Commission will consider the Draft EIR and make a recommendation to City Council to finalize and certify the EIR. See the project website to access application materials, including the Draft EIR: www.cityofmillvalley.org/hamilton.

- A. Resolution No. 23-06, to recommend that City Council finalize and certify the Final Environmental Impact Report (EIR) for the 1 Hamilton Affordable Housing Project (State Clearinghouse Number 2022120597; APN 030-250-01); and
- B. Resolution No. 23-07, to recommend that City Council approve rezoning of the northern portion of 1 Hamilton Drive (APN 030-250-01), from "Open Area" (O-A) to "Residential Multi-Family Bayfront" (RM-B) and update the Zoning Map; and
- C. Resolution No. 23-08, to recommend that City Council approve the design review and tree removal permit applications for the proposed affordable housing project including modifications to the Public Safety Building site at 1 Hamilton Drive (APN 030-250-01).

Staff Presentation from Director of Planning and Building Patrick Kelly

Staff Presentation from Senior Planner Steve Ross

Presentation from Applicant Bianca Neumann of EAH Housing

Presentation from Applicant/Architect Rick Williams of Van Meter William Pollack

Staff Presentation from Senior Planner Steve Ross

Public Comment

Elizabeth O'Donnell:

She spoke regarding the airborne asbestos mitigation plan for 1 Hamilton, because the sport field for children and the toddler park are across the street and the Mill Valley Middle School is located 1,000 feet downwind from the subject site. She said the EIR contains only the minimum required measures to mitigate the release of toxic airborne asbestos and a more comprehensive effort should be made to prevent as much asbestos as possible from being released. She added that a more comprehensive effort should also be made to monitor any airborne asbestos, because the current EIR outlines only a minimum air monitoring effort that does not include holidays and weekends, but it is essential that air monitoring occur 24/7. She asked if the City planned to close Hauke Park during the months of construction?

Caroline Heider, Longfellow Road:

She had previously expressed concern that this project is too large and that the EIR identifies several areas of potential significant environmental impacts. She said two alternative density plans were considered but dismissed on the grounds that recommended mitigation would reduce these impacts, but she disagreed and asked the Commission to consider these alternatives: 1) Reduce the overall height to three stories, reduce the number of units to 32, reduce the amount of cut into the hillside, and reduce the developable net floor area to 51,000 square feet. 2) Eliminate the east wing, which would reduce the number of units to 34, a 32% reduction, reduce the amount of cut into the hillside, and reduce the net floor area to 54,000 square feet. She said either alternative reduces the project's air quality, cultural resources, and geology soils impacts compared to the proposed project.

Dave Wygant:

He lives near Hauke Park where he and his kids go every day, and he coaches soccer there. He said there are peak times when there are traffic safety issues for kids because: Hamilton Drive does not have good visibility, the park abuts right next to Hamilton, Roque Moraes curves around, the intersection at Roque and Hamilton is unorthodox, the bathrooms are across the street, kids crossing the street without looking both ways, soccer balls going into the street, and because the chain fence along Hamilton has been broken for many years. He said he has brought these issues up for years and nothing is being done, and at this point the City needs to prove that it can protect kids' safety; affirming this project now would say the opposite. He suggested a decision be deferred for further exploration and deliberation and to make changes.

Eileen Fisher, 321 Vista Linda Drive:

She was excited this project is moving forward and appreciates the work done by EAH Housing and the City of Mill Valley. She is not a close neighbor of Hauke Park but hoped the concern of the nearby neighbors would be addressed, because this project is so important that it is equal to the concerns of the neighbors. She requested the Commission advise the City Council to approve the project and move forward.

Nona Dennis, 69 Marlin Avenue:

She represented the Marin Conservation League and said the site is ideal for this kind of use, and this kind of site for this kind of 100% affordable housing in Marin County is very, very rare. The

Marin Conservation League is a conservation organization but they understand the changing times and now have a housing policy statement, and the subject site ticks off all the boxes for an idea site for this kind of affordable housing.

Nanette Zavala, Live Oak Drive:

She thought the City needed to get moving on this project, because affordable housing is so desperately needed. She believed the concerns of the neighbors have been met.

David Kennedy, Enchanted Knolls:

He believed one part of the EIR contains an error: Section 7.4.2; Alternative to Reduced Density, Table 7-1, Example of Financial Analysis Feasibility. The line in the table titled “Bank Loan” has numbers that look too high by a factor of ten, and this calls into question the financial viability of the project based on the assumptions that are presented in the EIR, and it needs to be clarified.

Mark Breitbard, Roque Moraes Drive:

He said he supports affordable housing and lives near an EAH property in Mill Valley, but this project has been conflicted since the beginning. He thought the EIR was inadequate and addressed two issues: 1) It confirms there is a conflict between what alternative is reasonable for this location given the slope and different aspects of it and the number of units required to make the project financially viable. This is a fundamental conflict, meaning that what is right for Mill Valley and the neighborhood is not necessarily right for EAH and this project, and that conflict needs to be addressed. 2) They did an independent study of asbestos, and not only is it uniquely bad in this location but particularly hazardous. He believed that what the Planning Commission considers mitigation to meet a threshold of significance is not adequate for the neighborhood and is a major danger.

Delia Moreo (phonetic):

She is an EAH resident in San Rafael. She waited ten years for her Section 8 approval and it was such a struggle to find one apartment. She believed Mill Valley is overdue for EAH apartments for teachers and the workforce, etc. She thought the proposed apartment building was beautiful.

Jeralyn Seiling, Longfellow Drive:

She said that during the February 28, 2023 Planning Commission meeting many residents expressed their concern about the General Plan land use designation change for the proposed site, and the City Attorney stated that taking action on it would in no way limit the City’s discretion to keep the status quo for the site, in other words, decline to approve the project. The City Attorney further stated that, “We can go through the whole process and if the City Council doesn’t like the final result, they can just revert to a parking lot or keep it status quo.” The Draft EIR now asserts the exact opposite and confirms the residents’ fears that a no-project alternative would no longer be an option. She added that this language in the Draft EIR is a fancy way of stating that the City will be without any discretion to approve the no-project alternative, because the City cannot make land use decisions that are inconsistent with its General Plan, and Mill Valley’s General Plan specifically requires consistency and states, “State law requires that the actions and decisions of each local government concerning *both its own projects* and the private projects it approves be consistent with it’s adopted General Plan.” She asked the Commission to

note the reference to the City's own projects, which is what the City Attorney relied on to assert that the City would have continuing discretion, so there will be no going back from this. She urged the Commission to pause the process and check the facts, because every time this project comes before the Planning Commission and City Council there is frantic pressure to push it through that is not seen with other sites.

Regina Bianucci Rus:

She spoke on behalf of the League of Women Voters of Marin County. They believe the 1 Hamilton project would result in much needed affordable family housing for Mill Valley and building on City-owned land would result in a lower development cost. The project is consistent with the City's General Plan goals and the City Council's interest in increasing the diversity of the available housing, and the project would provide housing for many who must now commute from outside the community. She urged the Commission to forward the project to the City Council.

Marta Villela, Shoreline Highway, and Judith Bloomberg, San Rafael:

They represent the Marin Organizing Committee and asked the Commission to recommend approval of the 1 Hamilton Drive project to the City Council. One reason is the project is 100% affordable and would generate 45 affordable apartments. Another benefit is the location, perfect for families with quick access to schools, Hauke Park, stores, etc. They were sure any defects found in the EIR would be mitigated so the project can move forward.

Margaret Fisher, 70 Helens Lane:

She was proud of Mill Valley for doing this, because the City needs this housing. She appreciated the Planning Commission's methodical process that encompasses people's input. She supported the enhanced crosswalks for safety and the air quality monitoring. She asked for a contact number for people who have complaints.

Jenny Silva:

She spoke as the board chair for the Marin Environmental Housing Cooperative. They strongly supported the project and urged the Commission to accept the EIR and recommend it for City Council approval. She said the EIR experts on their board have reviewed the EIR and say it is comprehensive and complete, the impacts are mitigated, and they believe this is a strong EIR that should be supported. She also urged the Commission to move with haste, because this is overdue and the need for housing is great. She said this is actually a very small project, and the complaints made come up with every single project, no matter the size or location.

Paula McGrath, Kipling Drive:

She addressed the section of the Draft EIR related to parking and traffic beginning on page 207, which states that excess on-street parking exists in the vicinity and is available in the first 500 feet of Kipling North from Roque Moraes, but overlooks the fact that due to its narrowness Kipling Drive becomes a one-lane street when cars are parked on both sides. She added that the traffic data collection discussion beginning on page 211 is incomplete, because although it summarizes traffic volumes and collision history near the project, it does not consider the issue of excessive speed, and the interaction of more street parking and excessive speed on Kipling is concerning. She also noted the project provided no guest parking, so those guests would likely

park on Kipling. She thought there needed to be further study on this issue and asked the Planning Commission to delay a recommendation until that has been addressed.

Ruth Holly:

She lives in the neighborhood and is opposed to the project, the State laws that led to this project, the Housing Element recommendations that were created through a flawed process, and the City acting as a housing developer against the interests of her neighborhood. She said the way to get affordable housing is to have a free land with opportunity for everybody to thrive and be creative, and if there needs to be low-income housing, there should be a charitable way of providing that.

Nicole Champagne, Overhill Road:

She strongly supports the project and urged the Planning Commission to support it as well and allow it to move forward quickly. She said the Bay Area faces an enormous affordable housing crisis and they need to build affordable housing. She thought the project's design was beautiful and this space is ideal because it is walkable to schools, stores, and open space.

Kathleen Foote, Manor Drive:

As mayor of Mill Valley in 1986 she cut the ribbon at the grand opening of Pickleweed Apartments, and in 1991 as a City Council member was part of the groundbreaking at Alto Station. Her Council redid the General Plan that involved a drastic reduction in development potential for all the open areas, because it was recognized at the time and incorporated in the General Plan that there was a tradeoff, which was infill and affordable housing particularly, and that has been carried forward. She said if the City had not actively initiated Alto Station and Pickleweed they would not have happened, and if the City had not done it in this case it would not have happened. She said this project is in the same level of scale as the other projects, the site is appropriate, focusing on 100% affordable workforce housing is the most efficient use of what little land there is available for this, and it hits the target in terms of need.

Katy Butler, 119 Evergreen Avenue:

She lives a block from a small public housing development that fits into the neighborhood. She said a positive environmental impact of this project would be 30-50 people would not be driving from the East Bay, and that should be taken into account. She urged the Commission to move the project forward.

Victoria Holdridge, San Rafael:

She was in favor of affordable housing and supported the project. She was also in favor of asbestos monitoring 24/7, because five days a week is not good enough. She asked the Commission to recommend approval to the City Council.

Kate McGerity, 101 Longfellow Road:

She expressed concerns regarding the potential impacts of the EIR, the safety issue, and the high-density planning. She confirmed that the middle school and high school are within walking distance of the subject site, however, no primary or TK is within walking distance. She said one way to reduce potential accidents in Hauke Park is to reduce the size of the project, reduce the

amount of traffic, and also installing “sleeping policemen” in the road at 1 Hamilton, and Kipling and Longfellow.

Betsy Bickley, 335 Hazel Avenue:

She looked at the serpentine soils issue and asked if there is a case history they could read about to be reassured. She said the Mill Valley Church has discussed the project and very strongly supports the affordable housing. She thought it would be wonderful to plant some native plants that are specific to serpentine soil where children could play. She was pleased with the amount of native plants that were being advised, and said she would love to see the non-native plants along the front of the building changed to native.

Francoise Rothstein:

She appreciated that Mill Valley was considering this type of affordable housing for the workforce, and she supported the project.

Dennis Klein, 347 Hazel Avenue:

He spoke for the Mill Valley Affordable Housing Committee. He said if developed this would be the first affordable housing project in over 20 years. He said the design was excellent but needed some softening, and suggested if more money could be found that balconies should be added to each unit, softening the flat elevations into an exquisite monument to Mill Valley’s decision to reintroducing income diversity, as in the days of old. He cited Dick Spotswood’s comment that if they want more of such housing, make it pretty enough to make everybody want more of it, and there is plenty of time to make that happen, as construction will not begin for another two years.

Brian Donohue, 119 Evergreen Avenue:

He said he fiercely supports the project, because over 71,000 people commute from the East Bay and North Bay into Marin County, because there is limited housing here. He said Mill Valley needs this project, it is close to perfect, and he encouraged the Planning Commission to recommend it.

Tay Franklin:

She said the EIR is thorough and shows there are no significant, unavoidable impacts and that all the impacts of the project could be addressed through standard mitigation measures. She added that so many Bay Area residents are low-income and this is exactly the kind of project needed. She encouraged the Planning Commission to move the project forward to the City Council.

Janet Holclaus (phonetic), 50 Kipling Drive:

She said the project directly impacts her neighborhood and that they already have the sewage treatment plant, the PG&E substation, all existing affordable housing projects, and the densest housing in Mill Valley already. She noted staff’s comment regarding the reduced parking plan and that there would be parking on the street, but said there is not a lot of parking in the streets at all, because they have the most dense housing already, so she is opposed to this parking plan and asked for it to be explored further. She said she believes in the environmental stewardship in Mill Valley and this project reduces that by its location.

Commission Pre-Deliberation

Commissioner Hilderbrand said the EIR was extremely extensive and contained a lot of information regarding mitigation. He said after listening to the public comments he agreed that more robust monitoring and mitigation measures are needed because of the serpentine rock. He said the air monitoring should be 24/7. He said serpentine rock is common, but the community is very concerned about it and they need to be as careful as they can.

Commissioner Skiles said when the applicants get their Bay Area Air Quality Management District permit, a part of getting their building permit first, testing will be required in order to condition specifically what the test and requirements have to be based on the soil and surface conditions, so the right level of monitoring will be finely calibrated.

Commissioner Hilderbrand said the overall driver of what they are doing is Mill Valley's General Plan Goal #2: "Encourage the continued diversity of housing, income levels, and lifestyles within the community." He said this is in the Draft EIR and is the overall responsibility of the Planning Commission, community, and State laws, even though it may be problematic. He added that Section 14, Item E of the Draft EIR says, "...to provide affordable housing near services, parks, and schools," and said to fight climate change they have to help the community become bikeable and walkable by having affordable housing and the density of housing near services, parks, and schools. He responded to the public comment saying an elementary school is not within walking distance of the subject site by saying that Edna McGuire Elementary School is right on the bike path and he sees families walking and biking to there, and also Park Elementary School in Sycamore Park is within walking and biking distance.

Commissioner Skiles referred to the staff report, Exhibit B, Specific Conditions of Approval, Condition 2, Line 37, and said the Commission would be approving: "The Director of Planning and Building may require that the developer return to the Planning Commission if the staff believes that the podium height could be lowered further," basically saying we acknowledge that the drawings currently say 16 feet, the project architect thinks he can potentially lower it a couple of feet, and if the Director does not feel as though it is being adequately demonstrated that they can't lower the garage height, then he can require them to return to the Commission to explain why. He added that the other way to do it would be conditioning that the garage height should be lowered 2 feet unless the architect and applicant can demonstrate that there is no feasible way to have it at that height and so it has to be raised to 15-16 feet.

Commissioner Hilderbrand said the project architect has been clear that typically all the equipment is on a flat roof, but that does not fit the style of Mill Valley, so they have to take into account that they have the slope of the rainwater liters as well as other considerations and he believed the applicant would do the best they could, but all the things the architect mentioned is because the Commission wants a sloped roof that looks like the community center and wants PV on the roof. He said just telling the architect he needs to lower the roof height to 14 feet is not realistic and the applicant would soon be back before the Planning Commission. He thought it is worded well that they would do their best, it would come back, and the Commission would have a chance to review it.

Commissioner Cirangle said it was well worded, but there had been a lot of discussion about the target of 14 feet and how that was potentially achievable, but yet he didn't see that wording in there. He said he would stop short of saying they *have* to make it 14 feet, but if that target is verbalized it would be a good target.

Chair Yolles responded that if the Commission modified the language as he and Commissioner Skiles indicated, the applicants would simply have to demonstrate why they couldn't achieve a target.

Vice Chair Macris said the project architect made a good case for giving some flexibility in figuring out a complicated mechanical design, so they need to allow for that. He said everyone is asserting that they want a lower ceiling height, and he wondered what incentive they could provide while still allowing that flexibility? He said there is already the incentive that it is cheaper to build something lower, but another one is no one wants to come before the Planning Commission, and giving staff and the Director of Planning and Building discretion to determine whether or not that is warranted is a good idea.

Commissioner Skiles suggested the language be reworded to say the condition is to have the floor height be 14 feet, but gives discretion to the Director of Planning and Building to increase that up to 2 feet if the architect demonstrates the infeasibility of making the mechanical and plumbing systems work in the ceiling of the garage space. That would be a way of giving the flexibility so it doesn't trigger a hearing, but it puts it on the applicant to demonstrate the infeasibility of it instead of vice versa.

Chair Yolles said he thought they were serving the community better by showing them proactively that they are trying to get the building down by 2 feet, and given the amount of concern heard about its size and mass and the desire for less units, the least they could do is try to move in that spirit. He said from his personal experience that people design and build and price to what they are given, and even though there may inherently be less cost in keeping a building shorter there are going to be all sorts of tradeoffs, and if we make them go to a point it will be easier for them, it will be clearer to them, and if they absolutely can't get there, then they'll have the ability to demonstrate it.

Vice Chair Macris said that is a cogent argument for setting a lower bar and exceeding it only as necessary, but then the question comes up of how low to set the bar?

Chair Yolles suggested reducing the height by at least 2 feet, or as much as possible, unless they can demonstrate why they cannot do so.

Vice Chair Macris responded that that would lock them into that height and it could never be less than 14 feet.

Chair Yolles said he accounted for that with "or as much as possible," so it could actually be lower than 14 feet if possible, and it would potentially be in their interest to do so.

Commissioner Hilderbrand said the Commission needed to be realistic about the roof height. He did not believe with the garage height could be 14 feet, because they need to consider maintaining 8 feet, 2 inches and the thickness of the slab, then the slope of all the rainwater liters, and all the mechanical equipment in the garage. He said he is all for it, but if they tell the applicant the garage roof height has to be 14 feet, they're going to come back and say they need a flat roof. He thought the Commission could condition 15 feet, but to say 14 feet or lower.

Commissioner Skiles proposed adjusting the language of Condition of Approval 2, Exhibit B to state, "The height of the ground floor podium should be reduced to 14 feet, but the Director of Planning and Building may permit an increase in that height up to 16 feet if the architect demonstrates that it is infeasible to provide the required systems and still maintain clearance for handicapped accessibility in the garage."

Commission Deliberation

Vice Chair Macris said this project has had 12 public hearings over three years and he continues to believe this site is a sensible and good location for affordable housing. He said the public had raised important concerns about traffic, safety, massing, the impact on Hauke Park, and asbestos, but he thought the EIR addressed the concerns thoroughly, and most importantly, found no significant impacts. He was in favor of proceeding with the recommendations under consideration.

Commissioner Hilderbrand said the design details the architect has brought into the project have improved through the process, and the architect had done a good job of creating a balance between the community center and this site. He appreciated the architect being able to pull off no mechanical equipment on the roof, and getting the roof style, board and batten, the sun shades, the change of texture into the horizontal siding, and the trellises. He said the goal was to show what is possible with affordable housing so people will understand it benefits the community. He said this project has sustainable design at the level where the future is with its rooftop panels, all electric building, EV charging infrastructure, Energy Star appliances, and mechanical and radiant heating systems, among other elements. He preferred the Alternate 1 center pair of colors that has a more neutral top and a nice contrast with the color below it. He said there needs to be more contrast with the trellis stain, and the middle stain is not the right color to go with the paint colors and would look tired over time. He said the darker beam stain shown on the far right would be a nice compliment to the two paint colors in Alternate 1. He said the rest of the materials look fabulous, the architect had done a great job of changing the pattern in the railings so there is a symmetry to it that looks great, and the color palette was really nice.

Commissioner Cirangle agreed with his fellow commissioners that input has significantly improved the project over time and achieved many of the goals set. He agreed that the design is quite appropriate for the site. He thought a slightly darker paint color to pick up on the darkness of the trellis and handrails would be good. He agreed with Commissioner Hilderbrand that the middle color range is the right direction, particularly the lower color, and suggested the upper color be slightly darker to get slightly less contrast. He said the materials have a nice relationship to each other. He said the building had achieved the objectives of stepping up the hill and the relationship to the street.

Commissioner Skiles said this would be a project they will be proud of and he was excited to see it happen, so he was in full support of the three motions being recommended to them, with the one condition the Commission added, to recommend for approval to the City Council.

Chair Yolles asked if Commissioner Skiles' suggested additional condition of approval said a reduction of *at least* 2 feet, not 2 feet.

Staff confirmed that the language said, "The height of the ground floor podium should be reduced to 14 feet..."

Commissioner Skiles said "at least 2 feet from the proposed 16 feet" would make it more precise. He added it is understood that the height of the entire building would come down if that 2-foot reduction were achieved.

Chair Yolles qualified the idea of demonstrating infeasibility, saying in addition to physically infeasible they could also demonstrate financial infeasibility. He recommended City Council consider modifying the DA in the lease so that it unilaterally can reserve the right to retain the land not required for development of the property for whatever public use it deemed feasible.

Staff confirmed that suggestion would create some fallout effects on their documentation, but density also is changed based on the size of the property, and then potentially setback lines.

Chair Yolles said the only way to address the housing crisis is to build their way out of it, which is why the State allocated Mill Valley with a requirement to build 865 homes by 2031. He reiterated the consequences that if Mill Valley does not make real progress toward that number its discretionary review could be eliminated, meaning no opportunity for the public to make comments and no opportunity for the Planning Commission to look out for the community and their concerns. He thought the Commission had done its duty by providing a forum for people to make additional comments regarding CEQA, and based on his review he was satisfied with the EIR. He thought one car leaving the site every two to four minutes during peak hours is not the rush hour scenario some have predicted. He was also satisfied with the soil conditions, especially with the dust mitigation plan already done; with pedestrian safety improvements; and with the additional parking the project provides, which allays the fear that parking would be reduced.

(03:17:06)

It was **M/s** by Commissioner Skiles/Vice Chair Macris to adopt Resolution No. 23-06, recommending the City Council finalize and certify the EIR for the project; adopt Resolution No. 23-07, recommending the City Council approve rezoning the site; and adopt Resolution No. 23-08, recommending the City Council approve the design review and tree removal permit application subject to the modified condition number two below:

2. The height of the ground floor podium, which is proposed as 16 feet (from finished floor of the Ground Level to finished floor of 2nd Floor), shall be reduced by at least 2 feet (to 14 feet or less, with the building height proportionally reduced) unless the developer clearly demonstrates the need for greater podium height to achieve the minimum height

necessary to accommodate parking garage clearances and mechanical systems for the building. Prior to submittal of construction drawings for a building permit application, the developer shall meet with the Director of Planning & Building to review the proposed podium design height in relation to required building systems and code constraints to ensure the podium height is the minimum height necessary, therefore minimizing the overall building height . The Director of Planning & Building may require that the developer return to the Planning Commission for review if staff believes that the podium height could be lowered further. “

The motion was carried 5/0.

()
APPROVAL OF MINUTES: None.

()
LIAISON REPORTS: None.

()
PLANNING AND BUILDING DIRECTOR’S ORAL REPORT: Report on items being considered by the City Council. None.

(03:18:23)
ADJOURN:

Chair Yolles adjourned the meeting.

Any decision made by the Planning Commission on the above items may be appealed to the City Council by filing a letter with the Planning Department within 10 calendar days describing the basis for the appeal accompanied by the \$250 appeal fee.

APPENDIX B.
FINAL GEOTECHNICAL REPORT



**GEOTECHNICAL ENGINEERING/
GEOLOGIC HAZARDS INVESTIGATION
PROPOSED MULTI-FAMILY
RESIDENTIAL DEVELOPMENT
1 HAMILTON DRIVE
MILL VALLEY, CALIFORNIA**

PROJECT NO. 042-22001
AUGUST 2, 2023
(REVISED AUGUST 15, 2023)

Prepared for:

**MR. PATRICK KELLY
CITY OF MILL VALLEY
26 CORTE MADERA AVENUE
MILL VALLEY, CALIFORNIA 94941**

Prepared by:

**KRAZAN & ASSOCIATES, INC.
GEOTECHNICAL ENGINEERING DIVISION
1061 SERPENTINE LANE, SUITE F
PLEASANTON, CALIFORNIA 94566
(925) 307-1160**

August 2, 2023
(Revised August 15, 2023)

KA Project No. 042-22001

Mr. Patrick Kelly
City of Mill Valley
26 Corte Madera Avenue
Mill Valley, California 94941

**RE: Geotechnical Engineering Investigation
Proposed Multi-Family Residential Development
1 Hamilton Drive
Mill Valley, California**

Dear Mr. Kelly:

In accordance with your request, we have completed a Geotechnical Engineering Investigation for the above-referenced site. The results of our investigation are presented in the attached report.

If you have any questions, or if we may be of further assistance, please do not hesitate to contact our office at (925) 307-1160.

Respectfully submitted,
KRAZAN & ASSOCIATES

David R. Jarosz, II
Managing Engineer
RGE No. 2698/RCE No. 60185



DRJ:wa

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August 2, 2023
(Revised August 15, 2023)

KA No. 042-22001

**GEOTECHNICAL ENGINEERING/GEOLOGIC HAZARDS INVESTIGATION
PROPOSED MULTI-FAMILY RESIDENTIAL DEVELOPMENT
1 HAMILTON DRIVE
MILL VALLEY, MARIN COUNTY, CALIFORNIA**

INTRODUCTION

This report presents the results of our Geotechnical Engineering/ Geologic Hazards Investigation for the proposed multi-family residential development to be located at 1 Hamilton Drive in Mill Valley, Marin County, California. Discussions regarding site conditions are presented herein, together with conclusions and recommendations pertaining to site preparation, Engineered Fill, utility trench backfill, drainage and landscaping, foundations, concrete floor slabs and exterior flatwork, retaining walls, and soil cement reactivity.

A site plan showing the approximate boring locations is presented following the text of this report. A description of the field investigation, boring logs, and the boring log legend, are presented in Appendix A. Appendix A also contains a description of the laboratory testing phase of this study, along with the laboratory test results. Appendices B and C contain guides to earthwork and pavement specifications. When conflicts in the text of the report occur with the general specifications in the appendices, the recommendations in the text of the report have precedence.

PURPOSE AND SCOPE

This investigation was conducted to evaluate the soil and groundwater conditions at the site, to make geotechnical engineering recommendations for use in design of specific construction elements, and to provide criteria for site preparation and Engineered Fill construction.

Our scope of services was outlined in our revised proposal dated January 17, 2022 (KA Proposal No. P956-21) and included the following:

- A site reconnaissance by a member of our engineering staff to evaluate the surface conditions at the project site.
- A review of available data for evaluation of subsurface conditions at the project site.
- Aerial photograph interpretation.
- A search of geologic and seismologic literature pertaining to the area of the site.

- Evaluation of potential geologic hazards.
- A field investigation consisting of drilling 5 borings to depths ranging from approximately 10 to 34 feet for evaluation of the subsurface conditions at the project site. The deep boring was terminated due to auger refusal.
- Performing laboratory tests on representative soil samples obtained from the borings to evaluate the physical and index properties of the subsurface soils.
- Evaluation of the data obtained from the investigation and an engineering analysis to provide recommendations for use in the project design and preparation of construction specifications.
- Preparation of this report summarizing the results, conclusions, recommendations, and findings of our investigation.

PROPOSED CONSTRUCTION

It is understood that the proposed development will include the construction of new four-story structure to be supported on conventional shallow foundations or drilled piers. Foundation loads are anticipated to be light to moderate.

In the event these structural or grading details are inconsistent with the final design criteria, the Soils Engineer should be notified so that we may update this writing as applicable.

SITE LOCATION, SITE HISTORY AND SITE DESCRIPTION

The site is irregular in shape and encompasses approximately 3.67 acres. The site is made up of two areas. The Housing Site is located on the northern 1.75 acres of the property and the PSB Site is located on the southern portion. The site is located between Hamilton Drive and Roque Moraes Drive, at Keats Drive in Mill Valley, California. The site has a street address of 1 Hamilton Drive. Hamilton Drive, Hauke Park, and Pickleweed Inlet are located to the west; high-voltage transmission lines, a hillside, and an apartment or condominium development is located to the south; and Roque Moraes Drive and a residential development are located northeast of the site. The project area is located at longitude 122.52263° West and latitude 37.89772° North.

Site history was obtained by reviewing historical aerial photographs taken in 1946, 1952, 1963, 1968, 1974, 1983, 1987, 1993, 2005, 2009, 2012, 2016, and 2020. Review of the 1946 aerial photograph indicates that the project site appeared to be vacant hillside with a road located on the west side. West of the road, was a flat area and a tidal marsh.

Review of the 1952 aerial photograph indicates that the project site conditions appeared to be relatively similar to that noted in the 1946 aerial photograph.

Review of the 1963 aerial photograph indicates that the project site conditions appeared to be relatively similar to that noted in the 1952 aerial photograph. Roque Moraes Drive appeared on the east/northeast side of the site along with a residential subdivision. West of the site, it appeared that a portion of the tidal marsh had been filled in.

Review of the 1968 aerial photograph indicates that the project site conditions appeared to be relatively similar to that noted in the 1963 aerial photograph with more fill showing up in the marsh area to the west of the site. An excavation or cut appeared in the southeast corner of the site.

Review of the 1974 aerial photograph indicates that the project site had grading activities along the southern half of the site. West of the site, a sports/city park appeared and grading activities had also been taking place south of the site.

Review of the 1983 aerial photograph indicates that the project site had an asphaltic concrete parking lot on the western portion and two buildings and parking lots appeared on the southern half of the site. A baseball field appeared at the park to the west.

Review of the 1987 to 2005 aerial photographs indicate that the project site conditions appeared to be relatively similar to that noted in the 1983 aerial photograph with an apartment or condominium development appearing to the south of the site.

Review of the 2009 aerial photograph indicates that the project site conditions appeared to be relatively similar to that noted in the 2005 aerial photograph.

Review of the 2012 aerial photograph indicates that the project site conditions appeared to be relatively similar to that noted in the 2009 aerial photograph with solar panels appearing on the southeast area of the site.

Review of the 2016 to 2020 aerial photographs indicate that the project site conditions appeared to be relatively similar to that noted in the 2012 aerial photograph.

Presently, the site predominately consists mainly of a vacant hillside on the northern half; an asphaltic concrete parking lot and restroom on the west side; police and fire station buildings on the south half, and solar panels on the southeast area. Several trees are located within the site including a small garden area in the southern most portion of the site. The open hillside areas of site are covered by a sparse to moderate weed growth and the surface soils have a loose consistency. The site includes areas that range from relatively level to moderately sloping with approximately 60 feet of relief within portions of the site.

GEOLOGIC SETTING

General

The project area is located in the eastern portion of the City of Mill Valley, within the central portion of the Coast Ranges Geomorphic Province of California. The site is located west of the San Francisco Bay and is within the eastern facing slope of the Pacific Coast Range/Mount Tamalpais within the Coast

Range Province. The Coast Ranges generally consist of an alternating series of parallel mountains and valleys located adjacent to the Pacific Coast. The bedrock units that form the range have been disrupted by intense folding, faulting, and crushing that occurred when the range was formed by the processes of plate tectonics. During the Jurassic and Cretaceous Periods (about 80 to 150 million years ago), the Pacific Oceanic Plate, which was progressively moving towards the east, collided with the North American Continental Plate, which was moving toward the west. This collision caused the less rigid Pacific Oceanic Plate to be subducted beneath the North American Continental Plate. The colliding motion of the two plates caused portions of the Pacific Oceanic Crust and overlying marine sediments to be piled onto the North American Continental Plate along the west coast of California. The resulting chaotic jumble of bedrock units scraped off onto the North American Plate, is known as the "Franciscan Assemblage" and comprises a large portion of the Coast Range Province. Subsequent development of a series of northwest-trending fault zones has further contributed to the deformation of the Coast Ranges.

During the Pleistocene Epoch ("Ice Age"), the San Francisco Bay depression was formed by down faulting (down warping) of the earth's crust. During this time, sea levels lowered by as much as 350 feet, leading to increased erosion by the streams and rivers discharging into the bay. With the melting of the last ice sheets, beginning about 12,000 years ago, the sea level gradually rose to its present level. Much of the clay and silt carried by the river flood waters were deposited within the quiet bay waters, resulting in significant accumulations of "bay mud" in marshlands and mudflats.

The site lies within the limits of the City of Mill Valley and the near surface soils consist of alluvial, colluvial, and sedimentary rock depositional environments along the eastern slope of the Pacific Coast Range/Mount Tamalpais within the Coast Ranges Province adjacent to the tidal marshes and alluvial fill along the western margins of San Francisco Bay.

Arroyo Corte Madera Del Presidio Creek or Sutton-Manor Creek, Old Mill Creek, Coyote Creek, and the Picklewood Inlet to Richardson Bay are located nearby. Alluvial fans, flood deposits, and tidal marsh deposits formed by these drainage courses are the predominant flatland geomorphic features in the area. The elevated portion of the site area is characterized by sediments and rock shed from the Coast Range that accumulated primarily as a complex of alluvial fan or colluvial deposit. The site is located within the transition of the flatland marsh deposits and the sloping hills. The majority of the site is comprised of Franciscan Complex mélangé while the central/eastern portion of the site is mapped as Franciscan Serpentinite.

Regional Geologic Map, Regional Geologic Cross-Section, and Local Geologic Maps are presented on Figures 4, 5, and 6, respectively.

Lithology

In general, the Coast Ranges are composed of sedimentary and metamorphic bedrock interspersed with volcanics. The 2000 Geologic Map and Map Database of Parts of Marin, San Francisco, Alameda, Contra Costa, and Sonoma Counties indicates that the near-surface deposits in area of the subject site are identified mainly as a Franciscan mélangé terrain and serpentinite. The near surface soils are made up of clay sands and sandy clays with varying amounts of gravel. At depth, these younger sediments are

underlain by Cretaceous and Jurassic rock which consist of a Franciscan mélange and serpentinite. Within the central portion of the site, a large block of serpentinite is mapped (Blake, Greymer, Jones-2000). The remaining areas of the site are mapped as Franciscan Complex mélange. The surrounding portions of the site mainly consist of Franciscan Complex mélange with two small outcrops or large blocks of chert and greenstone located approximately 400 feet to the northwest and southeast of the site (Blake, Graymer, Jones-2000). West of the site, quaternary artificial fills overlay quaternary marine and marsh deposits. (See site Geologic Map, Figure 2)

The modern depositional processes operating on the valleys and lowlands are mainly the result of the region's Mediterranean climate and active tectonic setting. The interaction between easily eroded bedrock and the heavy winter rains causes large seasonal fluctuations in the sediment loads carried by streams from the uplands down to the bay. During times of high surface-water runoff, sediments are supplied from slope wash, landslides, and gullying, then carried by shifting alluvial channels to the marshlands and bay. Some material is deposited on the alluvial plain, especially when streams overtop their banks and spread their sediment-laden waters over the low plains and basins.

According to Helley and others, (1979), "the younger deposits make up the alluvial fans being formed under the existing regime. The streams forming these young fans are graded to present sea level. These younger deposits and the bay mud into which they grade are informally referred to as Holocene deposits. The older alluvial deposits now partly covered by the Holocene deposits, make up alluvial fans formed by these same streams when they were graded to lower strands of sea level during the late Pleistocene (prior to about 10,000 years ago). These older deposits are informally referred to as late Pleistocene alluvium. The Holocene alluvium is differentiated further into depositional units called facies on the basis of textural characteristics (that is, gravel, sand, silt, and clay) and the depositional environment (such as stream levees and floodbasins). These facies grade from coarse-grained gravel and sand deposits, which form prominent stream levees at the highest part of the alluvial fans, into medium-grained sand and silt deposits, which form broad flood plains and subdued levees along the lower margins of the alluvial fans. These stream deposits grade into and interfinger with fine-grained silt and clay deposits, which form the flat floor of flood basins between stream levees on the outer margins of the alluvial fans directly adjacent to the bay marshlands. This gradation from coarse-grained to fine-grained sediment in the Holocene alluvium is a natural consequence of very recent stream erosion, transportation, and deposition. The coarsest rock debris eroded from the bedrock uplands is deposited near the base of the hills where the rapidly flowing streams enter the broad, gently sloping alluvial plain. Only the finer-grained debris is carried by the ever-slackening water to the lower parts of the alluvial fans and eventually into the bay itself."

The subsurface information obtained in this study indicates that the surface and near-surface soil deposits at the subject site generally consist of clayey sand, sandy clay, and silty sand with varying amounts of gravel. These observed deposits are consistent with those mapped in the area, and are further described in the Soil Profile and Subsurface Conditions section of this report.

Structure and Faults

The San Francisco Bay region is tectonically dominated by horizontal shear caused by the relative motion of the Pacific and North American plates. The northwest-southeast shear, probably with some other superposed influences, produces right-lateral strike-slip, plus a variety of other types of crustal movements. Since the boundary of the plates is generally diffuse, the various structural responses occur over a relatively broad band from the foot of the continental slope to the Central Valley. Transform-type plate movement did not begin at the latitude of San Francisco until about 7 to 10 million years ago, a time interval of transition in tectonics and sedimentation. The recent and current transform movement has superimposed a structural fabric on the pre-existing highly deformed structure created by Jurassic and Cretaceous subduction and emplacement of the Franciscan Complex terrain.

Active faults in the region of the subject site are predominately characterized by strike-slip motion (right-lateral). Major nearby faults showing evidence of earthquake activity within historic time (past 200 years) in relation to the site include the San Andreas (6.68 miles west), the San Gregorio (10.33 miles south), Hayward-Rodgers Creek (11.28 miles east), Point Reyes (17.34 northwest), West Napa (23.81 miles east), the Green Valley (26.17 miles east), the Mount Diablo (26.43 miles east), the Calaveras (28.55 miles southeast), the Monte Vista- Shannon (35.06 miles south), and the Greenville (37.66 miles east) faults. These faults are considered to be active, as they have demonstrated geologic displacement with the past 10,000 years.

Crustal movements measured in California today sample deformation processes that have been continued through at least the past 5 Ma of Pliocene, Pleistocene, and Holocene time. During this interval, several hundred kilometers of right-lateral offset has accumulated across the San Andreas fault system, and many thousands of great earthquakes similar to the historical events of 1857 and 1906 have undoubtedly occurred. The observed deformation results from relative right-lateral translation of the Pacific and North American plates far from the main plate-boundary faults, which are either freely slipping and without major seismic activity, or are in locked frictional contact and slip episodically in repeated great earthquakes. Aseismic fault slip (creep), as occurs across the San Andreas fault in central California causes no crustal deformation beyond a growing offset across the fault, although this offset may be distributed across a zone as broad as a few tens or hundreds of meters. Where the plate-boundary fault is alternately locked aseismically in its upper 10 km or so and abruptly slipping in great earthquakes, deformation extends several tens of kilometers into the plate interiors. Between large events, elastic strains build up in this zone and are episodically released every few hundred years. Subsequent postearthquake recovery processes redistribute the strains aseismically for years to decades after a major shock, and this deformation gradually merges into the steady accumulation of elastic-strain energy that persists until the frictional strength of the fault is again exceeded. This sequence of interearthquake strain accumulation, coseismic strain release, and postseismic readjustment is a recurring process.

The 8.25 magnitude earthquake of April 18, 1906, ranks as one of the most significant earthquakes of all time. Rupturing the northernmost 430 km of the San Andreas fault from the northwest of San Juan Bautista to the triple junction at Cape Mendocino, the earthquake confounded contemporary geologists with its large, horizontal displacements and great rupture length.

The characteristics and amount of surface fault slip in this earthquake varied to a remarkable degree along the length of the rupture. Peak displacements of 6 m were measured near Olema on the Point Reyes peninsula, where the surface trace of the rupture formed a sharp, well-defined break. In contrast, the fault break was extremely difficult to recognize along its southernmost 90 km, where the surface offset averaged only about 1½ m or less. The slip rate along the San Andreas fault in the vicinity of the project site is on the order of 17 mm/yr. to 24 mm/yr.

The San Andreas and San Gregorio Fault zones are major strike-slip-fault systems that form part of the active plate boundary between the Pacific and North American Plates. The San Gregorio Fault is offshore for most of its length, whereas the San Andreas Fault extends offshore south of Bolinas northwest of San Francisco. On the basis of magnetic and seismicity data, motion on the San Andreas Fault has been interpreted to step over to another fault, the Golden Gate Fault, that lies 3 km to the east of the San Andreas Fault and also goes offshore near San Francisco. All three faults merge and come onshore again at Bolinas Lagoon. The Golden Gate, San Andreas, and San Gregorio Faults all have recognizable continuations across the Gulf of the Farallones. The Potato Patch Fault branches eastward off the San Gregorio Fault and continues northward as another fault with significant, but unknown, offset, possibly merging with the San Andreas Fault south of Bolinas. The San Gregorio structural zone, an area of major thrust-fault deformation west of the San Gregorio Fault, also continues across the Gulf of the Farallones and widens from about 2 to more than 8 km from south to north. All of these features are undergoing modern uplift onto the Point Reyes Peninsula. The San Gregorio Fault separates two major offshore sedimentary basins: the San Gregorio Basin, which lies between the Golden Gate/San Andreas Faults and the San Gregorio Fault; and the Bodega Basin, which lies west of the San Gregorio Fault. Maximum sedimentary thickness in the San Gregorio Basin is poorly defined but probably approaches 2 km overlying Franciscan and Salinian basement rocks. The age of the basin fill is unknown but could be similar to that of strata in the onshore Merced Formation, which are younger than about 1.8 Ma. Although strike-slip motion on the San Andreas Fault appears to step northeastward to the Golden Gate Fault in the area from Daly City to the Golden Gate, the offshore continuation of the San Andreas Fault has served as a locus for subsidence. The fault generally underlies the depocenter of the San Gregorio Basin. The Potato Patch Fault, which lies between the San Andreas and San Gregorio Faults, forms the edge of a structural high in the basin. Both the San Andreas and Potato Patch Faults are at least partly normal faults along which basement rocks have undergone differential subsidence during basin formation.

The Hayward-Rodgers Creek fault system (11.28 miles east) is 140 km long, extending from near Healdsburg on the north to the Warm Springs district of Fremont on the south. South of San Pablo Bay, the fault passes through heavily urbanized areas where much evidence of the fault is obscured. The southern part of the fault produced the regionally damaging 1868 M6.8 earthquake. The East Bay Source Characterization Group considers the Hayward-Rodgers Creek fault to be a three-segment system, identified as the Rogers Creek fault, the northern segment of the Hayward fault (Hayward North) and the southern segment of the Hayward fault (Hayward South).

The northern boundary of the Rogers Creek fault is a ±5 km-wide zone south of Healdsburg in which the Holocene trace of the fault appears to die out. The southern boundary is a ±5 km zone offshore beneath San Pablo Bay. The 6 km stepover from the Rogers Creek to the Hayward North fault is coincident the

western edge of a prominent gravity low that extends approximately 20 km to the east of the step-over. There are no geophysical data that indicate the presence of a structural depression or extensional faulting within the stepover. It is also not known whether Rogers Creek and the Hayward North fault join at depth beneath this structure or remain individual faults through the seismogenic crust. Based on modeling of rupture propagation across steps in faults, the San Pablo Bay stepover continues to be viewed as a major structural and geometric barrier for ruptures propagating into it.

The Hayward North fault extends from the San Pablo Bay stepover to near Montclair in Oakland. With the timing constraint of the most recent event (formerly the 1836 earthquake) removed, the primary basis for defining the Hayward North fault is that it is the section of the Hayward fault that did not rupture in 1868. An uncertainty of ± 5 km is assigned to the northern boundary in San Pablo Bay. The southern endpoint is less certain. The possible north end of the 1868 rupture near Rocky Mound is 20 km north of the segment boundary near San Leandro adopted by the East Bay Source Characterization Group, where the evidence for 1868 surface rupture was distinct (Lawson, 1908). Trenching evidence suggests the 1868 surface rupture extended at least to Montclair (Lienkaemper and Williams, 1999). There are no obvious geometric or lithologic changes along this reach of the fault that provide a physical basis for proposing a segment boundary. Therefore, a southern endpoint is possible anywhere between Mira Vista on the north, which did not rupture at the surface in 1868, and San Leandro. The segment endpoint selected by the East Bay Source Characterization Group lies at Montclair, about midway between Mira Vista and San Leandro, with an uncertainty of ± 10 km.

The East Bay Source Characterization Group takes the Hayward South fault to be the extent of the 1868 rupture. Nothing is known about the slip distribution of the 1868 earthquake or of the variability in rupture lengths and/or slip distributions of pre-historic Hayward South fault events. It is possible that Hayward North and Hayward South fault ruptures could overlap 10 to 20 km in the broad boundary between the two segments. The southern endpoint of the Hayward South fault is midway between the south end of known 1868 surface rupture at Agua Caliente Creek (Lawson, 1908) and the Alum Rock seismicity trend.

Slip rates for the Hayward-Rogers Creek fault are ± 2 mm/yr for each of the three fault segments based on paleoseismic and fault-creep data consistent with new paleoseismic observations of a minimum rate of 7-10 mm/yr for the past 8,400 years on the Hayward South fault at Union City (Lienkaemper and Borchardt, 1996) and 8.4 ± 2 mm/yr for the past 900 years on Rogers Creek fault (Schwartz and others, 1992). Measurements of surface creep (Lienkaemper and others, 2001) show that the Hayward fault has an average creep rate of about 4 to 6 mm/yr with a high of 9 mm/yr near Fremont, a significant fraction of the overall geologic slip rate. Williams (1999) reports a long-term (35 ka) slip rate of 10 ± 1 mm/yr on the Hayward North fault from offset of Strawberry Canyon.

The San Andreas fault, located 6.68 miles west, is the closest active fault to the site. To the east of the San Andreas, is the Hayward-Rogers Creek and the Calaveras fault. The Calaveras fault extends 76 miles, splaying from the San Andreas fault near Hollister and terminating at Danville at its northern end.

The Calaveras fault (28.55 miles southeast) forms the western margin of Livermore Valley and San Ramon Valley. The Calaveras fault is one of the most geologically active and complex faults in San Francisco Bay Region. As many as twelve $M > 5$ earthquakes have occurred on the Calaveras fault during historical time. The Calaveras fault exhibits heterogeneous surface creep in the southern section, with slip rates as high as 17 mm/yr. Slip rates at the town of Hollister decrease from about 11 mm/yr. to 7 mm/yr. within 2.3 km along the fault. Surface creep is absent along the northern section. Although no significant elastic strain has been observed adjacent to the central section of the fault from geodetic data between 1970 and 1985, three moderate events occurred ($M_{5.9}$ on 6 August 1979, $M_{6.2}$ on 24 April 1984, and $M_{5.1}$ on 13 June 1988), progressing sequentially northward along this section of the fault. Slip along the northern Calaveras fault appears to step across to the Concord-Green Valley fault zone along a northeast-trending conjugate left-lateral fault that produced the April 1990 Alamo earthquake sequence with the largest event of magnitude 4.5 (Oppenheimer and MacGregor-Scott, 1991). Analysis of historical seismic data has also identified persistent aseismic zones that are believed to represent locked patches of the southern and central Calaveras fault as well as most of the northern Calaveras fault.

The Monte Vista Fault, located 35.06 miles south, is a potentially active geologic fault, i.e., a fault capable of generating destructive earthquakes, in the San Francisco Bay Area. It is a relatively short fault that runs between and generally parallel to the much longer San Andreas Fault and Hayward Fault zones, trending northwest along the eastern foothills of the Santa Cruz Mountains on the west side of San Francisco Bay. The most recent activity was estimated to have been approximately 700,000 years ago. It has a slip rate of 0.4 mm/year. However, a recent magnitude 2.6 earthquake has been attributed to this fault.

The northwest-trending central Greenville fault system, consisting of several segments or strands, is located 37.66 east of the site. The fault is exposed for over 80 km along its length, from the north end, near Mt. Diablo, to its southern terminus in San Antonio Valley along the eastern side of Livermore Valley.

On January 24, 1980, an earthquake of magnitude 5.5 (Bolt et al., 1981) caused discontinuous right-lateral surface displacements along the southeastern branch of the Greenville fault, approximately 12 km southeast of Mount Diablo. Fault-plane solutions indicate a focal depth of 11.8 km (Bolt et al., 1981). The first principal shock was followed by a rapid succession of magnitude 5.0 and 4.0 earthquakes, resulting in a relatively long duration of ground shaking. The earthquake was followed by a series of aftershocks, culminating in a magnitude 5.6 event on January 27, 1980, located 12 km to the south of the first principal shock. The focal depth of the January 27 earthquake was 11.8 km. The maximum peak horizontal ground acceleration recorded during the earthquake was 0.26g at Del Valle Reservoir, located 11 miles from the epicenter.

Contractional structures in the eastern San Francisco Bay area are part of a late Cenozoic fold-thrust belt, the Mt. Diablo fold-and-thrust belt (MDFTB) that can be traced from the northern Diablo Range, south of Livermore Valley, to the western Sacramento-San Joaquin Delta region. The MDFTB is bounded by dextral faults, the Greenville and Concord faults on the east and the Calaveras fault on the west. Thrust faults and associated folds in the MDFTB generally trend west-northwest, oblique to strike-slip faults on

the San Andreas system, and exhibit well-defined right-steeping en echelon geometry. The Mt. Diablo thrust fault, the largest structure in the MDFTB, is driven by a restraining transfer of dextral slip from the Greenville fault to the Concord fault. The Mt. Diablo thrust fault is potentially capable of generating an earthquake of about $M_w 6\frac{3}{4}$, which is comparable to the 1983 Coalinga $M_L 6.7$ and 1994 Northridge ($M_w 6.7$) earthquakes.

A group of northward-trending faults on the northeast flank of the Mt. Diablo antiform were evaluated with regard to their seismogenic potential during geological, seismological, and geophysical investigations of the proposed Los Vaqueros Dam site in eastern Contra Costa County. The faults, collectively referred to as the Vaqueros Faults, included the Brentwood, Kellogg, Vaqueros, Davis, and Camino Diablo faults. They occur along the southern projection of the Antioch Fault and in the area directly east and north of the more north-westerly-trending, active Marsh Creek-Greenville segments of the Greenville fault zone. This fault segment was the source of the 1980 $M_L 5.9$ and 5.3 Livermore earthquakes. Analysis of soil stratigraphy exposed in trenches and geomorphic analyses along faults reveals no evidence indicating that the Vaqueros faults have been active in Holocene time. The observed displacements on the Vaqueros faults appear to be associated with the formation of the Mt. Diablo antiform, beginning about 3 million years ago, rather than due to direct accommodation of plate motion in the present-day San Andreas Fault System (Bigger and Wong, 1992).

As noted above, several dominant faults with seismogenic structures are located in the vicinity of the subject site, (Fault Activity Map is provided on Figure 7).

GEOLOGIC HAZARDS

Fault Rupture Hazard Zones in California

The Alquist-Priolo Geologic Hazards Zones Act went in effect in March, 1973. Since that time, the act has been amended 11 times (Hart, 2007). The purpose of the Act, as provided in CGS Special Publication 42 (SP 42), is to prohibit the location of most structures for human occupancy across the traces of active faults and to mitigate thereby the hazard of fault-rupture." The act was renamed the Alquist-Priolo Earthquake Fault Zoning Act in 1994, and at that time, the originally designated "Special Studies Zones" was renamed the "Earthquake Fault Zones."

The area of the subject site is included on the Earthquake Zones of Required Investigation Map (refer to Earthquake Fault Zones Map, Figure 10). The site is not within a Fault-Rupture Hazard Zone, but a pre-Quaternary, unnamed fault is located near the east edge of the site. This fault is oriented running northwest to southeast and appears to be $\frac{3}{4}$ of a mile long. This is a pre-Quaternary fault and is recognized as not showing any active displacement. The nearest zoned active faults are portions related to the San Andreas fault located more than 6.68 miles west of the subject site. Due to the fact that this unnamed fault is considered not active, pre-Quaternary in age (greater than 1.6 million years old), and located just east of the eastern site boundary, it is our opinion that this fault is not a concern to the development. Reactivation of a long-inactive fault generally is a non-concern (CGS-Note 49, 2002) and lack of previous nearby geotechnical reports stating any fault related data lead us to believe that this fault is not a concern under the Earthquake Zones of Required Investigation for active faults and no further investigation is needed prior development.

Seismic Hazard Zones in California

In 1990, the California State Legislature passed the Seismic Hazard Mapping Act to protect public safety from the effects of strong shaking, liquefaction, landslides, or other ground failure, and other hazards caused by earthquakes. The Act requires that the State Geologist delineate various seismic hazards zones on Seismic Hazards Zones Maps. Specifically, the maps identify areas where soil liquefaction and earthquake-induced landslides are most likely to occur. A site-specific geotechnical evaluation is required prior to permitting most urban developments within the mapped zones. The Act also requires sellers of real property within the zones to disclose this fact to potential buyers. The area of the subject site is not included on a State of California Seismic Hazard Zone Map as of this report date. The site is also not included on the "Liquefaction or Landslide Susceptibility" Map dated 2003, prepared by the U.S. Geological Survey (refer to as Earthquake Zones of Required Investigation map, Figure 11). A map generated for Marin County shows that the project site lies within a very low potential for liquefaction although just to the west, is a very high liquefaction potential area. (refer to Marin County Liquefaction Map, Figure 12). The site is not located within areas identified as susceptible to liquefaction or landslide hazards.

Historic Seismicity/Earthquake Epicenter Distribution

The Mill Valley area has historically experienced a moderate to high degree of seismicity. A listing of historic earthquakes with magnitudes greater than 4.0 within approximately 50 miles (80 kilometers) of the subject site was obtained from the comprehensive California Geological Survey computerized earthquake catalog for the State of California, the Townley and Allen (1939) catalog and the U.S. Geological Survey Earthquake Data Base System. In addition, a listing was obtained for all historic earthquakes with magnitudes greater than 5.0 within approximately 100 miles of the site. The listings include the date, time, location, depth, magnitude, and intensity all recorded events within the search radius between 1800 and 2021. A review of the literature for pre-1900 earthquakes (Topozada, 1991) does not reveal any significant recorded seismic events in the vicinity of the subject site prior to the period covered by the above listing.

The historic earthquake listings are included in Appendix E. A plot of epicenters associated with historic earthquakes in the region of the site with magnitudes greater than 5 is shown on Figure 8, Epicenter Map. The earthquake data indicates that 380 events with magnitudes greater than 4.0 occurred within 50 miles of the subject site between 1800 and 2022. One of the listed events occurred within 3.5 miles of the site. The data indicates that 16 events exceeded magnitudes 5.0 within 20 miles of the subject site. The nearest listed event occurred approximately 3.5 miles south of the site in 1808 with a magnitude of 6.3. Ninety of the listed earthquakes with magnitudes greater than 4.0 occurred within 20 miles of the site. Numerous earthquakes are listed with magnitudes between 5.0 and 6.0 beyond about 40 miles of the site. One event was recorded with a magnitude of 8.25 within 10.3 miles of the site.

Earthquakes in the San Francisco Bay Region result from strain energy constantly accumulating across the region because of the northwestward motion of the Pacific Plate relative to the North American Plate. The region experienced large and destructive earthquakes in 1838, 1868, 1906, and 1989, and future large earthquakes to relieve this continually accumulating strain are a certainty.

At 5:12 a.m. on April 18, 1906, the people of San Francisco were awakened by an earthquake that would devastate the city. The main temblor, having a 7.7–7.9 magnitude, lasted about one minute and was the result of the rupturing of the northernmost 296 miles of the 800-mile San Andreas fault. But when calculating destruction, the earthquake took second place to the great fire that followed. The fire, lasting four days, most likely started with broken gas lines (and, in some cases, was helped along by people hoping to collect insurance for their property—they were covered for fire, but not earthquake, damage). With water mains broken, fighting the fires was almost impossible, and about 500 city blocks were destroyed. The damages were estimated at about \$400,000,000 in 1906 dollars, which would translate to about \$8.2 billion today.

In 1906 San Francisco was the ninth largest U.S. city with a population of 400,000 and over 225,000 were left homeless by the disaster. The death toll is uncertain. City officials estimated the casualties at 700 but more modern calculations say about 3,000 lost their lives. The lowballing city figures may have been a public relations ploy to downplay the disaster with an eye on rebuilding the city. On April 20, the U.S.S. *Chicago* rescued 20,000 victims, one of the largest sea evacuations in history, rivaling Dunkirk in World War II. Martial law was not declared, but some 500 looters were shot by police and the military.

The epicenter of this earthquake has moved around in the past 100 years, as advances in seismology have been made. It was first thought to have been in Marin County, then northwest of the Golden Gate, and most recently, in the Pacific Ocean about two miles west of San Francisco. The plate-tectonics theory that would shed some light on the quake wasn't formulated until the 1920s and not embraced until some three decades later. The San Andreas fault is on the boundary between the Pacific plate and the North American plate. During the earthquake, the ground west of the fault tended to move northward and, in the most extreme instance, a 21-foot shift was measured. Earthquake ruptures are fast movers—seismologists estimated the average speed of this rupture to have been 8,300 mi/hr going north, and 6,300 mi/hr traveling south. The quake was felt from southern Oregon to south of Los Angeles and inland as far as central Nevada.

Charles Richter developed his scale in 1935 to measure the amount of seismic energy released, the magnitude, of an earthquake. Seismologists found the Richter scale fine for lower magnitude quakes, but inaccurate for higher magnitude ones. The 1906 earthquake was assigned a Richter rating of 8.3, but on the newer moment magnitude scale it has been demoted to one measuring 7.8 or 7.9.

On Oct. 17, 1989, at 5:04 p.m., at the height of the rush hour, Bay Area residents thought the "big one" had struck. The 7.1 Richter scale (6.9 moment magnitude) Loma Prieta earthquake, with its epicenter about 60 miles from San Francisco, was the largest one to hit the region since 1906. Sixty to 70 deaths were reported, freeways and bridges were damaged, and the World Series between the Oakland and San Francisco teams was postponed for 10 days. Property damage was estimated at \$6 billion dollars, making this the costliest natural disaster to that date. But seismologists said this was not the major earthquake feared by all. That one is still in the future.

In 1906 there were only about 650,000 people living in the area, but today more than 7 million people make their homes in the San Francisco Bay region.

The San Francisco earthquake of 1906 is undoubtedly the most important earthquake to have affected the central California area during historic time. It was investigated in great detail by geologists, seismologists, and engineers of the State Earthquake Investigation Commission, and the results of this investigation have served as the basis for much of our understanding of the relationship between earthquakes and faulting. The importance of this earthquake to our understanding of future earthquakes in the central California area is that it is the only “look-alike” for the “great” earthquake that is expected along the 1857 Break of the San Andreas Fault. Had the 1857 quake itself been studied in the detail that was given to the 1906 event, it would have been the most important event. However, very little is known about this earthquake that is useful for the objective stated above.

Time-dependent earthquake rupture forecasts, in which the probabilities of future events are conditioned on the dates of previous earthquakes, have been the focus of five previous Working Groups on California Earthquake Probabilities (WGCEP 1988, 1990, 1995 & 2003). Each of these working groups has expanded on its predecessors, improving the data and forecasting methodology, and each has drawn on input from broad cross-sections of the earth science community.

The 2007 Working Group on California Earthquake Probabilities (WGCEP) has developed a statewide earthquake-rupture forecast that uses “best available science”. This model, called the Uniform California Earthquake Rupture Forecast Version 2 (UCERF 2), is the product of a collaborative project of the U.S. Geological Survey (USGS), the California Geological Survey (CGS) and the Southern California Earthquake Center (SCEC) with the assistance of the California Earthquake Authority (CEA). Development of this model was tightly coordinated with the USGS National Seismic Hazard Mapping Program (NSHMP). For this project, the WGCEP has assembled and analyzed the latest data on the rates of earthquake occurrence from historic and instrumental data, paleoseismology, slip rates on faults, and deformation rates from GPS and long-term plate-tectonic models.

According to UCERF 2, a $M \geq 6.7$ earthquake is virtually assured in California during the next 30 years (99.7% probability of occurrence). Larger events are less likely: the mean 30-year UCERF 2 estimate gives a 94% chance of a $M \geq 7.0$ earthquake, a 46% chance of a $M \geq 7.5$ shock, and 4.5% chance of a $M \geq 8.0$ event.

The following table summarizes the mean probabilities for $M \geq 6.7$ events on the principal strike-slip faults of California, which accommodate most of the motion between the North America and Pacific plates. The most dangerous fault is the southern part of the San Andreas, which has a 59% probability of generating a $M \geq 6.7$ earthquake in the next 30 years. This compares with 21% for the northern San Andreas fault. The Bay Area Hayward–Rodgers Creek fault has a 31% probability of generating a $M \geq 6.7$ earthquake in the next 30 years.

Thirty-Year Probability of $M \geq 6.7$ Events on the Type A Vaults and the Four Faults Considered by WGCEP (2003) as Type B				
Type	Fault	WGCEP (2007) Mean (Min-Man)	WGCEP (2003) Mean (2.5% & 97.5%)	WGCEP (1995) Mean
Type A	Southern San Andreas	59% (22-94)		53%
Type A	Hayward-Rodgers Creek	31% (12-67)	27% (10-58)	
Type A	San Jacinto	31% (14-54)		61%
Type A	Northern San Andreas	21% (6-39)	23% (3-27)	
Type A	Elsinore	11% (5-25)		24%
Type A	Calaveras	7% (1-22)	11% (3-27)	
Type A	Garlock	6% (3-12)		
Type B	San Gregorio Connected (San Gregorio)	6% (4-9)	10% (2-28)	
Type B	Green Valley Connected (Concord-Green Valley)	3% (1-6)	4% (0-12)	
Type B	Greenville Connected (Greenville)	3% (2-4)	3% (0-8)	
Type B	Mount Diablo Thrust (Mt. Diablo Thrust)	1% (0-1)	2% (0-8)	

All probabilities have been rounded to the nearest percent. Names in parentheses are those used by WGCEP (2003).

Geologic Subgrade

Information obtained from the geologic literature, as well as data from the above-described site exploration, indicate the general soil profile at the site consists predominately of loose to very dense clayey sand or firm to hard sandy clay and sandy clay with gravel was encountered. Below these surface soils, weathered Franciscan Complex mélange or serpentinite rock was encountered in some of the borings. Assuming that any loose surface soil and fill material on the site are removed and recompacted as recommended in our Geotechnical Engineering Investigation, the geologic subgrade of the site can be conservatively approximated as “soft soil”. A Joyner-Boore Class D subgrade classification is considered appropriate for the soil profile and corresponds with a National Earthquake Hazard Reduction Program (NEHRP) (BSSC, 1994) Site Class D. The site class definition from the 2022 California Building Code and ASCE 7-16, that is most consistent with the site conditions is Site Class D.

Soil Liquefaction

Soil liquefaction is a state of soil particles suspension caused by a complete loss of strength when the effective stress drops to zero. Liquefaction normally occurs in soils such as sand in which the strength is purely friction. However, liquefaction has occurred in soils other than clean sand. Liquefaction usually occurs under vibratory conditions such as those induced by seismic event.

To evaluate the liquefaction potential of the site, the following items were evaluated:

- 1) Groundwater depth;

- 2) Soil type;
- 3) Relative density;
- 4) Initial confining pressure;
- 5) Intensity and duration of groundshaking.

The soils and rock encountered within a depth of 34 feet on the project site predominately consist of loose to very dense clayey sand or firm to hard sandy clay and sandy clay with gravel. Very dense, highly to moderately weathered serpentinite rock was encountered at a depth of approximately 14 feet below site grade within Boring No. B-5. The bore was terminated at 34 feet due to auger refusal. Groundwater was encountered at depths of 5 to 13 feet below existing site grade in the borings drilled along the western edge of the site. No groundwater was encountered within Boring No. B-5. Groundwater data was available within the vicinity of the site, but groundwater depth on the lower elevation west side of the site sits around 5 feet.

The potential for soil liquefaction during a seismic event was evaluated using the LIQUEFYPRO computer program (Version 5.9d) developed by CivilTech Software. For the analysis, a maximum earthquake magnitude of 7.86 was used. A peak horizontal ground surface acceleration of 0.728g was considered conservative and appropriate for the liquefaction analysis. A groundwater depth of 5 feet was used for the analysis. The analysis indicates that soils above a depth of 5 feet are non-liquefiable due to the absence of groundwater. The soils below a depth of 5 feet are considered to be slightly liquefiable with factors of safety ranging from 2.33 to 5.0. The analysis indicates that the total and differential seismic induced settlement is not anticipated to exceed ¼ inch and ⅛ inch, respectively. Accordingly, the liquefaction potential at the site is considered low and measures to mitigate the liquefaction potential should consider the anticipated settlements in the project design.

Seismic Settlement

One of the most common phenomena during seismic shaking accompanying any earthquake is the induced settlement of loose unconsolidated soils. The estimated seismic settlement was determined at the site using the settlement analysis method by Modified Stark/Olsen (1987). The results of the settlement analysis are included as follows:

Location	Seismic Settlement (inches)				
	Saturated Settlement	Unsaturated Settlement	Total Settlement	Range of Differential Settlement	Design for Differential Settlement
B-5	0.00	0.01	0.01	0 to ¼	⅛ Inch in 100 Feet

The above settlement values were determined at a specific boring location. The consolidated settlement (under static load of specific structures) and differential settlement (per specified length in building area) are indicated in the Foundations section of this report. However, the project's Structural Engineer should consider the estimated settlements when designing the foundations for the proposed structures.

The native soils within the project site are not conducive to hydrocollapse due to the relatively low void-ratio and shallow ground water. Any loose fill material at the site could be vulnerable to hydrocollapse. However, the proposed structure is planned to be supported on conventional footings or driller piers. Therefore, the structure will not be vulnerable to significant hydrocollapse. In addition, this hazard can be mitigated by following the design and construction recommendations of current and future Geotechnical Engineering Investigations (over-excavation and rework of any loose soils and/or uncertified fill materials).

Pickleweed Inlet or Arroyo Corte Madera Del Presidio Creek lies approximately 500 feet west of the property line of the project area. The potential for lateral spreading was evaluated using the "Revised Multilinear Regression Equations for Predication of Lateral Spread Displacement" by Youd, Hansen, Corbett and Bartlett (2002). Based on a lack of shallow liquefiable soils within the subject site and the distance of proposed structures from the existing creek, the structures are not likely subject to lateral spreading hazards.

Subsidence Due to Fluid Withdrawal

Portions of California, such as the San Joaquin Valley, have been subject to land subsidence due to fluid withdrawal (groundwater and petroleum). However, the area of the subject site is not known to be subject to such subsidence hazards.

Expansive Soils

The surface and near surface soils observed on the site consist of predominately clayey sand, sandy clay, and clayey sand with gravel. The clayey soils are considered to be moderately expansive. Therefore, it is recommended that mitigation measures to reduce the potential problems associated with expansive soils be followed as indicated in the Site Preparation section of this report. In addition, it is recommended that mitigation measures to reduce the potential problems associated with expansive soils be included, as needed, in subsequent Geotechnical Engineering Investigation Report(s) for specific development and redevelopment projects at the subject site. We would not expect the expansive nature of these clayey soils to present a significant geologic hazard to the site provided that the recommendations of this report and future Geotechnical Engineering Investigation(s) are followed.

Inundation Hazards

A review of Federal Emergency Management Agency (FEMA) Flood Insurance Mapping for the area of the subject site (Community Panel Number 06041C0469F) indicates that the subject site is within "Zone X", "Areas determined to be outside the 0.2% annual chance floodplain." (refer to Flood Map, Figure 13).

A review of the California Department of Water Resources, Dam Inundation Map 2017, for the area of the subject site indicates the project area is not located within an "Inundation Area". (Figure 14)

Tsunamis and Seiches

A tsunami is a series of ocean waves generated in the ocean by an impulsive disturbance. Due to the site elevation approximately 19 feet above mean sea level and moderate upslope relief of the site, tsunamis are not considered a threat to the site (California Department of Conservation, Marin County Tsunami Hazard Areas, 2020-2022). The map does show that just west across Hamilton Drive a tsunami hazard is possible threat though. Seiches are standing waves in a body of water such as a lake or reservoir. The site is located greater than 500 feet from the closest body of water so seiches are not anticipated to affect the subject site.

Slope Stability and Potential for Slope Failure

The site is located on an area with moderate sloping hillsides. The surrounding land to the west of the site is relatively level and is utilized as a park with ball fields. However, the ground slopes upward from approximately mid site and to the northeast. East of the site, Roque Moraes Drive, Keats Drive, and a residential development are terraced upward into a hill with the uppermost elevation being around 240 feet. Approximately $\frac{1}{3}$ of southwestern area of the site is sloping roughly 1 to 2° to the east mainly within the asphaltic concrete parking area. The remaining northern and eastern $\frac{2}{3}$ of the site has moderately upsloping hillsides. The slope steepens upward from the relatively flat parking area and mid site, the site slopes between 3 to 25°. Along the northeastern edge of the site, an increase in slope occurs and up to 45 to 50° southwesterly facing slope exist. The total relief across the site is around 60 feet. Roque Moraes Drive is located along this northeastern edge of the site. This road slopes from an upper elevation of 80 feet from the southeast down to an approximate elevation of 20 feet northwest at the intersection with Hamilton Drive. The slope is covered with a sparse to moderate weed and grass growth, and several small to large trees are scattered across the site. The surface soils along the slope appeared to consist of relatively loose clayey sand and sandy clay with varying amounts of gravel. No significant slope failures were noted during our site visits, but evidence of prior cut and grading is visible in the southeastern slope of the site. Minor slope instability, predominately related to erosion, was observed at various locations throughout the slope. However, no significant slope failures were noted during our site visits.

It should be noted that concrete flatwork, located within 10 feet from the edge of the slope is subject to soil creep and may experience cracking and movement.

It is recommended that any modifications to the slope or any proposed cut and fill slopes be constructed to 2:1 (horizontal to vertical). In lieu of those slopes, a retaining wall may be used. Cut and fill slopes for the building pad should not exceed 2:1 (horizontal to vertical). Cut and fill slopes may be revised as recommended by the Soils Engineer upon review of a more definite site plan.

Slopes can be reconstructed by placement of Engineered Fill utilizing a keying and benching procedure as described below. Reconstructed slopes should be constructed at an inclination not exceeding 2:1 (horizontal to vertical). Krazan and Associates, Inc. should be retained to review all slope reconstruction plans and specifications prior to initiating the repair work.

General site clearing should include removal of vegetation, any loose and/or saturated materials. Excavations or depressions extending below subgrade levels should be cleaned to firm, undisturbed soil and backfilled with Engineered Fill, placed and recompacted in accordance with the recommendations stated herein.

Where fills greater than 8 feet are to be constructed on original ground that slopes at inclinations steeper than 6:1 (horizontal to vertical), benches should be cut into the existing slope as the filling operations proceed. Each bench should consist of a level terrace a minimum of 10 feet wide, with the rise to the next bench held to 4 feet or less. Where fills of comparable height will be constructed on ground that slopes at an inclination steeper than 4:1 (horizontal to vertical), a keyway should be provided in addition to the benches. Each keyway should consist of a level trench at least 10 feet wide and at least 2 feet deep, with side slopes not exceeding 1:1 (horizontal to vertical), cut into the existing slope. Where fills of comparable height will be constructed on ground that slopes at an inclination steeper than 2:1 (horizontal to vertical), geotextile fabric and retaining structures should be utilized in slope construction where subsequent specific building site investigations warrant.

Site grading near the crowns of the reconstructed slopes should be accomplished such that excessive sheet run-off is prevented.

The completed slopes should be seeded or otherwise vegetated to protect from future erosion. Well vegetated slopes at the recommended configuration should be reasonably protected from typical erosional effects. However, vegetated slopes may not be protected from unusual flow conditions, such as flood events or over-topping of the development's storm drainage system. If erosion control from unusual flow conditions is desired, more substantial erosion protection measures, such as grouted cobble slope facing or manufactured slope protection products should be considered.

Naturally Occurring Asbestos

The subject site is located within a geologic area known to contain a group of silicate minerals that occur as asbestiform fibers or naturally-occurring asbestos (NOA). Asbestos is a known carcinogen and inhalation of asbestos may result in the development of lung cancer or mesothelioma. Asbestos is a naturally-occurring mineral that is commonly found in serpentinites, ultramafic rocks and some mafic rocks, which exist primarily within the northern two-thirds of the State of California.

Volcanic Hazards

The subject site is not within an area known to be affected by volcanic hazards (Miller, 1989, USGS Bulletin, 1847).

County Seismic Safety Element

Documentation and mapping included in the Natural Hazards section of the Marin County Multijurisdictional Local Hazard Mitigation Plan Annex dated 2021, and the Safety section of the City of Mill Valley General Plan referenced documents generally indicate that the site area is subject to relatively moderate to high seismicity and related hazards.

FIELD AND LABORATORY INVESTIGATIONS

Subsurface soil conditions were explored by drilling 5 borings to depths ranging from 10 to 34 feet below existing site grade, using a truck-mounted drill rig. Borings No. B-4 and B-5, were terminated due to auger refusal in Franciscan Complex mélange or weathered serpentinite rock. In addition, 1 bulk subgrade sample was obtained from the site for laboratory R-value testing. The approximate boring and bulk sample locations are shown on the site plan. During drilling operations, penetration tests were performed at regular intervals to evaluate the soil consistency and to obtain information regarding the engineering properties of the subsoils. Soil samples were retained for laboratory testing. The soils encountered were continuously examined and visually classified in accordance with the Unified Soil Classification System. A more detailed description of the field investigation is presented in Appendix A.

Laboratory tests were performed on selected soil samples to evaluate their physical characteristics and engineering properties. The laboratory testing program was formulated with emphasis on the evaluation of natural moisture, density, gradation, consolidation potential, expansion potential, plasticity, R-value and moisture-density relationships of the materials encountered. In addition, chemical tests were performed to evaluate the soil-cement reactivity. Details of the laboratory test program and results of the laboratory tests are summarized in Appendix A. This information, along with the field observations, was used to prepare the final boring logs in Appendix A.

SOIL PROFILE AND SUBSURFACE CONDITIONS

Based on our findings, the subsurface conditions encountered are typical of those found in the geologic region of the site. In general, the upper soils consisted of approximately 6 to 12 inches of very loose clayey sand or sandy clay. These soils are disturbed, have low strength characteristics and are highly compressible when saturated.

Below the loose surface soils, approximately 2 to 3 feet of loose clayey sand or firm to very stiff sandy clay was encountered. Field and laboratory tests suggest that these soils are moderately strong, slightly compressible and have a moderate expansion potential. Penetration resistance ranged from 11 to 28 blows per foot. Dry densities ranged from 98 to 111 pcf. Representative soil samples consolidated approximately 2½ to 3½ percent under a 2 ksf load when saturated. A representative soil sample had an expansion index of 70.

Below approximately 3 to 4 feet, layers of predominately medium dense to very dense clayey sand or stiff to hard sandy clay and sandy clay with gravel were encountered. Field and laboratory tests suggest that these soils are moderately and slightly compressible. Penetration resistance ranged from 12 blows per foot to greater than 50 blows per 6 inches. Dry densities ranged from 95 to 120 pcf.

Below approximately 9 to 14 feet, Franciscan Complex mélange or weathered serpentinite rock was encountered within Borings No. B-4 and B-5 along the northern and eastern half of the site. This weathered rock was moderately strong and extended to the auger refusal depth of 34 feet in our deep Boring B-5.

For additional information about the soils encountered, please refer to the logs of borings in Appendix A.

GROUNDWATER

Test boring locations were checked for the presence of groundwater during and immediately following the drilling operations. Groundwater was encountered at depths of 5 to 13 feet below existing site grade in the borings drilled along the western edge of the site.

It should be recognized that water table elevations may fluctuate with time, being dependent upon seasonal precipitation, irrigation, land use and climatic conditions, as well as other factors. Therefore, water level observations at the time of the field investigation may vary from those encountered during the construction phase of the project. The evaluation of such factors is beyond the scope of this report.

CONCLUSIONS AND RECOMMENDATIONS

Based on the findings of our field and laboratory investigations, along with previous geotechnical experience in the project area, the following is a summary of our evaluations, conclusions, and recommendations.

Administrative Summary

In brief, the subject site and soil conditions with the exception of the loose surface soils, expansive nature of the on-site clayey soils, moderate slopes, and existing development, appears to be conducive to development of the project. The surface soils have a loose consistency. These soils are disturbed, have low strength characteristics, and are highly compressible when saturated. Accordingly, it is recommended that the surface soils be recompacted. The intent is to stabilize the surface soils and locate any unsuitable or pliant areas not found during our field investigation.

Fill material was not encountered in our borings. However, fill may be present between and beyond our boring locations. The extent of fill material was determined based on limited test borings and visual observation. Verification of the extent of fill should be determined during site grading. It is recommended that fill soils which have not been properly compacted and certified be excavated and stockpiled so that the native soils can be prepared properly. It is anticipated the fill material will be suitable for reuse as Engineered Fill, provided it is cleansed of excessive organics and debris. However, supplemental testing would be required for re-use as non-expansive Engineered Fill.

The on-site upper soils consisted of clayey sand and sandy clay. These clayey soils have a moderate swell potential. The estimated swell pressures of the clayey soils may cause minor movement effecting slabs and possible stucco or similar brittle exterior finishes. To reduce potential soil movement, it is

recommended the upper 24 inches of soil within slab-on-grade and exterior flatwork areas consist of non-expansive Engineered Fill. During construction, it is recommended that additional tests should be performed on the on-site soils to verify their physical and index properties. The non-expansive fill material should be a well-graded silty sand or sandy silt soil. A clean sand or very sandy soil is not acceptable for this purpose. A sandy soil will allow the surface water to drain into the expansive clayey soil below, which may result in soil swelling. The replacement soils and/or upper 24 inches of Imported Fill soils should meet the specifications as described under the subheading Engineered Fill. The non-expansive replacement soils should be compacted to at least 90 percent of relative compaction based on ASTM Test Method D1557. The exposed native soils in the excavation should not be allowed to dry out and should be kept continually moist, prior to backfilling. In addition, footings and slabs should be nominally reinforced to reduce cracking and vertical off-sets.

As an alternative to the use of non-expansive soils, the upper 24 inches of soil supporting the slab areas can consist of lime-treated clayey soils. The lime-treated soils should be recompacted to a minimum of 90 percent of maximum density. Preliminary application rate of lime should be 5 percent by dry weight. The lime material should be calcium oxide, commonly known as quick-lime. The clayey soils should be at or near optimum moisture during the mixing operations.

A parking lot is located in the southwest portion of the site. In addition, several structures are located in the vicinity of the site. Buried utilities are located along the edges of the site and may extend into the project site. Any buried structures, including utilities or loosely backfilled excavations, encountered during construction should be properly removed and/or relocated and the resulting excavations backfilled with Engineered Fill. After demolition activities, it is recommended that these disturbed soils be removed and/or recompacted.

As mentioned earlier, the site is located on sloping ground. It is recommended that any cut and fill slopes be constructed 2:1 (horizontal to vertical) or flatter. In lieu of these slopes, retaining walls may be used. In addition, it is recommended the building be constructed a minimum horizontal distance of 10 feet or $\frac{1}{3}$ the slope height away from the edge of the slope, whichever is greater. Cut and fill slopes may be revised as recommended by the Soils Engineer upon review of a more definitive site plan.

Trees are located within the proposed building site. Tree removal operations should include roots greater than 1 inch in diameter. The resulting excavation should be cleaned to firm native ground and backfilled with Engineered Fill compacted to a minimum of 90 percent of maximum density based on ASTM Test Method D1557.

Shallow Franciscan Complex mélange or serpentinite rock was encountered within Borings No. B-4 and B-5 at approximately 9 to 14 feet. In order to reduce post-construction differential settlement, it is recommended that native soil and rock in areas of proposed structures that are in a soil/rock transition zone be cut a minimum of 2 feet below the proposed bottoms of footings. The excavation should be extended a minimum of 5 feet beyond structural elements. The resulting excavation should be backfilled with Engineered Fill. In lieu of over-excavation, the footings of all connected structures may be embedded a minimum of 1 foot into the native decomposed rock.

Sandy and gravelly soil conditions were encountered at the site. These cohesionless soils have a tendency to cave in trench wall excavations. Shoring or sloping back trench sidewalls may be required within these sandy and gravelly soils.

After completion of the recommended site preparation, the site should be suitable for shallow footing support. The proposed structure footings may be designed as conventional spread or continuous footings with an allowable bearing pressure of 2,500 psf for dead-plus-live loads. Conventional footings should have a minimum embedment of 18 inches. In addition, it is recommended that foundations on the downhill side of the building have a minimum setback of 10 feet or $\frac{1}{3}$ the height of the downhill slope height, whichever is greater. Alternatively, the foundations can be deepened to meet the required setback. Footing excavations should be inspected by a member of Krazan & Associates, Inc.'s engineering staff prior to placing reinforcing steel.

Groundwater Influence on Structures/Construction

During our recent field investigation groundwater was encountered at approximately 5 to 13 feet below existing site grade. In addition, shallow weathered Franciscan Complex mélange or serpentinite rock is located throughout portions of the site which may result in a perched water condition. Therefore, dewatering and/or waterproofing may be required should structures or excavations extend into the weathered rock. If groundwater is encountered, our firm should be consulted prior to dewatering the site. Installation of a standpipe piezometer is suggested prior to construction should groundwater levels be a concern.

In addition to the groundwater level, if earthwork is performed during or soon after periods of precipitation, the subgrade soils may become saturated, "pump," or not respond to densification techniques. Typical remedial measures include: discing and aerating the soil during dry weather; mixing the soil with dryer materials; removing and replacing the soil with an approved fill material; or mixing the soil with an approved lime or cement product. Our firm should be consulted prior to implementing remedial measures to observe the unstable subgrade conditions and provide appropriate recommendations.

One aspect in the preparation of this property for construction is the determination of areas of possible seasonal springs and the placement of subsurface drainage systems to intercept groundwater away from the planned area of construction. It is recommended that the site be observed by a member of our engineering staff following completion of the site clearing and stripping to evaluate the need for sub-drainage systems. Evaluation should also be performed following completion of rough site grading. This is particularly important for use in evaluating the need for subdrains for pavements. This office should be contacted regarding any future seepage on the property so appropriate mitigation measures can be recommended.

Site Preparation

General site clearing should include removal of vegetation; existing utilities; structures including foundations; basement walls and floors; existing stockpiled soil; trees and associated root systems; rubble; rubbish; and any loose and/or saturated materials. Site stripping should extend to a minimum

depth of 2 to 4 inches or until all organics in excess of 3 percent by volume are removed. Deeper stripping may be required in localized areas. These materials will not be suitable for use as Engineered Fill. However, stripped topsoil may be stockpiled and reused in landscape or non-structural areas.

Fill material was not encountered in our borings. However, fill may be present between and beyond our boring locations. The extent of fill material was determined based on limited test borings and visual observation. Verification of the extent of fill should be determined during site grading. It is recommended that fill soils which have not been properly compacted and certified be excavated and stockpiled so that the native soils can be prepared properly. It is anticipated the fill material will be suitable for reuse as Engineered Fill, provided it is cleansed of excessive organics and debris. However, supplemental testing would be required for re-use as non-expansive Engineered Fill.

It is recommended that the upper 24 inches of soil within proposed slab-on-grade and adjacent exterior flatwork areas consist of non-expansive or lime-treated Engineered Fill. Alternatively, the upper 24 inches may consist of lime-treated Engineered Fill. The fill placement serves two functions: 1) it provides a uniform amount of soil, which will more evenly distribute the soil pressures and 2) it reduces moisture content fluctuation in the clayey material beneath the building area. The non-expansive fill material should be a well-graded silty sand or sandy silt soil. A clean sand or very sandy soil is not acceptable for this purpose. A sandy soil will allow the surface water to drain into the expansive clayey soil below, which may result in soil swelling. Imported Fill should be approved by the Soils Engineer prior to placement. The fill should be placed as specified as Engineered Fill. In addition, it is recommended conventional foundations and slabs be nominally reinforced to reduce cracking and vertical offsets. In addition, it is recommended utility trenches be plugged with concrete, a 3-sack sand/cement slurry or compacted clayey soils where they enter into the building. The plug should be a minimum of 24 inches wide and extend the full depth of the trench.

Any buried structures or loosely backfilled excavations encountered during construction should be properly removed and the resulting excavations backfilled with Engineered Fill. After demolition activities, it is recommended that these disturbed soils be removed and/or recompacted. Prior to fill placement, Krazan & Associates, Inc. should inspect the bottom of the excavation to verify no additional removal will be required. In general, any septic tanks, debris pits, cesspools, or similar structures should be entirely removed. Concrete footings should be removed to an equivalent depth of at least 3 feet below proposed footing elevations or as recommended by the Soils Engineer. Any other buried structures should be removed in accordance with the recommendations of the Soils Engineer. The resulting excavations should be backfilled with Engineered Fill.

Trees and shrubs are located within the site. Tree and shrub removal operations should include roots greater than 1 inch in diameter. The resulting excavations should be cleaned to firm native ground and backfilled with Engineered Fill compacted to a minimum of 90 percent of maximum density based on ASTM Test Method D1557.

Following stripping, tree and shrub removal operations, and demolition activities, the exposed subgrade within the proposed building areas should be excavated to a depth of at least 24 inches, worked until uniform and free from large clods, moisture-conditioned to a minimum of 2 percent above optimum

moisture content, and recompacted to a minimum of 90 percent of maximum density based on ASTM Test Method D1557. Limits of recompaction should extend 5 feet beyond structural elements. Prior to fill placement, the exposed subgrade soils should be proofrolled and observed by Krazan & Associates, Inc. to verify stability. This compaction effort should stabilize the surface soils and locate any unsuitable or pliant areas not found during our field investigation. Soft or pliant areas should be excavated to firm native ground.

Following stripping, tree and shrub removal operations, and demolition activities, the exposed subgrade within the proposed exterior flatwork and pavement areas should be excavated to a depth of at least 12 inches, worked until uniform and free from large clods, moisture-conditioned to a minimum of 2 percent above optimum moisture content, and recompacted to a minimum of 90 percent of maximum density based on ASTM Test Method D1557. Limits of recompaction should extend 2 feet beyond flatwork and pavements. Prior to fill placement, the exposed subgrade soils should be proofrolled and observed by Krazan & Associates, Inc. to verify stability. This compaction effort should stabilize the surface soils and locate any unsuitable or pliant areas not found during our field investigation.

The site is located on sloping ground. It is recommended that cut and fill slopes be constructed 2:1 (horizontal to vertical) or flatter. In lieu of these slopes, retaining walls may be used. In addition, it is recommended the building be constructed a minimum horizontal distance of 10 feet or $\frac{1}{3}$ the slope height away from the edge of the slope, whichever is greater. Cut and fill slopes may be revised as recommended by the Soils Engineer upon review of a more definitive site plan.

Site grading near slopes and the embankments, including retaining walls and wing walls, should be accomplished such that excessive sheet run-off is prevented. The completed slopes should be seeded or otherwise vegetated to protect against erosion. Well-vegetated slopes, at the recommended configuration, should be reasonably protected from typical erosional effects. However, vegetated slopes may not be protected from unusual slope conditions, such as a flood event. If erosion control from unusual flow conditions is desired, more substantial erosion protection measures, such as grouted cobble slope facing or manufactured slope protection products, should be considered.

The upper soils, during wet winter months, become very moist due to the absorptive characteristics of the soil. Earthwork operations performed during winter months may encounter very moist unstable soils which may require removal to grade a stable building foundation. Project site winterization consisting of placement of aggregate base and protecting exposed soils during the construction phase should be performed.

A representative of our firm should be present during all site clearing and grading operations to test and observe earthwork construction. This testing and observation is an integral part of our service as acceptance of earthwork construction is dependent upon compaction of the material and the stability of the material. The Soils Engineer may reject any material that does not meet compaction and stability requirements. Further recommendations of this report are predicated upon the assumption that earthwork construction will conform to recommendations set forth in this section and the Engineered Fill section.

Slope Construction/Reconstruction

Slopes can be reconstructed by placement of Engineered Fill utilizing a keying and benching procedure as described below. Reconstructed slopes should be constructed at an inclination not exceeding 2:1 (horizontal to vertical). Krazan and Associates, Inc. should be retained to review all slope reconstruction plans and specifications prior to initiating the repair work.

General site clearing should include removal of vegetation, any loose and/or saturated materials. Excavations or depressions extending below subgrade levels should be cleaned to firm, undisturbed soil and backfilled with Engineered Fill, placed and recompacted in accordance with the recommendations stated herein.

Where fills greater than 8 feet are to be constructed on original ground that slopes at inclinations steeper than 6:1 (horizontal to vertical), benches should be cut into the existing slope as the filling operations proceed. Each bench should consist of a level terrace a minimum of 10 feet wide, with the rise to the next bench held to 4 feet or less. Where fills of comparable height will be constructed on ground that slopes at an inclination steeper than 4:1 (horizontal to vertical), a keyway should be provided in addition to the benches. Each keyway should consist of a level trench at least 10 feet wide and at least 2 feet deep, with side slopes not exceeding 1:1 (horizontal to vertical), cut into the existing slope. Where fills of comparable height will be constructed on ground that slopes at an inclination steeper than 2:1 (horizontal to vertical), geotextile fabric and retaining structures should be utilized in slope construction where subsequent specific building site investigations warrant.

Site grading near the crowns of the reconstructed slopes should be accomplished such that excessive sheet run-off is prevented.

The completed slopes should be seeded or otherwise vegetated to protect from future erosion. Well vegetated slopes at the recommended configuration should be reasonably protected from typical erosional effects. However, vegetated slopes may not be protected from unusual flow conditions, such as flood events or over-topping of the development's storm drainage system. If erosion control from unusual flow conditions is desired, more substantial erosion protection measures, such as grouted cobble slope facing or manufactured slope protection products should be considered.

Slope Protection

Site grading near slopes and the embankments, including retaining walls and wing walls, should be accomplished such that excessive sheet run-off is prevented. The completed slopes should be seeded or otherwise vegetated to protect from erosion. Well-vegetated slopes, at the recommended configuration, should be reasonably protected from typical erosional effects. However, vegetated slopes may not be protected from unusual flow conditions, such as a flood event. If erosion control from unusual flow conditions is desired, more substantial erosion protection measures, such as grouted cobble slope facing or manufactured slope protection products, should be considered.

Within the side of embankments facing water flow, it is recommended that rock rip rap or concrete paving be used to prevent erosion. Rip rap or paving should be inspected regularly, to be sure that they are not dislodged or damaged. Eroded areas should be promptly repaired and reseeded or protected by rip rap or paving. As an alternative to the rip rap or paving, erosion control geotextile material, such as Mirafi 700X or similar, may be installed for erosion control. This geotextile protection system is often used to guard against erosion.

Engineered Fill

The organic-free, on-site soils are predominately clayey sand, sandy clay and sandy clay with gravel. The clayey soils will not be suitable for re-use as non-expansive Engineered Fill. These clayey soils will be suitable for reuse for fill placement within the upper 24 inches of slab-on-grade and adjacent exterior flatwork areas, provided they are lime-treated. The preliminary application rate of lime should be 5 percent by dry weight. The lime material should be calcium oxide, commonly known as quick-lime. The clayey soils should be at or near optimum moisture-condition during mixing operations. Additional testing is recommended to determine the appropriate application rate of lime prior to placement. These clayey soils will be suitable for reuse as General Engineered Fill, provided they are cleansed of excessive organics, debris, and moisture-conditioned to at least 2 percent above optimum moisture. It is recommended that additional testing be performed on the on-site soils and fill material to evaluate the physical and index properties prior to reuse as Engineered Fill.

The preferred materials specified for Engineered Fill are suitable for most applications with the exception of exposure to erosion. Project site winterization and protection of exposed soils during the construction phase should be the sole responsibility of the Contractor since he has complete control of the project site at that time.

Imported Fill material should be predominately non-expansive granular material with a plasticity index less than 10 and an expansion index less than 15. Imported Fill should be free from rocks and lumps greater than 4 inches in diameter. All Imported Fill material should be submitted for approval to the Soils Engineer at least 48 hours prior to delivery to the site.

Fill soils should be placed in lifts approximately 6 inches thick, moisture-conditioned to a minimum of 2 percent above optimum moisture content, and compacted to achieve at least 90 percent of the maximum density based on ASTM Test Method D1557. Additional lifts should not be placed if the previous lift did not meet the required dry density or if soil conditions are not stable.

Drainage and Landscaping

The ground surface should slope away from building pad and pavement areas toward appropriate drop inlets or other surface drainage devices. In accordance with Section 1804 of the 2022 California Building Code, it is recommended that the ground surface adjacent to foundations be sloped a minimum of 5 percent for a minimum distance of 10 feet away from structures, or to an approved alternative means of drainage conveyance. Swales used for conveyance of drainage and located within 10 feet of foundations should be sloped a minimum of 2 percent. Impervious surfaces, such as pavement and

exterior concrete flatwork, within 10 feet of building foundations should be sloped a minimum of 1 percent away from the structure. Drainage gradients should be maintained to carry all surface water to collection facilities and off-site. These grades should be maintained for the life of the project.

Grade the site to prevent water/run-off flow over the face of cut and fill slopes. To accomplish this, use asphalt berms, brow ditches, or other measures to intercept and slowly redirect flow. Plant all disturbed areas with erosion-resistant vegetation suited to the area. As an alternative, jute netting or geotextile erosion control mats may be considered for control of erosion. Slopes should be inspected periodically for erosion and repaired immediately if erosion is detected. Where only 1 drainage terrace is necessary, it should be located at mid-height of the slope. Brow ditches and drainage terraces should be cleaned before the start of each rainy season and, if necessary, after each rainstorm.

Utility Trench Backfill

Utility trenches should be excavated according to accepted engineering practices following OSHA (Occupational Safety and Health Administration) standards by a Contractor experienced in such work. The responsibility for the safety of open trenches should be borne by the Contractor. Traffic and vibration adjacent to trench walls should be minimized; cyclic wetting and drying of excavation side slopes should be avoided. Depending upon the location and depth of some utility trenches, groundwater flow into open excavations could be experienced, especially during or shortly following periods of precipitation.

Utility trench backfill placed in or adjacent to buildings and exterior slabs should be compacted to at least 90 percent of maximum density based on ASTM Test Method D1557. Utility trench backfill placed in pavement areas should be compacted to at least 90 percent of maximum density based on ASTM Test Method D1557. Pipe bedding should be in accordance with pipe manufacturer's recommendations.

Sandy and gravelly soil conditions were encountered at the site. These cohesionless soils have a tendency to cave in trench wall excavation. Shoring or sloping back trench sidewalls may be required within these sandy and gravelly soils if the excavation will be deep.

The Contractor is responsible for removing all water-sensitive soils from the trench regardless of the backfill location and compaction requirements. The Contractor should use appropriate equipment and methods to avoid damage to the utilities and/or structures during fill placement and compaction.

Foundations - Conventional

After completion of the recommended site preparation, the site should be suitable for shallow footing support. The proposed structure may be supported on a shallow foundation system bearing on undisturbed native soils or Engineered Fill. Spread and continuous footings can be designed for the following maximum allowable soil bearing pressures:

Load	Allowable Loading
Dead Load Only	1,875 psf
Dead-Plus-Live Load	2,500 psf
Total Load, Including Wind or Seismic Loads	3,325 psf

Conventional footings should have a minimum embedment of 18 inches. In addition, it is recommended that foundations on the downhill side of the building have a minimum setback of 10 feet or $\frac{1}{3}$ the height of the downhill slope height, whichever is greater. Alternatively, the foundations can be deepened to meet the required setback. Footings should have a minimum width of 12 inches regardless of load.

The total soil settlement is not expected to exceed 1 inch. Differential soil settlement should be less than $\frac{1}{2}$ inch. Most of the settlement is expected to occur during construction as the loads are applied. However, additional post-construction settlement may occur if the foundation soils are flooded or saturated.

Resistance to lateral footing displacement can be computed using an allowable friction factor of 0.30 acting between the base of foundations and the supporting subgrade. Lateral resistance for footings can alternatively be developed using an allowable equivalent fluid passive pressure of 250 pounds per cubic foot acting against the appropriate vertical footing faces. The frictional and passive resistance of the soil may be combined without reduction in determining the total lateral resistance. A $\frac{1}{3}$ increase in the above value may be used for short duration, wind, or seismic loads.

Foundations - Drilled Piers

The proposed structures can be supported on caissons using an allowable sidewall friction of 400 psf. This value is for dead-plus-live loads. This value may be increased $\frac{1}{3}$ for short duration loads, such as wind or seismic. Uplift loads can be resisted by caissons using an allowable sidewall friction of 225 psf of the surface area and the weight of the pier. Caissons should have a minimum embedment depth of 8 feet. The upper 2 feet should be neglected from friction calculations. The total and differential settlement should be less than 1 inch. Most of the settlement is expected to occur as the loads are applied. If drilled piers or caissons will be utilized, no over-excavation of the fill and native soils will be required.

Lateral loads for caissons may be designed using the 2022 CBC flagpole formula with a lateral bearing capacity of 150 psf/ft. This value can be doubled for allowable deflections of up to $\frac{1}{2}$ inch. The lateral loading criteria is based on the assumption that the load application is applied at the ground level and flexible cap conditions apply.

Sandy soils and shallow groundwater were encountered at the site. These sandy soils may be subject to caving during drilling operations. Accordingly, cased caissons may be required.

Floor Slabs and Exterior Flatwork

In areas that will utilize moisture-sensitive floor coverings, concrete slab-on-grade floors should be underlain by a water vapor retarder. The water vapor retarder should be installed in accordance with accepted engineering practice. The water vapor retarder should consist of a vapor retarder sheeting underlain by a minimum of 3 inches of compacted, clean, gravel of ¾-inch maximum size. To aid in concrete curing an optional 2 to 4 inches of granular fill may be placed on top of the vapor retarder. The granular fill should consist of damp clean sand with at least 10 to 30 percent of the sand passing the 100 sieve. The sand should be free of clay, silt, or organic material. Rock dust which is manufactured sand from rock crushing operations is typically suitable for the granular fill. This granular fill material should be compacted.

Slabs-on-grade should be reinforced at a minimum with No. 3 reinforcement bars at 18 inches on-center each way within the floor slabs middle-third. Ultimate design of floor slabs and reinforcement should be performed by the project Structural Engineer.

The exterior floors should be poured separately in order to act independently of the walls and foundation system. All fills required to bring the building pads to grade should be Engineered Fills. Ultimate design of floor slabs and reinforcement should be performed by the project's Structural Engineer.

Moisture within the structure may be derived from water vapors, which were transformed from the moisture within the soils. This moisture vapor can travel through the vapor membrane and penetrate the slab-on-grade. This moisture vapor penetration can affect floor coverings and produce mold and mildew in the structure. To reduce moisture vapor intrusion, it is recommended that a vapor retarder be installed. It is recommended that the utility trenches within the structure be compacted, as specified in our report, to reduce the transmission of moisture through the utility trench backfill. Special attention to the immediate drainage and irrigation around the building is recommended. Positive drainage should be established away from the structure and should be maintained throughout the life of the structure. Ponding of water should not be allowed adjacent to the structure. Over-irrigation within landscaped areas adjacent to the structure should not be performed. In addition, ventilation of the structure (i.e. ventilation fans) is recommended to reduce the accumulation of interior moisture.

Lateral Earth Pressures and Retaining Walls

Walls retaining horizontal backfill and capable of deflecting a minimum of 0.1 percent of its height at the top may be designed using an equivalent fluid active pressure of 50 pounds per square foot per foot of depth. Walls incapable of this deflection or are fully constrained walls against deflection may be designed for an equivalent fluid at-rest pressure of 70 pounds per square foot per foot of depth. Expansive soils should not be used for backfill against walls. The wedge of non-expansive backfill material should extend from the bottom of each retaining wall outward and upward at a slope of 2:1 (horizontal to vertical) or flatter. The stated lateral earth pressures do not include the effects of hydrostatic water pressures generated by infiltrating surface water that may accumulate behind the retaining walls or loads imposed by construction equipment, foundations, or roadways.

Retaining and/or below grade walls should be drained with either perforated pipe encased in free-draining gravel or a prefabricated drainage system. The gravel zone should have a minimum width of 12 inches, should extend upward to within 12 inches of the top of the wall, and should be encapsulated by a geotextile filter fabric, such as Mirafi 140N or equivalent. The upper 12 inches of backfill should consist of native soils, concrete, asphaltic concrete, or other suitable backfill to reduce surface drainage into the wall drain system. The aggregate should conform to Class 2 permeable materials graded in accordance with the CalTrans Standard Specifications (2018). Prefabricated drainage systems, such as Miradrain®, Enkadrain®, or an equivalent substitute, are acceptable alternatives in lieu of gravel provided they are installed in accordance with the manufacturer's recommendations. If a prefabricated drainage system is proposed, our firm should review the system for final acceptance prior to installation.

Drainage pipes should be placed with the perforations down and should discharge in a non-erosive manner away from foundations and other improvements. The pipes should be placed no higher than 6 inches above the heel of the wall in the center of the drainage blanket and should have a minimum diameter of 4 inches. Collector pipes may be either slotted or perforated. Slots should be no wider than 1/8-inch in diameter, while perforations should be no more than 1/4-inch in diameter. If retaining walls are less than 6 feet high, the perforated pipe may be omitted in lieu of weep holes on 4 feet maximum spacing. The weep holes should consist of 4-inch diameter holes (concrete wall) or unmortared head joints (masonry walls) and not be higher than 18 inches above the lowest adjacent grade. Two 8-inch square overlapping patches of geotextile fabric (conforming to the CalTrans Standard Specifications for "edge drains") should be affixed to the rear wall opening of each weep-hole to retard soil piping.

During grading and backfilling operations adjacent to any walls, heavy equipment should not be allowed to operate within a lateral distance of 5 feet from the wall or within a lateral distance equal to the wall height, whichever is greater, to avoid developing excessive lateral pressures. Within this zone, only hand operated equipment ("whackers," vibratory plates, or pneumatic compactors) should be used to compact the backfill soils.

R-Value Test Results and Pavement Design

One subgrade soil sample was obtained from the project site for R-value testing at the location shown on the attached site plan. The sample was tested in accordance with the State of California Materials Manual Test Designation 301. Results of the test are as follows:

Sample	Depth	Description	R-Value at Equilibrium
1	12-24"	Sandy Clay (CL)	Less than 5

The test results are low and indicate poor subgrade support characteristics under dynamic traffic loads. The following table shows the recommended pavement sections for various traffic indices.

Traffic Index	Asphaltic Concrete	Class II Aggregate Base*	Class III Aggregate Subbase	Compacted Subgrade**
4.0	2.0"	8.5"	--	12.0"
4.0	2.0"	4.5"	4.5"	12.0"
4.5	3.0"	9.0"	--	12.0"
4.5	3.0"	4.0"	5.5"	12.0"
5.0	3.0"	11.0"	--	12.0"
5.0	3.0"	5.0"	6.5"	12.0"
5.5	3.0"	11.5"	--	12.0"
5.5	3.0"	5.0"	7.0"	12.0"
6.0	3.0"	13.5"	--	12.0"
6.0	3.0"	6.5"	8.0"	12.0"
6.5	3.5"	14.0"	--	12.0"
6.5	3.5"	6.0"	9.0"	12.0"
7.0	4.0"	15.5"	--	12.0"
7.0	4.0"	6.5"	10.0"	12.0"
7.5	4.0"	17.0"	--	12.0"
7.5	4.0"	7.5"	10.5"	12.0"

* 95% compaction based on ASTM Test Method D1557 or CAL 216

** 90% compaction based on ASTM Test Method D1557 or CAL 216

If traffic indices are not available, an estimated (typical value) index of 4.5 may be used for light automobile traffic, and an index of 7.0 may be used for light truck traffic.

The following recommendations are for light-duty and heavy-duty Portland Cement Concrete Pavement Sections based on the design procedures developed by the Portland Cement Association.

PORTLAND CEMENT PAVEMENT LIGHT DUTY

Traffic Index	Portland Cement Concrete***	Class II Aggregate Base*	Compacted Subgrade**
4.5	6.0"	5.0"	12.0"

HEAVY DUTY

Traffic Index	Portland Cement Concrete***	Class II Aggregate Base*	Compacted Subgrade**
7.0	7.0"	6.0"	12.0"

* 95% compaction based on ASTM Test Method D1557 or CAL 216

** 90% compaction based on ASTM Test Method D1557 or CAL 216

***Minimum Compressive Strength of 3000 psi

It is recommended that any uncertified fill material encountered within pavement areas be removed and/or recompacted. The fill material should be moisture-conditioned to near optimum moisture and recompacted to a minimum of 90 percent of maximum density based on ASTM Test Method D1557. As

an alternative, the Owner may elect not to recompact the existing fill within paved areas. However, the Owner should be aware that the paved areas may settle which may require annual maintenance. At a minimum, it is recommended that the upper 12 inches of subgrade soil be moisture-conditioned as necessary and recompact to a minimum of 90 percent of maximum density based on ASTM Test Method D1557.

Seismic Parameters – 2022 California Building Code

The Site Class per Section 1613 of the 2022 California Building Code (2022 CBC) and ASCE 7-16, Chapter 20 is based upon the site soil conditions. It is our opinion that a Site Class D is most consistent with the subject site soil conditions. For seismic design of the structures based on the seismic provisions of the 2022 CBC, we recommend the following parameters:

Seismic Item	Value	CBC Reference
Site Class	D	Section 1613.2.2
Site Coefficient F_a	1.200	Table 1613.2.3 (1)
S_s	1.500	Section 1613.2.1
S_{MS}	1.800	Section 1613.2.3
S_{DS}	1.200	Section 1613.2.4
Site Coefficient F_v	1.700	Table 1613.2.3 (2)
S_1	0.600	Section 1613.2.1
S_{M1}	1.020	Section 1613.2.3
S_{D1}	0.680	Section 1613.2.4
T_s	0.567	Section 1613.2

* Based on Equivalent Lateral Force (ELF) Design Procedure being used.

Soil Cement Reactivity

Excessive sulfate in either the soil or native water may result in an adverse reaction between the cement in concrete (or stucco) and the soil. HUD/FHA and CBC have developed criteria for evaluation of sulfate levels and how they relate to cement reactivity with soil and/or water.

Soil samples were obtained from the site and tested in accordance with State of California Materials Manual Test Designation 417. The sulfate concentrations detected from these soil samples were less than 150 ppm and are below the maximum allowable values established by HUD/FHA and CBC. Therefore, no special design requirements are necessary to compensate for sulfate reactivity with the cement.

Compacted Material Acceptance

Compaction specifications are not the only criteria for acceptance of the site grading or other such activities. However, the compaction test is the most universally recognized test method for assessing the performance of the Grading Contractor. The numerical test results from the compaction test cannot be used to predict the engineering performance of the compacted material. Therefore, the acceptance of compacted materials will also be dependent on the stability of that material. The Soils Engineer has the option of rejecting any compacted material regardless of the degree of compaction if that material is considered to be unstable or if future instability is suspected. A specific example of rejection of fill material passing the required percent compaction is a fill which has been compacted with an in-situ moisture content significantly less than optimum moisture. This type of dry fill (brittle fill) is susceptible to future settlement if it becomes saturated or flooded.

Testing and Inspection

A representative of Krazan & Associates, Inc., should be present at the site during the earthwork activities to confirm that actual subsurface conditions are consistent with the exploratory fieldwork. This activity is an integral part of our service, as acceptance of earthwork construction is dependent upon compaction testing and stability of the material. This representative can also verify that the intent of these recommendations is incorporated into the project design and construction. Krazan & Associates, Inc., will not be responsible for grades or staking, since this is the responsibility of the Prime Contractor.

LIMITATIONS

Soils Engineering is one of the newest divisions of Civil Engineering. This branch of Civil Engineering is constantly improving as new technologies and understanding of earth sciences advance. Although your site was analyzed using the most appropriate and most current techniques and methods, undoubtedly there will be substantial future improvements in this branch of engineering. In addition to advancements in the field of Soils Engineering, physical changes in the site, either due to excavation or fill placement, new agency regulations, or possible changes in the proposed structure after the soils report is completed may require the soils report to be professionally reviewed. In light of this, the Owner should be aware that there is a practical limit to the usefulness of this report without critical review. Although the time limit for this review is strictly arbitrary, it is suggested that 2 years be considered a reasonable time for the usefulness of this report.

Foundation and earthwork construction is characterized by the presence of a calculated risk that soil and groundwater conditions have been fully revealed by the original foundation investigation. This risk is derived from the practical necessity of basing interpretations and design conclusions on limited sampling of the earth. The recommendations made in this report are based on the assumption that soil conditions do not vary significantly from those disclosed during our field investigation. If any variations or undesirable conditions are encountered during construction, the Soils Engineer should be notified so that supplemental recommendations may be made.

The conclusions of this report are based on the information provided regarding the proposed construction. If the proposed construction is relocated or redesigned, the conclusions in this report may not be valid. The Soils Engineer should be notified of any changes so the recommendations may be reviewed and re-evaluated.

This report is a Geotechnical Engineering Investigation with the purpose of evaluating the soil conditions in terms of foundation design. The scope of our services did not include any Environmental Site Assessment for the presence or absence of hazardous and/or toxic materials in the soil, groundwater, or atmosphere; or the presence of wetlands. Any statements, or absence of statements, in this report or on any boring log regarding odors, unusual or suspicious items, or conditions observed, are strictly for descriptive purposes and are not intended to convey engineering judgment regarding potential hazardous and/or toxic assessment.

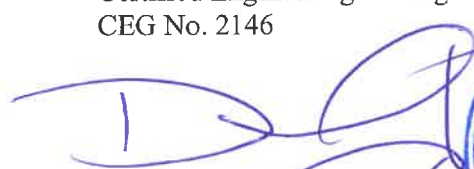
The geotechnical engineering information presented herein is based upon professional interpretation utilizing standard engineering practices and a degree of conservatism deemed proper for this project. It is not warranted that such information and interpretation cannot be superseded by future geotechnical engineering developments. We emphasize that this report is valid for the project outlined above and should not be used for any other sites.

If you have any questions, or if we may be of further assistance, please do not hesitate to contact our office at (925) 307-1160.

Respectfully submitted,
KRAZAN & ASSOCIATES, INC.



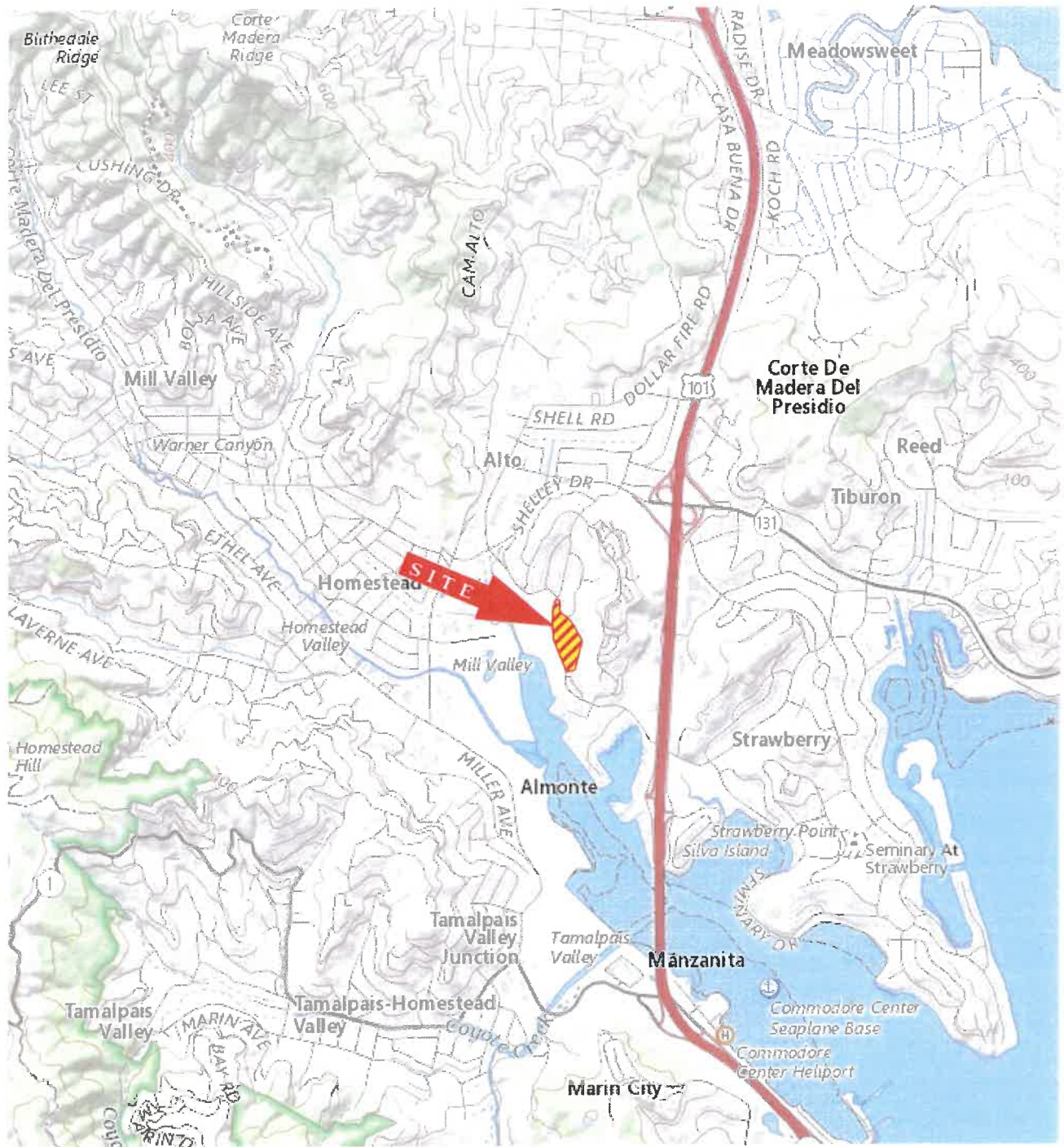
Stephen J. Nelson
Certified Engineering Geologist
CEG No. 2146



David R. Jarosz, II
Managing Engineer
RGE No. 2698/RCE No. 60185

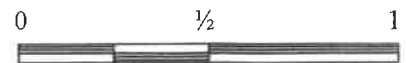


SJN/DRJ:wa



VICINITY MAP

MAP SOURCE:
 United States Geological Survey; Topo
 ZoneMaps;
<https://www.topozone.com/California/>



SCALE IN MILES (±)

**GEOTECHNICAL ENGINEERING
 INVESTIGATION
 MULTI-FAMILY RESIDENTIAL
 DEVELOPMENT**
 1 Hamilton Drive
 Mill Valley, California

Scale: As Shown	Date: August 2023
Drawn by: WA	Approved by: SN
Project No. 042-22001	Figure No. 1



SITE GEOLOGIC MAP

MULTI-FAMILY RESIDENTIAL DEVELOPMENT
 1 Hamilton Drive
 Mill Valley, California

Scale:
 As Shown

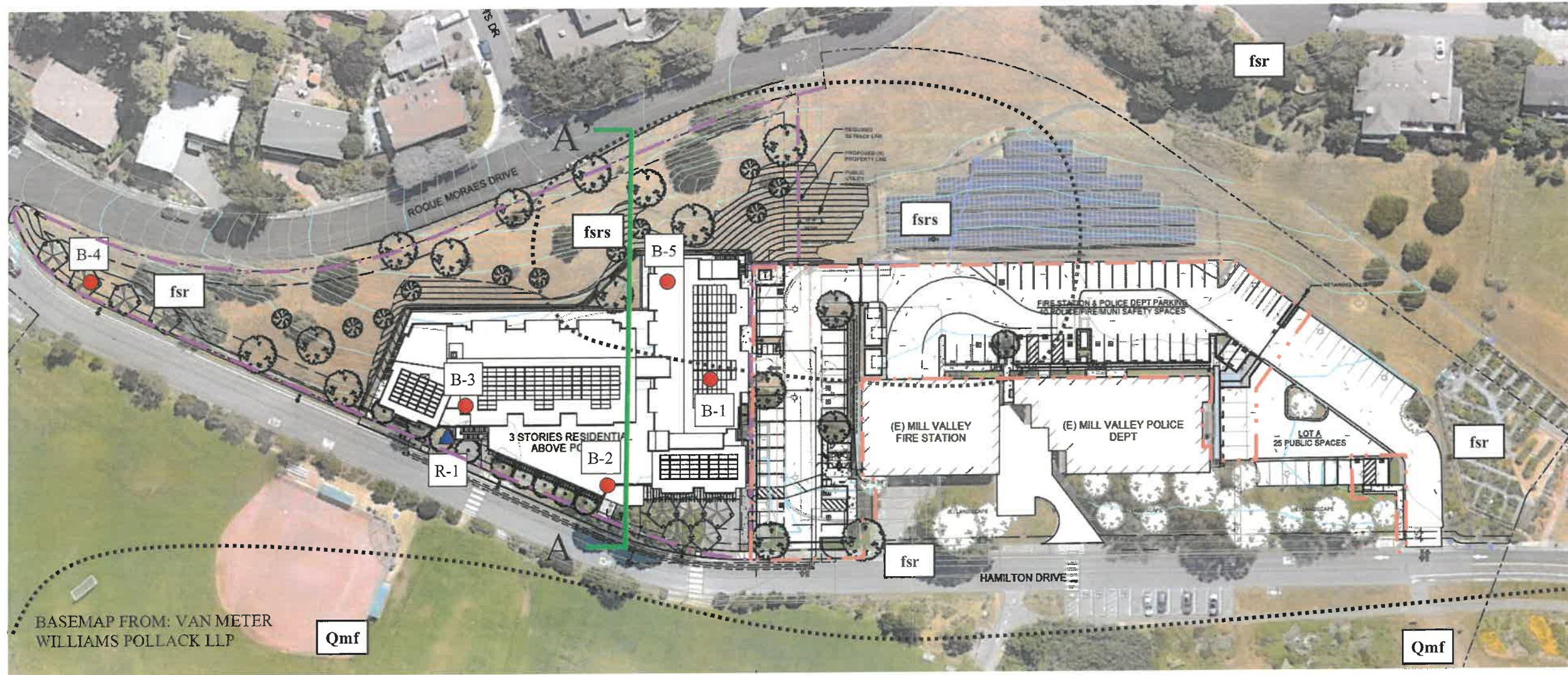
Date:
 August 2023

Project No.
 042-22001

Drawn by:
 WA

Approved by:
 DJ

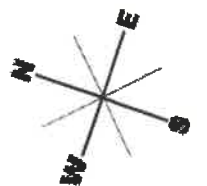
Figure No.
 2

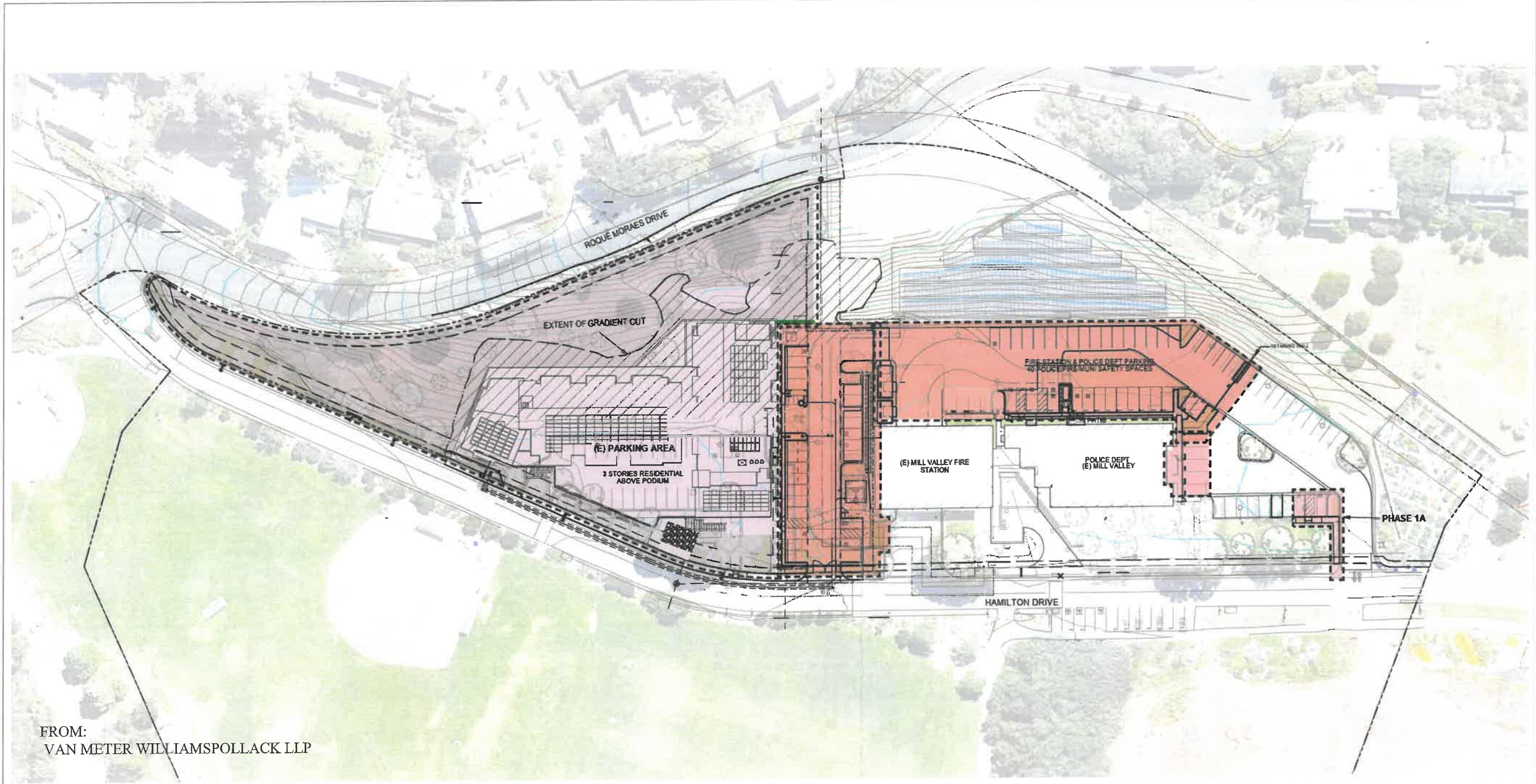


BASEMAP FROM: VAN METER
 WILLIAMS POLLACK LLP

- Qmf** - Artificial fill over marine and marsh deposits (Quaternary)
- fsrs** - Franciscan Complex- Serpentinite- (Cretaceous to Jurassic)
- fsr** - Franciscan Complex- Mélange (Cretaceous to Jurassic)
- - - - -** -Geologic Contact

- -Approximate Boring Location
- ▲ -Approximate R-Value Location
- A A'** -Cross Section A-A'
- - - - -** -Housing Site - Project Limits
- - - - -** -PSB Site - Project Limits

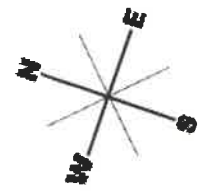


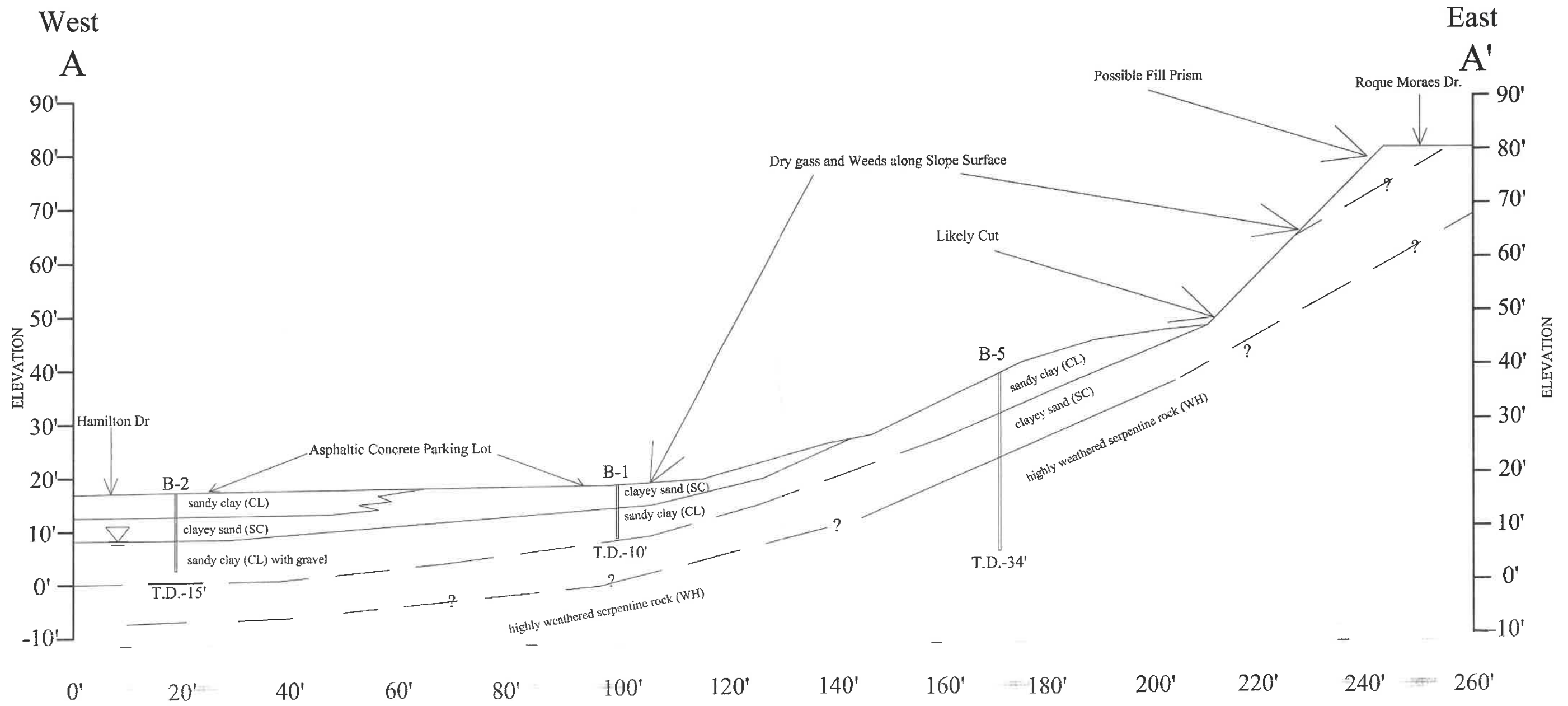


FROM:
VAN METER WILLIAMSPOLLACK LLP

- Housing Site
- PSB Site

SITE MAP
MULTI-FAMILY RESIDENTIAL DEVELOPMENT 1 Hamilton Drive Mill Valley, California
Scale: As Shown
Date: August 2023
Project No. 042-22001
Drawn by: WA
Approved by: DJ
Figure No. 2.1

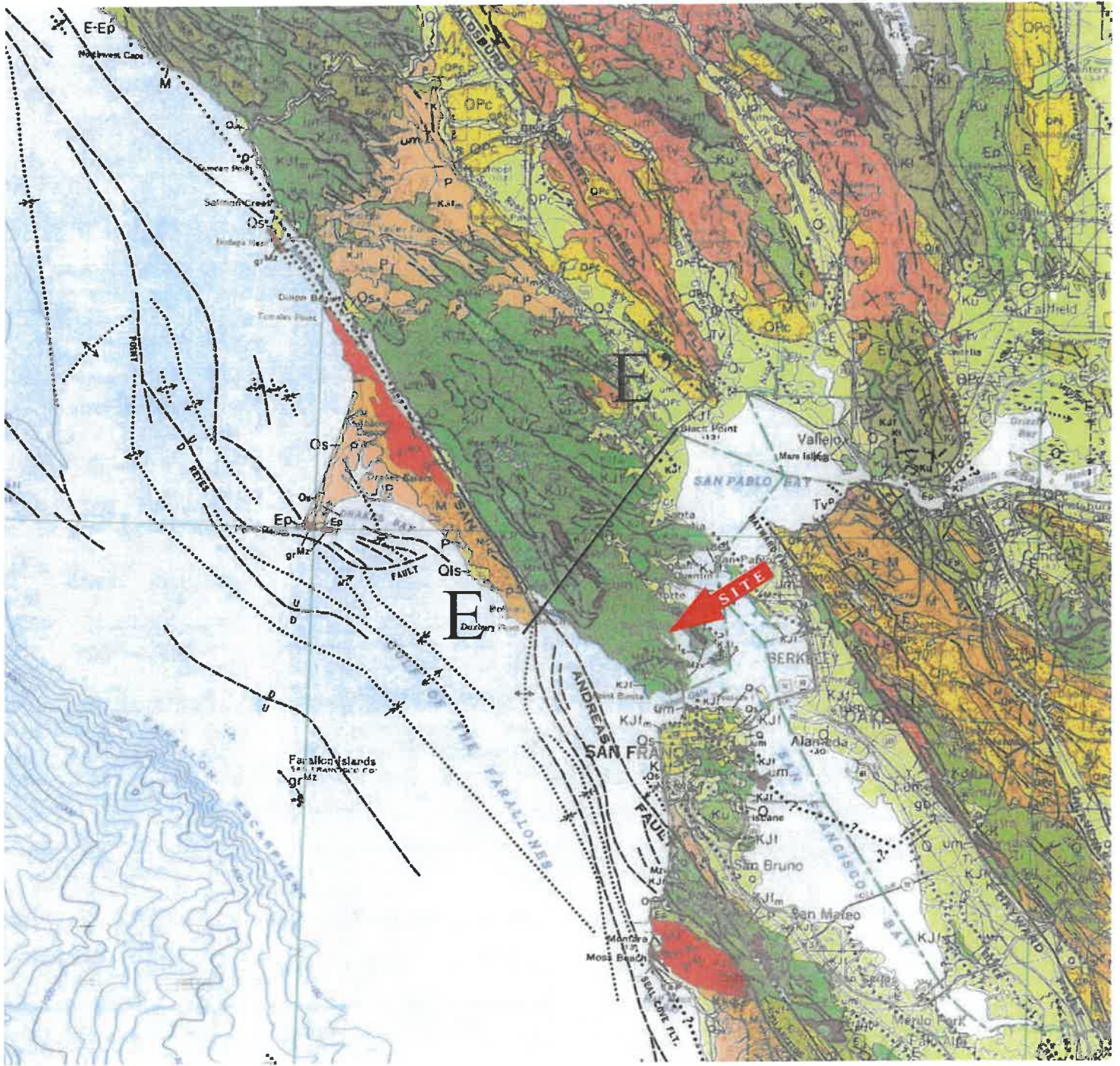


SITE GEOLOGIC CROSS SECTION A-A'



Scale: Vertical and Horizontal the same

GEOTECHNICAL ENGINEERING INVESTIGATION MULTI-FAMILY RESIDENTIAL DEVELOPMENT 1 Hamilton Drive Mill Valley, California	Scale: As Shown	Date: August 2023	
	Drawn by: WA	Approved by: SN	
	Project No. 042-22001	Figure No. 3	



REGIONAL GEOLOGIC MAP

FROM:
GEOLOGIC MAP OF CALIFORNIA QUADRANGLE,
COMPILATION BY CHARLES W. JENNINGS
1977



0 12 24



SCALE IN MILES (±)

**GEOTECHNICAL ENGINEERING
INVESTIGATION
MULTI-FAMILY DEVELOPMENT**
1 Hamilton Drive
Mill Valley, California

Scale:
As Shown
Drawn by:
WA
Project No.
042-22001

Date:
August 2023
Approved by:
SN
Figure No.
4

 **Krazan**
GEOTECHNICAL ENGINEERING



-Alluvium, lake, playa, and terrace deposits: unconsolidated and semi unconsolidated marine deposits near the coast (Quaternary)



-Franciscan Complex; sandstone with smaller amounts of shale, chert, limestone, and conglomerate-includes Franciscan mélangé (Cretaceous and Jurassic)



-Melange of fragments and sheared Franciscan Complex (Cretaceous and Jurassic)



-Blueschist and semi-schist of Franciscan Complex (Cretaceous and Jurassic)



-Ultramafic rocks, mostly serpentinite, gabbro, diabase, and peridotite (Cretaceous and Jurassic)



-Undivided mesozoic volcanic and meta volcanic rocks (Cretaceous and Jurassic)

REGIONAL GEOLOGIC MAP
EXPLANATION
(LOCALIZED)

Cross-section
E E'

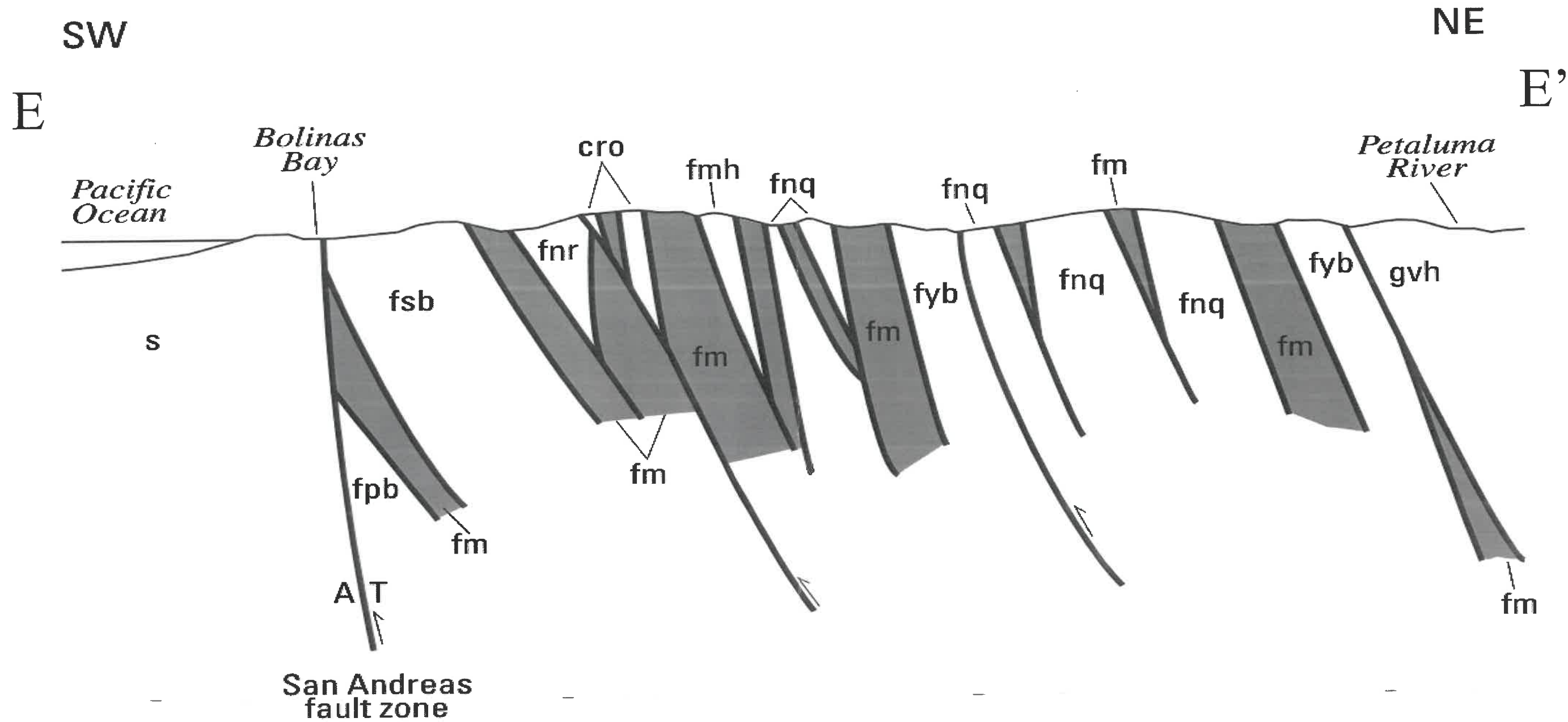
FROM:
GEOLOGIC MAP OF CALIFORNIA QUADRANGLE,
COMPILATION BY CHARLES W. JENNINGS
1977

**GEOTECHNICAL ENGINEERING
INVESTIGATION
MULTI-FAMILY RESIDENTIAL
DEVELOPMENT
1 Hamilton Drive
Mill Valley, California**

Scale:
As Shown
Drawn by:
WA
Project No.
042-22001

Date:
August 2023
Approved by:
SN
Figure No.
4a



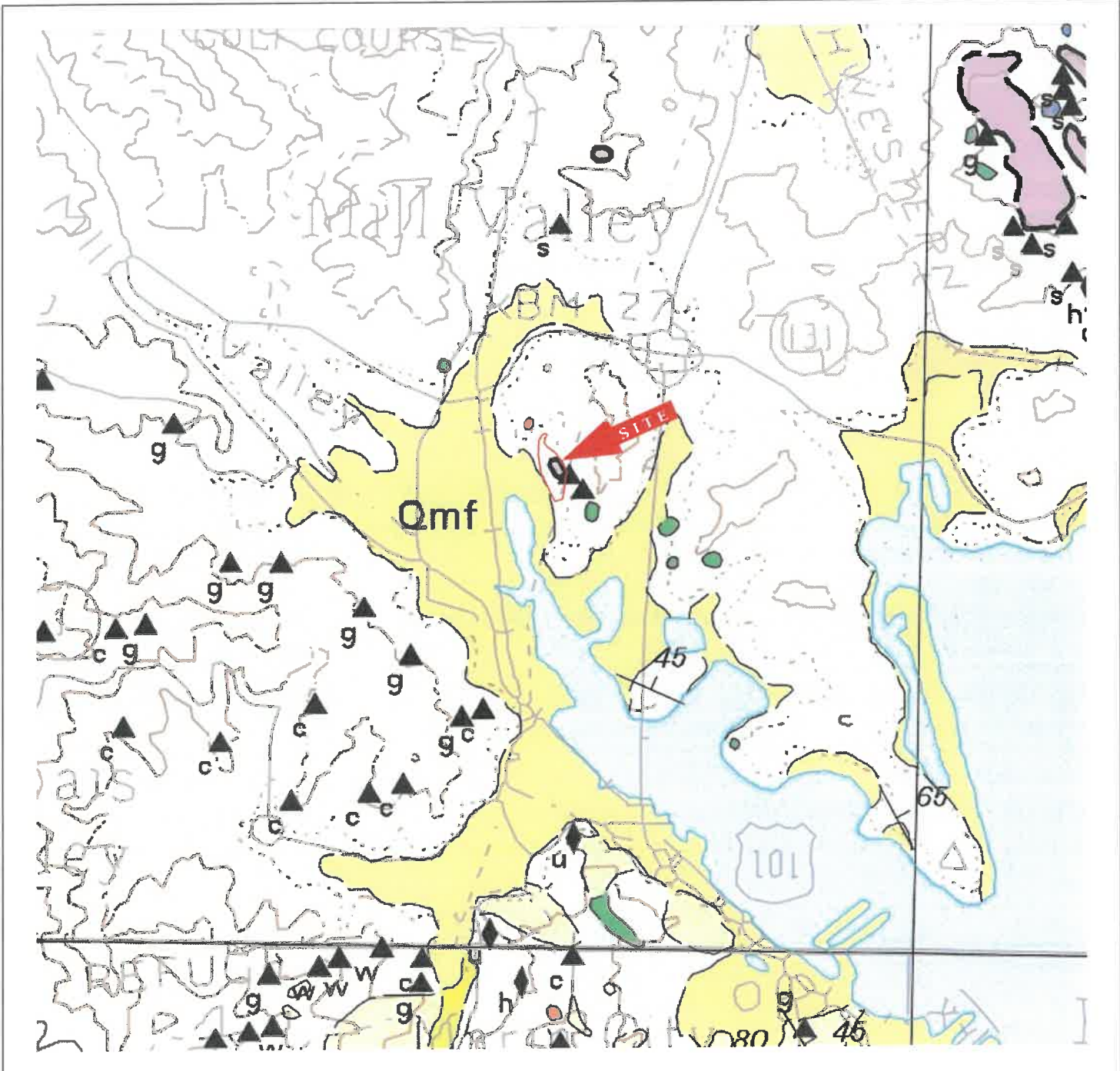


REGIONAL GEOLOGIC CROSS SECTION E-E'

SCALE 1" = 8,800 FEET
 HORIZONTAL AND VERTICAL SCALE THE SAME

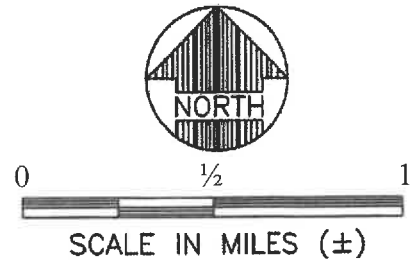
FROM: GEOLOGIC MAP OF PARTS OF MARIN, SAN FRANCISCO, ALAMEDA, CONTRA COSTA, AND SONOMA COUNTIES, CALIFORNIA.
 BY M.C. BLAKEJR., R.W. GRAYMER, AND D.L. JONES
 2000

GEOTECHNICAL ENGINEERING INVESTIGATION MULTI-FAMILY RESIDENTIAL DEVELOPMENT 1 Hamilton Drive Mill Valley, California	Scale: As Shown	Date: August 2023	
	Drawn by: WA	Approved by: SN	
	Project No. 042-22001	Figure No. 5	



LOCAL GEOLOGIC MAP

FROM:
 GEOLOGIC MAP OF PARTS OF MARIN, SAN FRANCISCO,
 ALAMEDA, CONTRA COSTA, AND SONOMA COUNTIES,
 CALIFORNIA.
 BY M.C. BLAKEJR., R.W. GRAYMER, AND D.L. JONES
 2000


















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 1 Hamilton Drive
 Mill Valley, California




Scale: As Shown	Date: August 2023
Drawn by: WA	Approved by: SN
Project No. 042-22001	Figure No. 6
























LIST OF MAP UNITS

(See pamphlet for Description of Map Units)

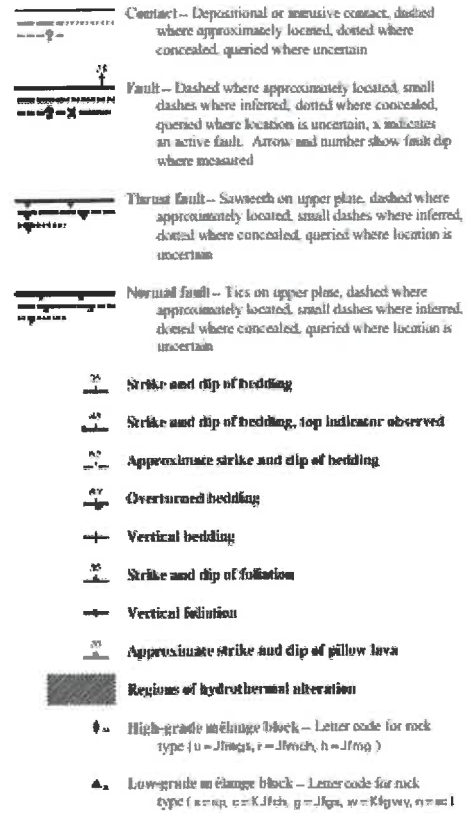
- SURFICIAL DEPOSITS**
-  **Qaf** Artificial fill (Quaternary)
 -  **Qmf** Artificial fill over marine and marsh deposits (Quaternary)
 -  **Qs** Beach sand (Quaternary)
 -  **Qd** Dune sand (Quaternary)
 -  **Qm** Marine and marsh deposits (Quaternary)
 -  **Qls** Landslide deposits (Quaternary)
 -  **Qal** Alluvium (Quaternary)
 -  **Qsr** Slope debris and ravine fill (Quaternary)
 -  **Qu** Undifferentiated surficial deposits (Quaternary)
 -  **Qv** Volcanic gravel (Quaternary)
 -  **Qob** Older beach deposits (Quaternary)
 -  **Qoa** Older alluvium (Quaternary)
 -  **Qst** Marine and stream terrace deposits (Quaternary)
 -  **Qm1** Millerton Formation (Quaternary)
 -  **Qc** Colma Formation (Quaternary)

- ROCKS WEST OF AND WITHIN THE SAN ANDREAS FAULT ZONE**
-  **Qm2** Merced Formation (early Quaternary and late Pliocene)
 -  **Tmc** Santa Cruz Mudstone (late Miocene)
 -  **Tm** Monterey Shale (late and middle Miocene)

- ROCKS EAST OF AND WITHIN THE SAN ANDREAS FAULT ZONE**
- Tertiary overlap sequence**
-  **Tmg** Wilson Grove Formation (Pliocene)
 -  **Tps** Petaluma Formation (Pliocene) Siltstone and claystone member
 -  **Tpc** Gray claystone member
 -  **Tsv** Sonoma Volcanics (Pliocene and Miocene)
 -  **Tr** Rhyolite lava flows
 -  **Trd** Rhyolite plugs and dikes
 -  **Tra** Andesite and basalt lava flows
 -  **Tat** Pumiceous ash flow tuff
 -  **T** Sandstone (Miocene)


- Franciscan Complex**
-  **Kfs** Sandstone and shale (Cretaceous)
 -  **Kfw** Massive sandstone (Cretaceous)
 -  **Kfh** Thin-bedded sandstone and shale (Cretaceous)
 -  **Kl** Limestone and chert (Cretaceous)
 -  **Klg** Greenstone (Cretaceous)
 -  **Kch** Chert (Cretaceous)
 -  **Kfwy** Graywacke (Cretaceous)
 -  **Kdb** Diabase (Cretaceous)
 -  **Kjfs** Metamorphic rocks (Cretaceous and Jurassic)
 -  **Kjch** Chert (Cretaceous and Jurassic)
 -  **Kjlg** Greenstone and chert (Cretaceous and Jurassic)
 -  **Jfg** Greenstone (Jurassic)
 -  **Jmgs** Metagreenstone (Jurassic)
 -  **Jmch** Metachert (Jurassic)
 -  **Jmgs2** Metagreenstone and metachert (Jurassic)
 -  **Jfg2** Greenstone (Jurassic)
 -  **Jmg** Metamorphic rocks (Jurassic)
 -  **Jsp** Massive serpentinite (Jurassic)
 -  **js** Serpentinite (Jurassic)
 -  **s** Silica-carbonate rock (Jurassic)
 -  **fs** Mélange

- Great Valley Complex**
-  **Kjgv** Unfolded Great Valley complex shale, sandstone, and conglomerate (Cretaceous and for Jurassic)
 -  **Kscv** Navajo Conglomerate (Cretaceous)
 -  **Kjgv2** Sandstone and claystone (Cretaceous and for Jurassic)
 -  **sp** Serpentinite (Jurassic)
 -  **s2** Silica-carbonate rock (Jurassic)



**LOCAL GEOLOGIC MAP
AND REGIONAL CROSS-
SECTION E-E'
EXPLANATION**

FROM:
GEOLOGIC MAP OF PARTS OF MARIN, SAN FRANCISCO, ALAMEDA, CONTRA COSTA, AND SONOMA COUNTIES, CALIFORNIA.
BY M.C. BLAKEJR., R.W. GRAYMER, AND D.L. JONES
2000

<p>GEOTECHNICAL ENGINEERING INVESTIGATION MULTI-FAMILY RESIDENTIAL DEVELOPMENT 1 Hamilton Drive Mill Valley, California</p>	Scale: As Shown	Date: August 2023	
	Drawn by: WA	Approved by: SN	
	Project No. 042-22001	Figure No. 6a	

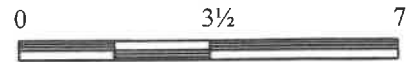


NOTES:

FAULT ACTIVITY MAP

PREPARED FROM THE C.G.S. "FAULT ACTIVITY MAP OF CALIFORNIA" JENNINGS AND BRYANT, 2010

FAULT TRACES ON LAND ARE INDICATED BY SOLID LINES WHERE WELL LOCATED, BY DASHED LINES WHERE CONCEALED BY YOUNGER ROCKS OR BY LAKES OR BAYS. FAULT TRACES ARE QUERIED WHERE CONTINUATION OR EXISTENCE IS UNCERTAIN.



SCALE IN MILES (±)

**GEOTECHNICAL ENGINEERING INVESTIGATION
MULTI-FAMILY RESIDENTIAL DEVELOPMENT
1 Hamilton Drive
Mill Valley, California**

Scale:
As Shown
Drawn by:
WA
Project No.
042-22001

Date:
August 2023
Approved by:
SN
Figure No.
7





Fault along which historic (last 200 years) displacement has occurred and is associated with one or more of the following:

(a) a recorded earthquake with surface rupture. (Also included are some well-defined surface breaks caused by ground shaking during earthquakes, e.g. extensive ground breakage, not on the White Wolf fault, caused by the Arvin-Tehachapi earthquake of 1952). The date of the associated earthquake is indicated. Where repeated surface ruptures on the same fault have occurred, only the date of the latest movement may be indicated, especially if earlier reports are not well documented as to location of ground breaks.

(b) fault creep slippage - slow ground displacement usually without accompanying earthquakes.

(c) displaced survey lines.



A triangle to the right or left of the date indicates termination point of observed surface displacement. Solid red triangle indicates known location of rupture termination point. Open black triangle indicates uncertain or estimated location of rupture termination point.



Date bracketed by triangles indicates local fault break.



No triangle by date indicates an intermediate point along fault break.



Fault that exhibits fault creep slippage. Hachures indicate linear extent of fault creep. Annotation (creep with leader) indicates representative locations where fault creep has been observed and recorded.



Square on fault indicates where fault creep slippage has occurred that has been triggered by an earthquake on some other fault. Date of causative earthquake indicated. Squares to right and left of date indicate terminal points between which triggered creep slippage has occurred (creep either continuous or intermittent between these end points).



Holocene fault displacement (during past 11,700 years) without historic record. Geomorphic evidence for Holocene faulting includes sag ponds, scarps showing little erosion, or the following features in Holocene age deposits: offset stream courses, linear scarps, shutter ridges, and triangular faceted spurs. Recency of faulting offshore is based on the interpreted age of the youngest strata displaced by faulting.



Late Quaternary fault displacement (during past 700,000 years). Geomorphic evidence similar to that described for Holocene faults except features are less distinct. Faulting may be younger, but lack of younger overlying deposits precludes more accurate age classification.



Quaternary fault (age undifferentiated). Most faults of this category show evidence of displacement sometime during the past 1.6 million years; possible exceptions are faults which displace rocks of undifferentiated Plio-Pleistocene age. Unnumbered Quaternary faults were based on Fault Map of California, 1975. See Bulletin 201, Appendix D for source data.



Pre-Quaternary fault (older than 1.6 million years) or fault without recognized Quaternary displacement. Some faults are shown in this category because the source of mapping used was of reconnaissance nature, or was not done with the object of dating fault displacements. Faults in this category are not necessarily inactive.

NOTES:

FAULT ACTIVITY MAP EXPLANATION

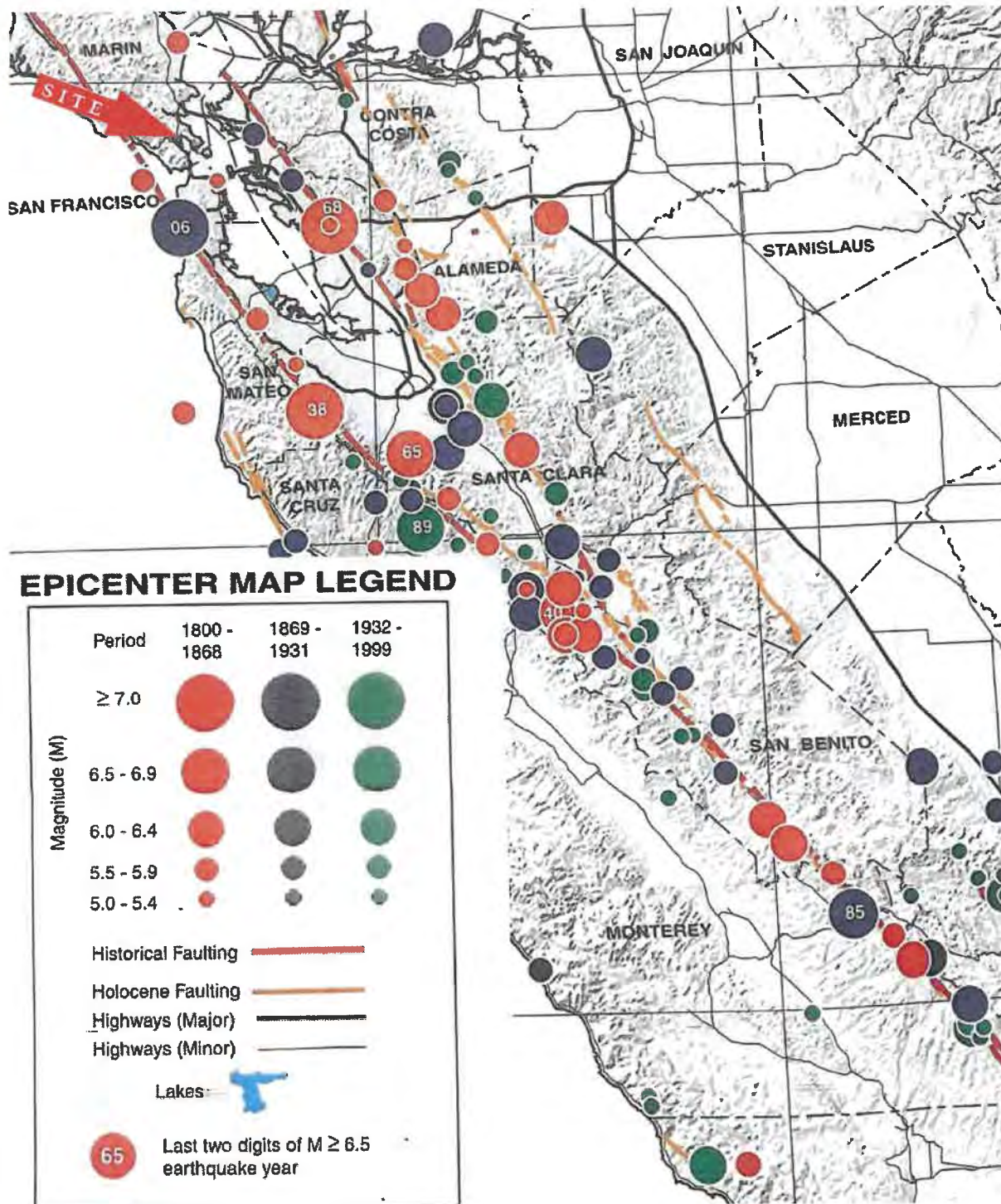
PREPARED FROM THE C.G.S. "FAULT ACTIVITY MAP OF CALIFORNIA" JENNINGS AND BRYANT, 2010

FAULT TRACES ON LAND ARE INDICATED BY SOLID LINES WHERE WELL LOCATED, BY DASHED LINES WHERE CONCEALED BY YOUNGER ROCKS OR BY LAKES OR BAYS. FAULT TRACES ARE QUERIED WHERE CONTINUATION OR EXISTENCE IS UNCERTAIN.

GEOTECHNICAL ENGINEERING INVESTIGATION MULTI-FAMILY RESIDENTIAL DEVELOPMENT 1 Hamilton Drive Mill Valley, California

Table with 2 columns: Scale, Date, Drawn by, Approved by, Project No., Figure No.





MAP SOURCE:
 CGS MAP SHEET 49
 EPICENTERS OF AND AREAS
 DAMAGED BY M > 5 CALIFORNIA
 EARTHQUAKES, 1800-1999
 BY TOPPOZADA, BRANUM, PETERSEN,
 HALLSTROM, CRAMER & REICHLER, 2000

EPICENTER MAP



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 1 Hamilton Drive
 Mill Valley, California

Scale: As Shown	Date: August 2023
Drawn by: WA	Approved by: SN
Project No. 042-22001	Figure No. 8

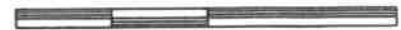




AERIAL PHOTO



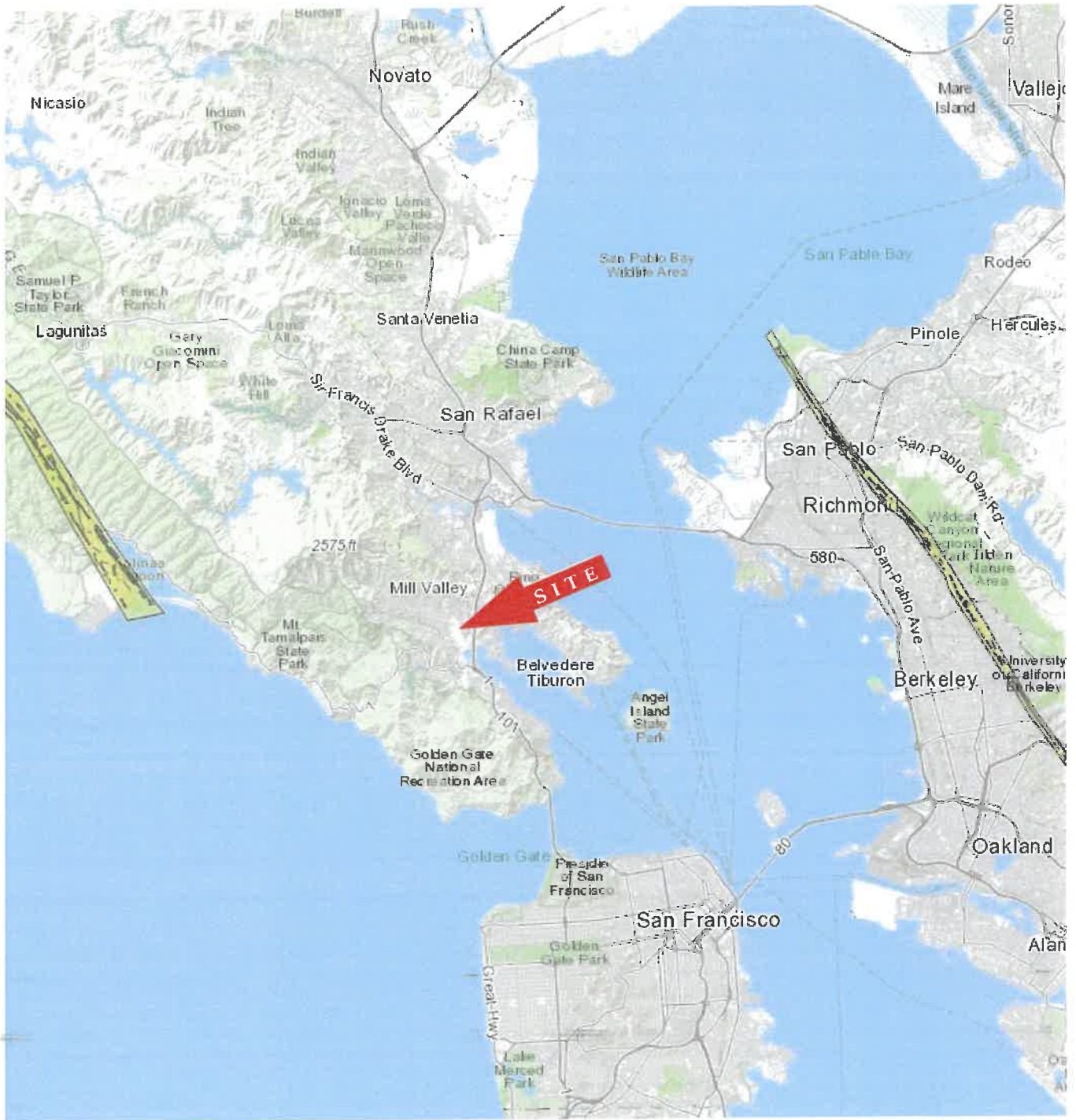
0' 160' 320'



SCALE IN FEET (±)

FROM:
GOOGLE EARTH PRO, 2023

GEOTECHNICAL ENGINEERING INVESTIGATION MULTI-FAMILY RESIDENTIAL DEVELOPMENT 1 Hamilton Drive Mill Valley, California	Scale: As Shown	Date: August 2023	
	Drawn by: WA	Approved by: SN	
	Project No. 042-22001	Figure No. 9	



**EARTHQUAKE ZONES OF
REQUIRED INVESTIGATION
(FAULTS)**

MAP SOURCE:
 Earthquake Fault Zones and Seismic Hazard
 Zones. San Mateo Quadrangle
 By John Parrish, PHD., State Geologist, 2003



SCALE IN MILES (±)

**GEOTECHNICAL
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 1 Hamilton Drive
 Mill Valley, California

Scale: As Shown	Date: August 2023
Drawn by: WA	Approved by: SN
Project No. 042-22001	Figure No. 10





**EARTHQUAKE ZONES OF
REQUIRED INVESTIGATION
(LIQUEFACTION)**

MAP SOURCE:

Earthquake Fault Zones and Seismic Hazard
Zones. San Rafael Quadrangle
By John Parrish, PHD., State Geologist, 2003



GEOTECHNICAL ENGINEERING INVESTIGATION MULTI-FAMILY RESIDENTIAL DEVELOPMENT 1 Hamilton Drive Mill Valley, California	Scale: As Shown	Date: August 2023
	Drawn by: WA	Approved by: SN
	Project No. 042-22001	Figure No. 11



Earthquake Zones of Required Investigation

This Map Shows Both Alquist-Priolo Earthquake Fault Zones And Seismic Hazard Zones Issued For The San Rafael Quadrangle


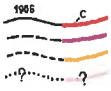
This map shows the location of Alquist-Priolo (AP) Earthquake Fault Zones and Seismic Hazard Zones, collectively referred to here as Earthquake Zones of Required Investigation. The Geographic Information System (GIS) digital files of these regulatory zones released by the California Geological Survey (CGS) are the "Official Maps." GIS files are available at the CGS website <http://maps.conservation.ca.gov/cgs/informationwarehouse/>. These zones will assist cities and counties in fulfilling their responsibilities for protecting the public from the effects of surface fault rupture and earthquake-triggered ground failure as required by the AP Earthquake Fault Zoning Act (Public Resources Code Sections 2621-2630) and the Seismic Hazards Mapping Act (Public Resources Code Sections 2690-2699.6). For information regarding the general approach and recommended methods for preparing these zones,

see CGS Special Publication 42, *Earthquake Fault Zones, a Guide for Government Agencies, Property Owners/Developers, and Geoscience Practitioners for Assessing Fault Rupture Hazards in California*, Appendix C, and CGS Special Publication 118, *Recommended Criteria for Delineating Seismic Hazard Zones in California*.



For information regarding the scope and recommended methods to be used in conducting required site investigations refer to CGS Special Publication 42, and CGS Special Publication 117A, *Guidelines for Evaluating and Mitigating Seismic Hazards in California*. For a general description of the AP and Seismic Hazards Mapping acts, the zoning programs, and related information, please refer to the website at www.conservation.ca.gov/cgs/.

MAP EXPLANATION



EARTHQUAKE FAULT ZONES

-  **Earthquake Fault Zones**
Zone boundaries are delineated by straight-line segments; the boundaries define the zone encompassing active faults that constitute a potential hazard to structures from surface faulting or fault creep such that avoidance as described in Public Resources Code Section 2621.5(a) would be required.
-  **Active Fault Traces**
Faults considered to have been active during Holocene time and to have potential for surface rupture: Solid Line in Black or Red where Accurately Located; Long Dash in Black or Solid Line in Purple where Approximately Located; Short Dash in Black or Solid Line in Orange where Inferred; Dotted Line in Black or Solid Line in Rose where Concealed; Query (?) indicates additional uncertainty. Evidence of historic offset indicated by year of earthquake-associated event or C for displacement caused by fault creep.

SEISMIC HAZARD ZONES

-  **Liquefaction Zones**
Areas where historical occurrence of liquefaction, or local geological, geotechnical and ground water conditions indicate a potential for permanent ground displacements such that mitigation as defined in Public Resources Code Section 2693(c) would be required.
-  **Earthquake-Induced Landslide Zones**
Areas where previous occurrence of landslide movement, or local topographic, geological, geotechnical and subsurface water conditions indicate a potential for permanent ground displacements such that mitigation as defined in Public Resources Code Section 2693(c) would be required.

OVERLAPPING EARTHQUAKE FAULT AND SEISMIC HAZARD ZONES

-  **Overlap of Earthquake Fault Zone and Liquefaction Zone**
Areas that are covered by both Earthquake Fault Zone and Liquefaction Zone.
-  **Overlap of Earthquake Fault Zone and Earthquake-Induced Landslide Zone**
Areas that are covered by both Earthquake Fault Zone and Earthquake-Induced Landslide Zone.

Note: Mitigation methods differ for each zone – AP Act only allows avoidance; Seismic Hazard Mapping Act allows mitigation by engineering/geotechnical design as well as avoidance.

EARTHQUAKE ZONES OF REQUIRED INVESTIGATION EXPLANATION

MAP SOURCE:

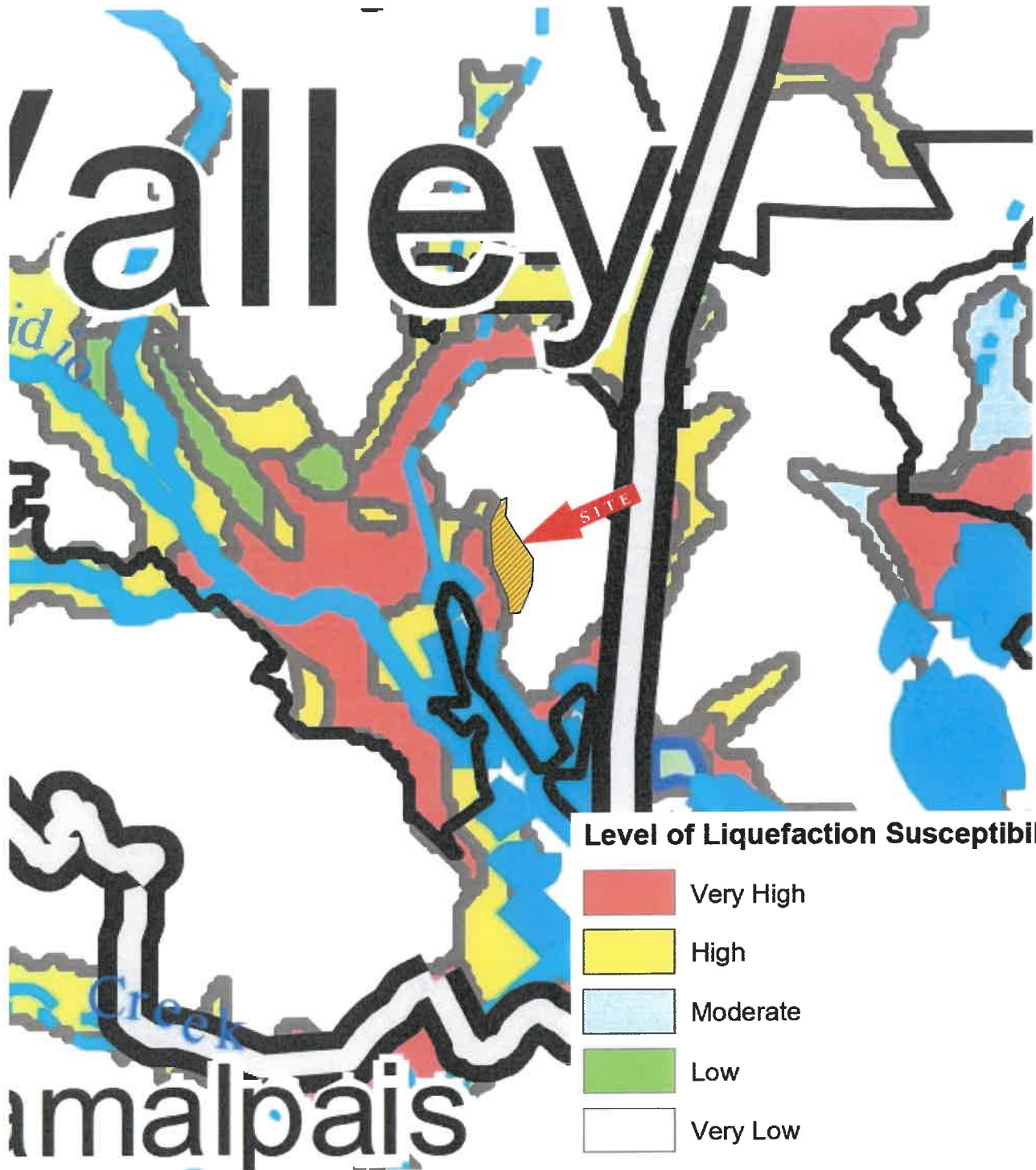
Earthquake Fault
Zones and Seismic Hazard Zones. San Rafael Quadrangle
By John Parrish, PHD., State Geologist, 2003

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Project No.
042-22001

Date:
August 2023
Approved by:
SN
Figure No.
11a





Level of Liquefaction Susceptibility*

- Very High
- High
- Moderate
- Low
- Very Low

MARIN COUNTY
LIQUEFACTION MAP
(SITE LIES JUST TO EAST AND OUTSIDE OF
VERY HIGH LIQUEFACTION
SUSCEPTIBILITY)

MAP SOURCE:

SOURCE: Knudson, K. L., Sowers, J. M., Witter, R. C., Wentworth, C. M., and Helley, E. J.,
Preliminary Maps of Quaternary Deposits and Liquefaction Susceptibility, Nine-County
San Francisco Bay Region, California: A Digital Database, Open-File Report 00-44,
Online Version 1.0, U.S. Geological Survey, 2000.



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Mill Valley, California

Scale: As Shown	Date: August 2023
Drawn by: WA	Approved by: SN
Project No. 042-22001	Figure No. 12





NOTE:

ALL OF FEMA FLOOD INSURANCE
 MAP IS SHOWN WITHIN "ZONE X"
 UNLESS OTHERWISE NOTED. EFFECTIVE
 2019

























FLOOD MAP



**GEOTECHNICAL ENGINEERING
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 1 Hamilton Drive
 Mill Valley, California

Scale: As Shown	Date: August 2023
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Project No. 042-22001	Figure No. 13



SPECIAL FLOOD HAZARD AREAS		Without Base Flood Elevation (BFE) Zone A, V, A99
		With BFE or Depth Zone AE, AO, AH, VE, AR
		Regulatory Floodway
OTHER AREAS OF FLOOD HAZARD		0.2% Annual Chance Flood Hazard, Area of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile Zone J
		Future Conditions 1% Annual Chance Flood Hazard Zone X
		Area with Reduced Flood Risk due to Levee. See Notes. Zone X
		Area with Flood Risk due to Levee Zone D
OTHER AREAS		NO SCREEN Area of Minimal Flood Hazard Zone X
		Effective LOMRs
		Area of Undetermined Flood Hazard Zone C
GENERAL STRUCTURES		Channel, Culvert, or Storm Sewer
		Levee, Dike, or Floodwall
OTHER FEATURES		20.2 Cross Sections with 1% Annual Chance Water Surface Elevation
		17.8 Cross Sections with 1% Annual Chance Water Surface Elevation
		Coastal Transect
		Base Flood Elevation Line (BFE)
		Limit of Study
		Jurisdiction Boundary
OTHER FEATURES		Coastal Transect Baseline
		Profile Baseline
		Hydrographic Feature
MAP PANELS		Digital Data Available
		No Digital Data Available
		Unmapped



The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 4/1/2021 at 1:53 PM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.

FLOOD MAP EXPLANATION

NOTE:

ALL OF FEMA FLOOD INSURANCE MAP IS SHOWN WITHIN "ZONE X" UNLESS OTHERWISE NOTED. EFFECTIVE 2019

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1 Hamilton Drive
Mill Valley, California

Scale: As Shown	Date: August 2023
Drawn by: WA	Approved by: SN
Project No. 042-22001	Figure No. 13a





INUNDATION BOUNDARY

DAM INUNDATION
(NO DAM INUNDATION CONCERN)



SCALE IN MILES (±)

FROM:
California Department of Water Resources, Dam
Inundation Map, 2017

**GEOTECHNICAL ENGINEERING
INVESTIGATION
MULTI-FAMILY RESIDENTIAL
DEVELOPMENT**
1 Hamilton Drive
Mill Valley, California

Scale: As Shown	Date: August 2023
Drawn by: WA	Approved by: SN
Project No. 042-22001	Figure No. 14



2008 National Seismic Hazard Maps - Source Parameters

[New Search](#)

Distance in Miles	Name	State	Pref Slip Rate (mm/yr)	Dip (degrees)	Dip Dir	Slip Sense	Rupture Top (km)	Rupture Bottom (km)	Length (km)
6.68	N. San Andreas;SAO+SAN	CA	n/a	90	V	strike slip	0.1	11	325
6.68	N. San Andreas;SAO+SAN+SAP	CA	n/a	90	V	strike slip	0.1	11	410
6.68	N. San Andreas;SAO+SAN+SAP+SAS	CA	n/a	90	V	strike slip	0.2	12	472
6.68	N. San Andreas;SAN	CA	24	90	V	strike slip	0.1	11	189
6.68	N. San Andreas;SAN+SAP	CA	n/a	90	V	strike slip	0.1	11	274
6.68	N. San Andreas;SAN+SAP+SAS	CA	n/a	90	V	strike slip	0.2	12	336
8.25	N. San Andreas;SAP	CA	17	90	V	strike slip	0.1	13	85
8.25	N. San Andreas;SAP+SAS	CA	n/a	90	V	strike slip	0.4	13	147
10.33	San Gregorio Connected	CA	5.5	90	V	strike slip	0.6	12	176
11.28	Hayward-Rodgers Creek;RC+HN	CA	9	90	V	strike slip	0.7	11	97
11.28	Hayward-Rodgers Creek;RC+HN+HS	CA	9	90	V	strike slip	1.2	10	150
11.28	Hayward-Rodgers Creek;HN	CA	9	90	V	strike slip	2.4	9	35
11.28	Hayward-Rodgers Creek;HN+HS	CA	9	90	V	strike slip	2.4	9	87
13.93	Hayward-Rodgers Creek;RC	CA	9	90	V	strike slip	0.1	12	62
17.34	Point Reyes	CA	0.3	50	NE	reverse	0	9	47

17.57	<u>Hayward-Rodgers Creek;HS</u>	CA	9	90	V	strike slip	2.4	9	52
23.81	<u>West Napa</u>	CA	1	90	V	strike slip	0	10	30
26.17	<u>Green Valley Connected</u>	CA	4.7	90	V	strike slip	3.7	11	56
26.43	<u>Mount Diablo Thrust</u>	CA	2	38	NE	thrust	8	16	25
28.55	<u>Calaveras;CN+CC+CS</u>	CA	n/a	90	V	strike slip	2.2	7	123
28.55	<u>Calaveras;CN</u>	CA	6	90	V	strike slip	1.3	11	45
28.55	<u>Calaveras;CN+CC</u>	CA	n/a	90	V	strike slip	2	8	104
35.06	<u>Monte Vista-Shannon</u>	CA	0.4	45	W	thrust	0	4	45
37.40	<u>Great Valley 5, Pittsburg Kirby Hills</u>	CA	1	90	V	reverse	10	20	32
37.66	<u>Greenville Connected</u>	CA	2	90	V	strike slip	0.8	15	50
41.26	<u>Great Valley 4b, Gordon Valley</u>	CA	1.3	20	W	thrust	9	14	28
42.18	<u>Hunting Creek-Berryessa</u>	CA	6	90	V	strike slip	0	12	60
47.66	<u>Maacama-Garberville</u>	CA	9	90	V	strike slip	2.4	9	221

APPENDIX A

FIELD AND LABORATORY INVESTIGATIONS

Field Investigation

The field investigation consisted of a surface reconnaissance and a subsurface exploratory program. Five 4½-inch to 6½-inch diameter exploratory borings were advanced. The boring locations are shown on the site plan.

The soils encountered were logged in the field during the exploration and, with supplementary laboratory test data, are described in accordance with the Unified Soil Classification System.

Modified standard penetration tests and standard penetration tests were performed at selected depths. These tests represent the resistance to driving a 2½-inch and 1½-inch diameter split barrel sampler, respectively. The driving energy was provided by a hammer weighing 140 pounds falling 30 inches. Relatively undisturbed soil samples were obtained while performing this test. Bag samples of the disturbed soil were obtained from the auger cuttings. The modified standard penetration tests are identified in the sample type on the boring logs with a full shaded in block. The standard penetration tests are identified in the sample type on the boring logs with half of the block shaded. All samples were returned to our Clovis laboratory for evaluation.

Laboratory Investigation

The laboratory investigation was programmed to determine the physical and mechanical properties of the foundation soil underlying the site. Test results were used as criteria for determining the engineering suitability of the surface and subsurface materials encountered.

In-situ moisture content, dry density, consolidation and sieve analysis tests were completed for the undisturbed samples representative of the subsurface material. Atterberg limits, expansion index and R-value tests were completed for select bag samples obtained from the auger cuttings. These tests, supplemented by visual observation, comprised the basis for our evaluation of the site material.

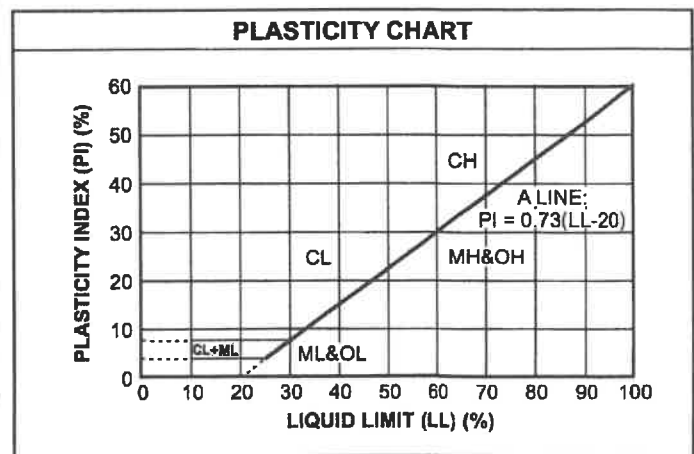
The logs of the exploratory borings and laboratory determinations are presented in this Appendix.

UNIFIED SOIL CLASSIFICATION SYSTEM

UNIFIED SOIL CLASSIFICATION AND SYMBOL CHART		
COARSE-GRAINED SOILS (more than 50% of material is larger than No. 200 sieve size.)		
GRAVELS More than 50% of coarse fraction larger than No. 4 sieve size	Clean Gravels (Less than 5% fines)	
	GW	Well-graded gravels, gravel-sand mixtures, little or no fines
	GP	Poorly-graded gravels, gravel-sand mixtures, little or no fines
	Gravels with fines (More than 12% fines)	
	GM	Silty gravels, gravel-sand-silt mixtures
	GC	Clayey gravels, gravel-sand-clay mixtures
SANDS 50% or more of coarse fraction smaller than No. 4 sieve size	Clean Sands (Less than 5% fines)	
	SW	Well-graded sands, gravelly sands, little or no fines
	SP	Poorly graded sands, gravelly sands, little or no fines
	Sands with fines (More than 12% fines)	
	SM	Silty sands, sand-silt mixtures
	SC	Clayey sands, sand-clay mixtures
FINE-GRAINED SOILS (50% or more of material is smaller than No. 200 sieve size.)		
SILTS AND CLAYS Liquid limit less than 50%	ML	Inorganic silts and very fine sands, rock flour, silty or clayey fine sands or clayey silts with slight plasticity
	CL	Inorganic clays of low to medium plasticity, gravelly clays, sandy clays, silty clays, lean clays
	OL	Organic silts and organic silty clays of low plasticity
SILTS AND CLAYS Liquid limit 50% or greater	MH	Inorganic silts, micaceous or diatomaceous fine sandy or silty soils, elastic silts
	CH	Inorganic clays of high plasticity, fat clays
	OH	Organic clays of medium to high plasticity, organic silts
HIGHLY ORGANIC SOILS	PT	Peat and other highly organic soils

CONSISTENCY CLASSIFICATION	
Description	Blows per Foot
<i>Granular Soils</i>	
Very Loose	< 5
Loose	5 – 15
Medium Dense	16 – 40
Dense	41 – 65
Very Dense	> 65
<i>Cohesive Soils</i>	
Very Soft	< 3
Soft	3 – 5
Firm	6 – 10
Stiff	11 – 20
Very Stiff	21 – 40
Hard	> 40

GRAIN SIZE CLASSIFICATION		
Grain Type	Standard Sieve Size	Grain Size in Millimeters
Boulders	Above 12 inches	Above 305
Cobbles	12 to 13 inches	305 to 76.2
Gravel	3 inches to No. 4	76.2 to 4.76
Coarse-grained	3 to ¾ inches	76.2 to 19.1
Fine-grained	¾ inches to No. 4	19.1 to 4.76
Sand	No. 4 to No. 200	4.76 to 0.074
Coarse-grained	No. 4 to No. 10	4.76 to 2.00
Medium-grained	No. 10 to No. 40	2.00 to 0.042
Fine-grained	No. 40 to No. 200	0.042 to 0.074
Silt and Clay	Below No. 200	Below 0.074



Log of Boring B1

Project: Multi-Family Residential Development

Project No: 042-22001

Client: City of Mill Valley

Figure No.: A-1

Location: 1 Hamilton Drive, Mill Valley, California

Logged By: Carlos Jimenez

Depth to Water>

Initial: None

At Completion: None

SUBSURFACE PROFILE			SAMPLE				Penetration Test blows/ft			Water Content (%)				
Depth (ft)	Symbol	Description	Dry Density (pcf)	Moisture (%)	Type	Blows/ft.								
0		Ground Surface						20	40	60	10	20	30	40
0		CLAYEY SAND (SC) Very loose, fine- to medium-grained; brown, moist, drills easily Loose below 12 inches												
2		SANDY CLAY (CL) Stiff, fine- to coarse-grained with GRAVEL; gray, moist, drills easily	98.0	14.4		16					10	20	30	40
4		SANDY CLAY (CL) Hard, fine- to medium-grained; gray, moist, drills hard												
6			97.9	26.7		57								
8														
10		End of Borehole												
12														
14														
16														
18														
20														

Drill Method: Solid Flight

Drill Date: 3-16-22

Drill Rig: CME 45B

Krazan and Associates

Hole Size: 4½ Inches

Driller: Brent Snyder

Elevation: 10 Feet

Sheet: 1 of 1

Log of Boring B2

Project: Multi-Family Residential Development

Project No: 042-22001

Client: City of Mill Valley

Figure No.: A-2


Location: 1 Hamilton Drive, Mill Valley, California

Logged By: Carlos Jimenez

Depth to Water >

Initial: 8½ Feet

At Completion: 8 Feet

SUBSURFACE PROFILE			SAMPLE				Penetration Test blows/ft			Water Content (%)				
Depth (ft)	Symbol	Description	Dry Density (pcf)	Moisture (%)	Type	Blows/ft.	Penetration Test			Water Content (%)				
							20	40	60	10	20	30	40	
Ground Surface														
0	█	SANDY CLAY (CL) Soft, fine- to medium-grained; dark brown, moist, drills easily Firm below 12 inches Stiff below 2 feet												
2			98.2	17.6		11								
4		SANDY CLAY (CL) Very stiff, fine- to coarse-grained with GRAVEL; dark brown, moist, drills firmly		95.4	10.6		33							
6														
8		 Saturated below 8 feet												
10	█	SANDY CLAY (CL) Stiff, fine- to coarse-grained with GRAVEL and COBBLES; brown, saturated, drills easily												
12			115.0	18.4		18								
14														
16		End of Borehole												
18														
20														

Drill Method: Solid Flight

Drill Date: 3-16-22

Drill Rig: CME 45B

Krazan and Associates

Hole Size: 4½ Inches

Driller: Brent Snyder

Elevation: 15 Feet

Sheet: 1 of 1

Log of Boring B3

Project: Multi-Family Residential Development

Project No: 042-22001

Client: City of Mill Valley

Figure No.: A-3

Location: 1 Hamilton Drive, Mill Valley, California

Logged By: Carlos Jimenez

Depth to Water>

Initial: 5 Feet

At Completion: 5 Feet

SUBSURFACE PROFILE			SAMPLE				Penetration Test blows/ft			Water Content (%)				
Depth (ft)	Symbol	Description	Dry Density (pcf)	Moisture (%)	Type	Blows/ft.								
							20	40	60	10	20	30	40	
0		Ground Surface												
0		SANDY CLAY (CL) Very loose, fine- to coarse-grained with GRAVEL; brown, moist, drills easily Firm below 12 inches Very stiff below 2 feet												
2			111.5	11.9		28						■		
4														
4		Stiff and saturated below 5 feet												
6			103.2	23.2		12							■	
10		End of Borehole												
12														
14														
16														
18														
20														

Drill Method: Solid Flight

Drill Date: 3-16-22

Drill Rig: CME 45B

Krazan and Associates

Hole Size: 4½ Inches

Driller: Brent Snyder

Elevation: 10 Feet

Sheet: 1 of 1

Log of Boring B4

Project: Multi-Family Residential Development

Project No: 042-22001

Client: City of Mill Valley

Figure No.: A-4

Location: 1 Hamilton Drive, Mill Valley, California

Logged By: Carlos Jimenez

Depth to Water>

Initial: 13 Feet

At Completion: 13 Feet

SUBSURFACE PROFILE			SAMPLE				Penetration Test blows/ft			Water Content (%)				
Depth (ft)	Symbol	Description	Dry Density (pcf)	Moisture (%)	Type	Blows/ft.	Penetration Test			Water Content (%)				
							20	40	60	10	20	30	40	
0		Ground Surface												
0 - 2		SANDY CLAY (CL) Soft, fine- to coarse-grained with GRAVEL; brown, moist, drills easily Firm below 12 inches Very stiff and drills firmly below 2 feet	97.6	19.0		24								
2 - 5		Hard below 5 feet												
5 - 6			120.1	8.5		50+								
6 - 10														
10 - 12		SANDY CLAY (CL) Hard, fine- to coarse-grained; grayish-brown, moist, drills hard	111.8	7.9		50+								
12 - 13		▽ Saturated below 13 feet												
13 - 14		Gray below 14 feet												
14 - 20														

Drill Method: Solid Flight

Drill Date: 3-16-22

Drill Rig: CME 45B

Krazan and Associates

Hole Size: 4½ Inches

Driller: Brent Snyder

Elevation: 20 Feet

Sheet: 1 of 1

Log of Boring B5

Project: Multi-Family Residential Development

Project No.: 042-22001

Client: City of Mill Valley

Figure No.: A-5

Location: 1 Hamilton Drive, Mill Valley, California

Logged By: Carlos Jimenez

Depth to Water >

Initial: None

At Completion: None

SUBSURFACE PROFILE			SAMPLE				Penetration Test blows/ft	Water Content (%)					
Depth (ft)	Symbol	Description	Dry Density (pcf)	Moisture (%)	Type	Blows/ft.		20	40	60	10	20	30
0		Ground Surface											
0 - 2		SANDY CLAY (CL) Soft, fine- to medium-grained; brown, moist, drills easily Firm below 12 inches Stiff below 2 feet	101.7	14.2		12	▲				■		
2 - 6		SANDY CLAY (CL) Hard, fine- to coarse-grained with GRAVEL; brown, moist, drills hard	110.3	15.6		46	▲				■		
6 - 10		CLAYEY SAND (SC) Dense, fine- to medium-grained; brown, moist, drills firmly	118.6	8.0		40	▲				■		
10 - 16		Very dense, grayish-brown and drills hard below 15 feet	119.2	6.4		50+	▲				■		
16 - 20							▲						

Drill Method: Hollow Stem

Drill Date: 3-16-22

Drill Rig: CME 45B

Krazan and Associates

Hole Size: 6½ Inches

Driller: Brent Snyder

Elevation: 34 Feet

Sheet: 1 of 2

Log of Boring B5

Project: Multi-Family Residential Development

Project No: 042-22001

Client: City of Mill Valley

Figure No.: A-5

Location: 1 Hamilton Drive, Mill Valley, California

Logged By: Carlos Jimenez

Depth to Water>

Initial: None

At Completion: None

SUBSURFACE PROFILE			SAMPLE				Penetration Test blows/ft			Water Content (%)				
Depth (ft)	Symbol	Description	Dry Density (pcf)	Moisture (%)	Type	Blows/ft.	Penetration Test			Water Content (%)				
							20	40	60	10	20	30	40	
22	[Symbol]	CLAYEY SAND (SC) Very dense, fine- to coarse-grained with GRAVEL and COBBLES; gray, moist, drills hard		4.5	[Symbol]	50+				■				
24														
26		SANDY CLAY (CL) Hard, fine- to coarse-grained; light gray, moist, drills hard		8.0	[Symbol]	50+				■				
28														
30		Auger refusal at 34 feet End of Borehole		10.0	[Symbol]	50+				■				
32														
34														
36														
38														
40														

Drill Method: Hollow Stem

Drill Date: 3-16-22

Drill Rig: CME 45B

Krazan and Associates

Hole Size: 6½ Inches

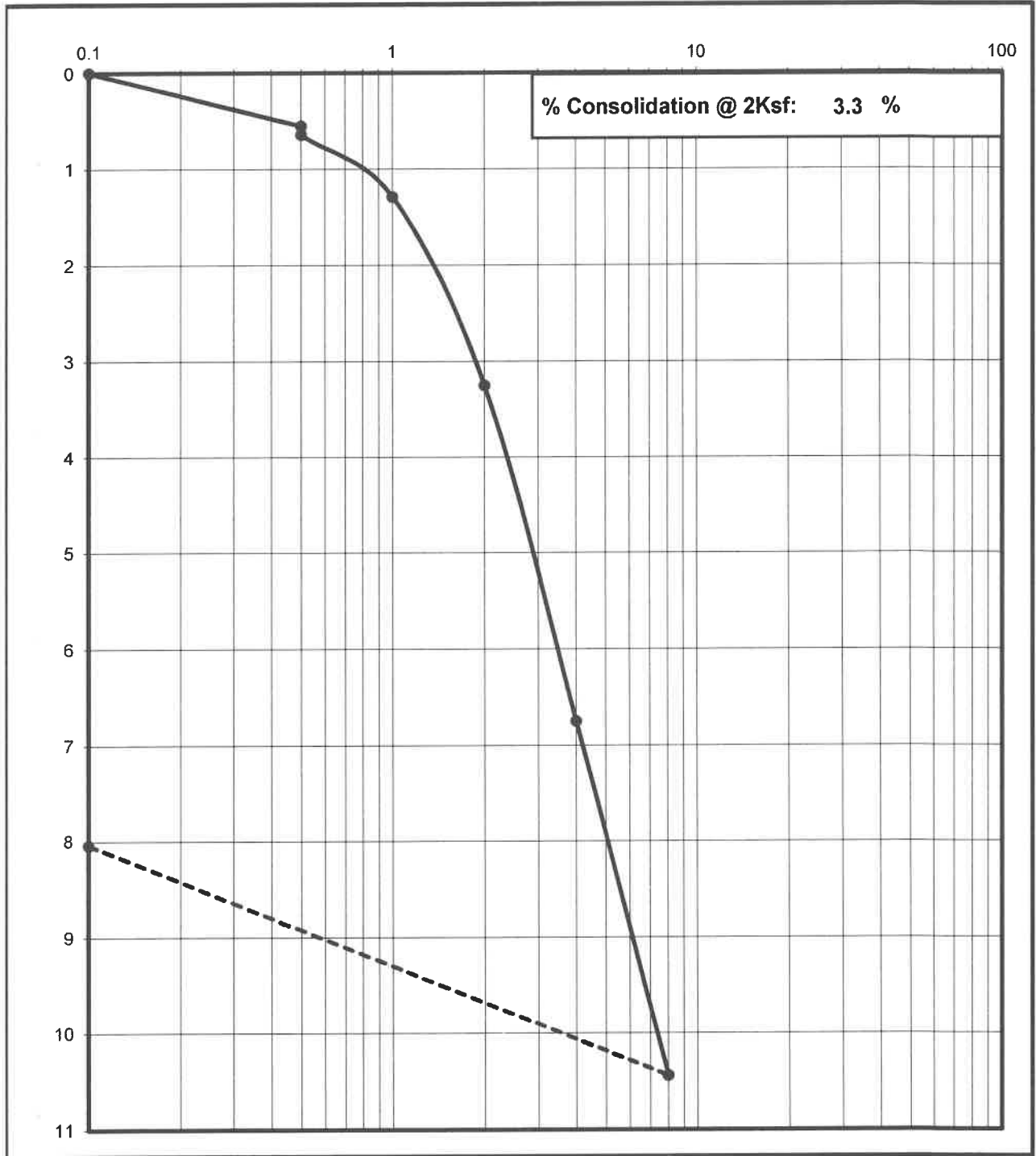
Driller: Brent Snyder

Elevation: 34 Feet

Sheet: 2 of 2

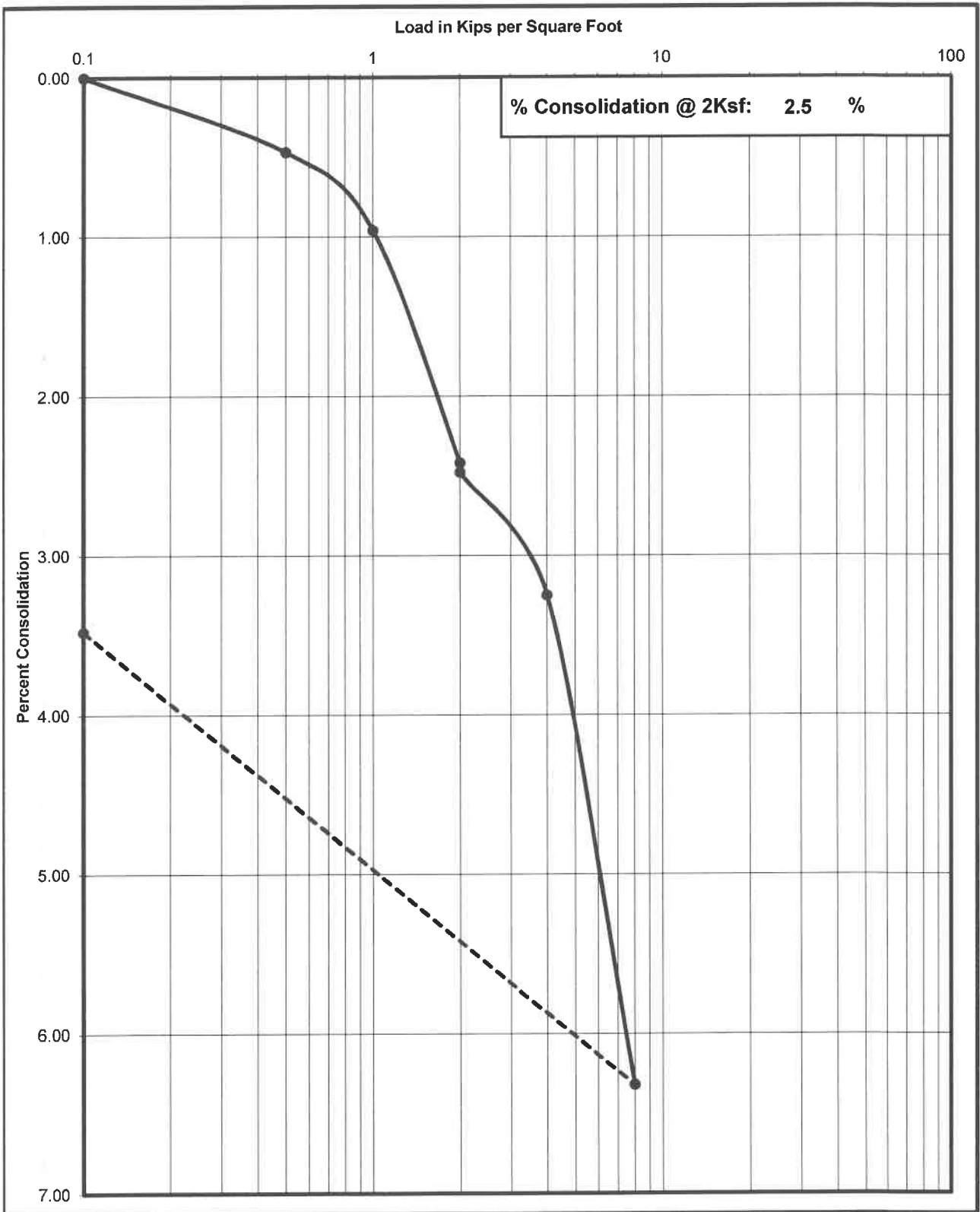
Consolidation Test

Project No	Boring No. & Depth	Date	Soil Classification
042-22001	B2 @ 2-3'	3/28/2022	CL



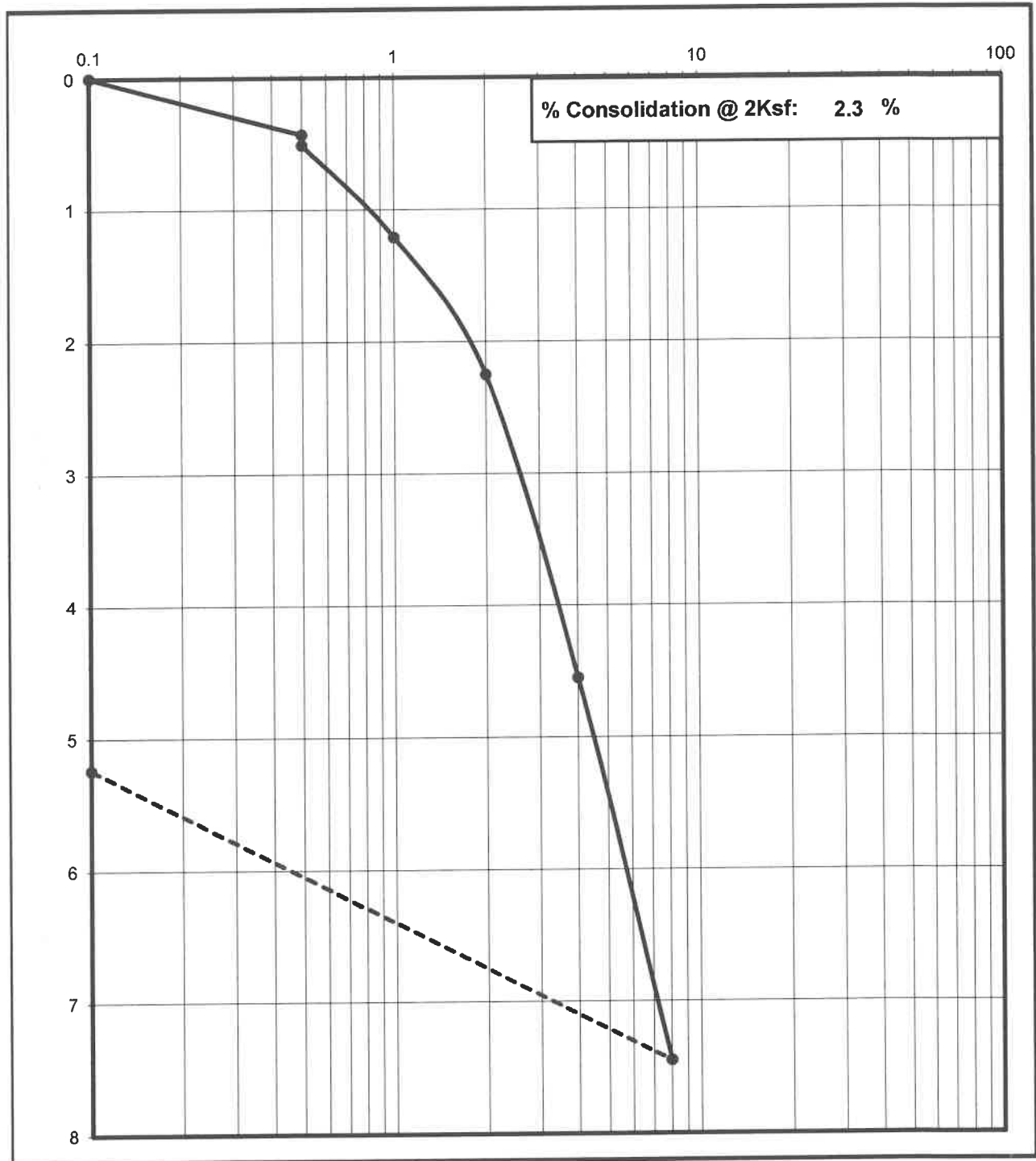
Consolidation Test

Project No	Boring No. & Depth	Date	Soil Classification
042-22001	B3 @ 5-6'	3/28/2022	CL

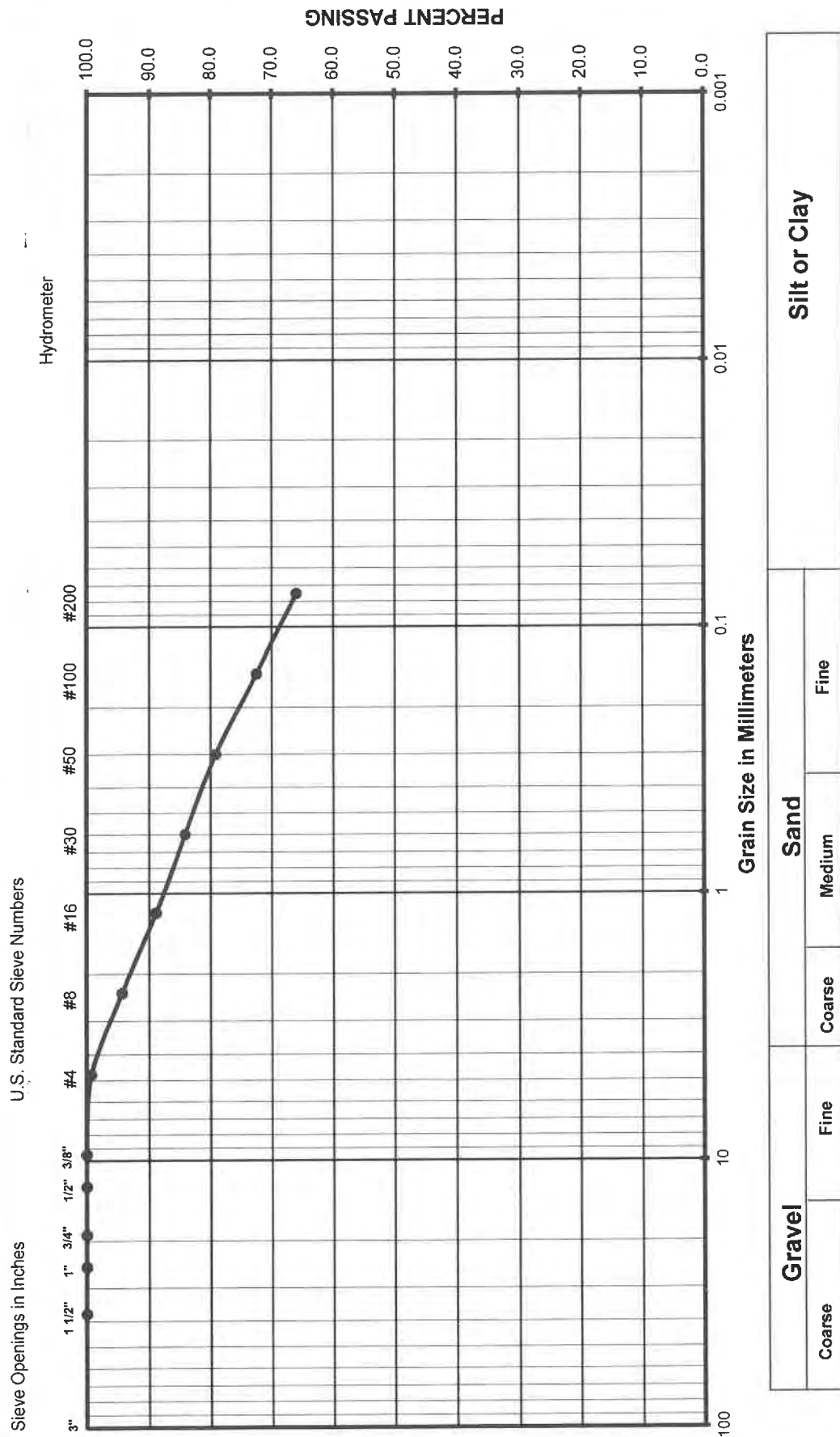


Consolidation Test

Project No	Boring No. & Depth	Date	Soil Classification
042-22001	B5 @ 2-3'	3/28/2022	CL



Grain Size Analysis

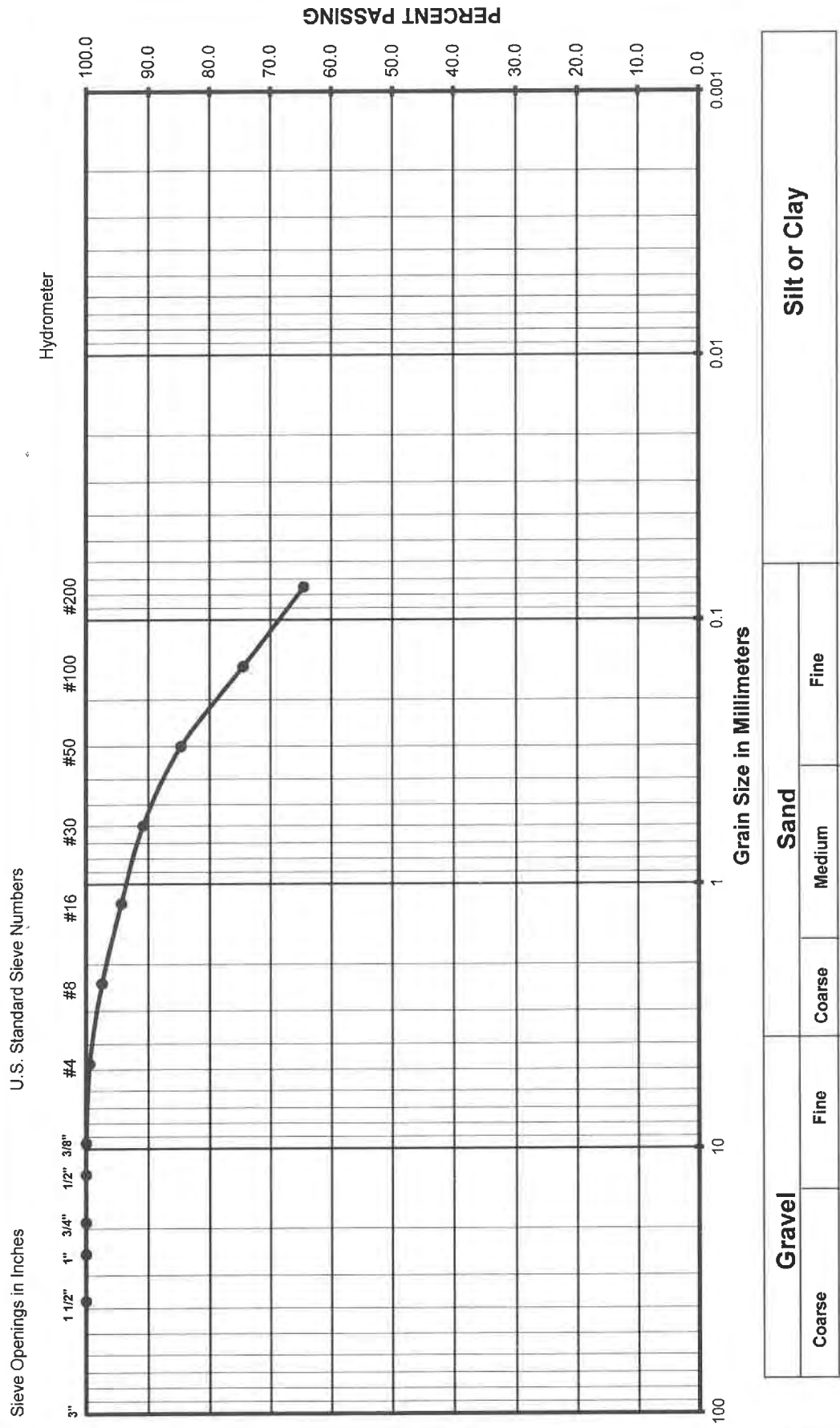


Gravel		Sand		Silt or Clay
Coarse	Fine	Coarse	Medium	Fine

(Unified Soils Classification)

Project Name: Multi-Family Residential Development
 Project Number: 042-22001
 Soil Classification: CL
 Sample Number: B2 @ 2-3'

Grain Size Analysis



Gravel		Sand		Silt or Clay
Coarse	Fine	Coarse	Medium	Fine

(Unified Soils Classification)

Project Name: Multi-Family Residential Development
 Project Number: 042-22001
 Soil Classification: CL
 Sample Number: B5 @ 2-3'

Expansion Index Test

ASTM D - 4829

Project Number : 042-22001
 Project Name : Multi-Family Residential Development
 Date : 3/28/2022
 Sample location/ Depth : B5 @ 3-4'
 Sample Number : X5a
 Soil Classification : CL

Trial #	1	2	3
Weight of Soil & Mold, gms	751.7		
Weight of Mold, gms	367.5		
Weight of Soil, gms	384.2		
Wet Density, Lbs/cu.ft.	115.9		
Weight of Moisture Sample (Wet), gms	200.0		
Weight of Moisture Sample (Dry), gms	178.7		
Moisture Content, %	11.9		
Dry Density, Lbs/cu.ft.	103.5		
Specific Gravity of Soil	2.7		
Degree of Saturation, %	51.3		

Time	Initial	30 min	1 hr	6hrs	12 hrs	24 hrs
Dial Reading	0	--	--	--	--	0.0698

Expansion Index_{measured} = 69.8

Expansion Index = 70

Expansion Potential Table	
Exp. Index	Potential Exp.
0 - 20	Very Low
21 - 50	Low
51 - 90	Medium
91 - 130	High
>130	Very High

Plasticity Index of Soils

ASTM D4318/AASHTO T89 T90/CT 204

Project: **Multi-Family Residential Development**

Project Number: **042-22001**

Date Sampled: 3/16/2022

Sampled By: CJ

Sample Number:

Sample Location: B5 @ 10-11'

Sample Description: SC

Date Tested: 3/26/2022

Tested By: JM

Verified By: JG

Trial Number	Plastic Limit			Liquid Limit		
	1	2	3	1	2	3
Weight of Wet Soil & Tare (g)	31.44	32.03		36.88	43.69	
Weight of Dry Soil & Tare (g)	30.08	30.59		33.60	38.74	
Weight of Tare (g)	23.24	23.13		23.32	23.17	
Weight of water (g)	1.36	1.45		3.28	4.95	
Weight of Dry Soil (g)	6.84	7.46		10.28	15.57	
Water Content (% of dry wt.)	19.9%	19.4%		31.9%	31.8%	
Number of Blows				25	25	

Plastic Limit : 20

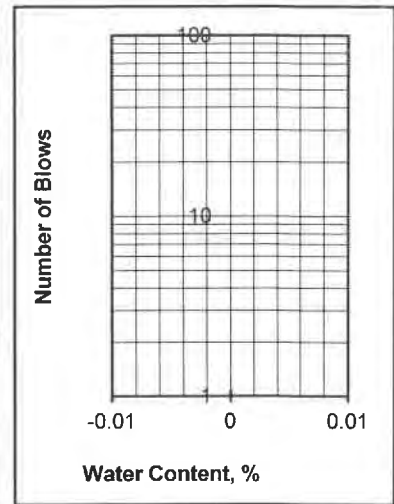
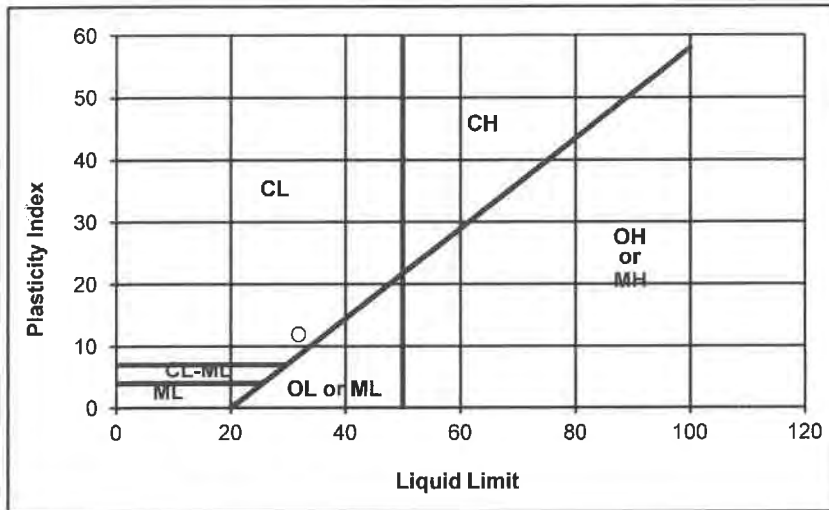
Liquid Limit : 32

Plasticity Index : 12

Unified Soil Classification : CL

Requirement:

Approx. % of Material Retained on # 40 Sieve:



Departures from Outlined Procedure:

Unusual Conditions, Other Notes:

Plasticity Index of Soils

ASTM D4318/AASHTO T89 T90/CT 204

Project: **Multi-Family Residential Development**

Project Number: **042-22001** Date Tested: 3/26/2022

Date Sampled: 3/16/2022 Tested By: JM

Sampled By: CJ Verified By: JG

Sample Number:

Sample Location: B5 @ 20-21'

Sample Description: SC

Trial Number	Plastic Limit			Liquid Limit		
	1	2	3	1	2	3
Weight of Wet Soil & Tare (g)	42.14	48.30		34.86	39.90	
Weight of Dry Soil & Tare (g)	39.45	44.76		32.31	36.45	
Weight of Tare (g)	23.25	23.11		22.58	23.35	
Weight of water (g)	2.69	3.54		2.55	3.45	
Weight of Dry Soil (g)	16.20	21.65		9.72	13.10	
Water Content (% of dry wt.)	16.6%	16.4%		26.2%	26.3%	
Number of Blows				25	25	

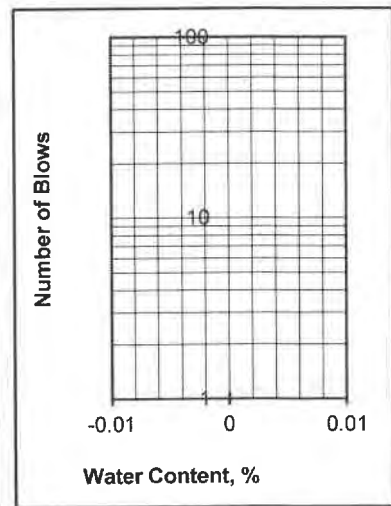
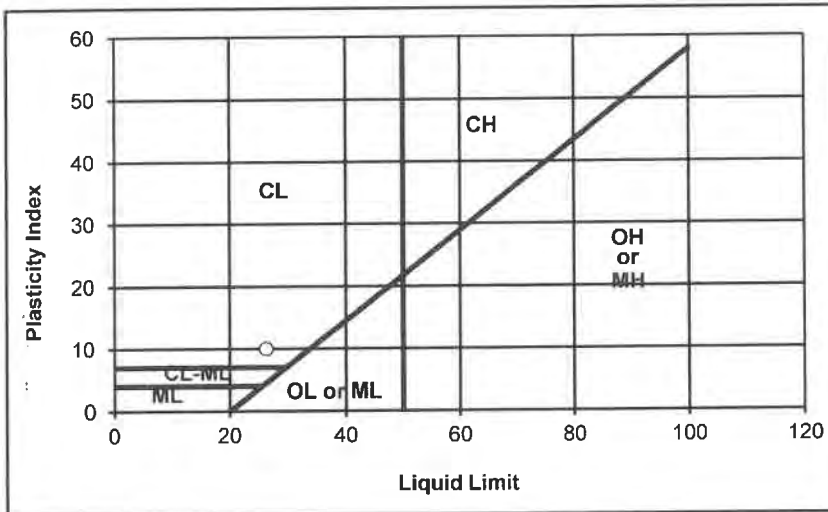
Plastic Limit : 16

Liquid Limit : 26

Plasticity Index : 10

Unified Soil Classification : CL **Requirement:**

Approx. % of Material Retained on # 40 Sieve:



Departures from Outlined Procedure:

Unusual Conditions, Other Notes:

Plasticity Index of Soils

ASTM D4318/AASHTO T89 T90/CT 204

Project: **Multi-Family Residential Development**

Project Number: **042-22001**
 Date Sampled: 3/16/2022
 Sampled By: CJ
 Sample Number:
 Sample Location: B5 @ 25-26'
 Sample Description: SC

Date Tested: 3/26/2022
 Tested By: JM
 Verified By: JG

Trial Number	Plastic Limit			Liquid Limit		
	1	2	3	1	2	3
Weight of Wet Soil & Tare (g)	39.74	36.97		37.79	41.55	
Weight of Dry Soil & Tare (g)	37.53	35.17		34.46	37.52	
Weight of Tare (g)	23.22	23.42		22.70	23.21	
Weight of water (g)	2.22	1.80		3.34	4.03	
Weight of Dry Soil (g)	14.31	11.75		11.76	14.30	
Water Content (% of dry wt.)	15.5%	15.3%		28.4%	28.2%	
Number of Blows				25	25	

Plastic Limit : 15

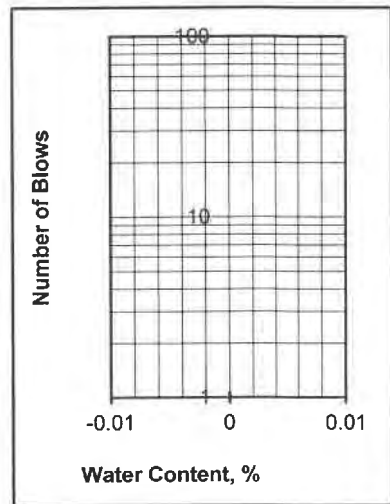
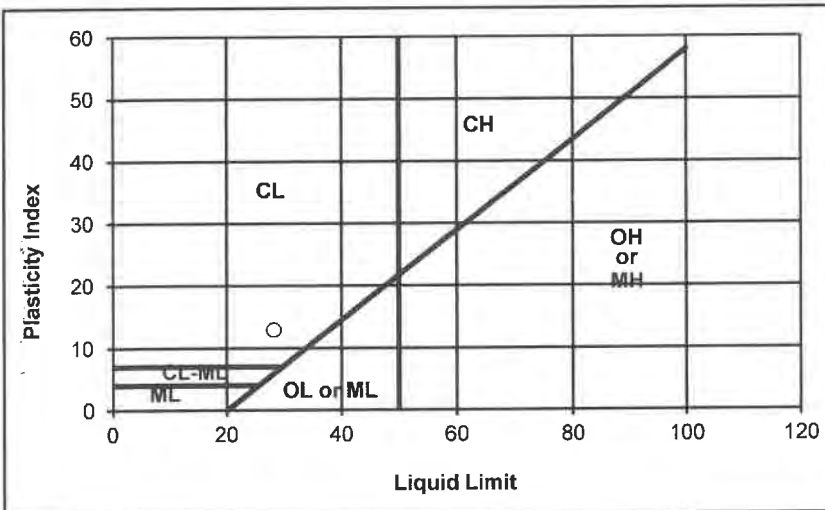
Liquid Limit : 28

Plasticity Index : 13

Unified Soil Classification : CL

Requirement:

Approx. % of Material Retained on # 40 Sieve:



Departures from Outlined Procedure:

Unusual Conditions, Other Notes:

Plasticity Index of Soils

ASTM D4318/AASHTO T89 T90/CT 204

Project: **Multi-Family Residential Development**

Project Number: **042-22001** Date Tested: 3/26/2022

Date Sampled: 3/16/2022 Tested By: JM

Sampled By: CJ Verified By: JG

Sample Number:

Sample Location: B5 @ 30-31'

Sample Description: CL

Trial Number	Plastic Limit			Liquid Limit		
	1	2	3	1	2	3
Weight of Wet Soil & Tare (g)	37.28	36.80		36.92	40.15	
Weight of Dry Soil & Tare (g)	34.98	34.59		33.33	35.75	
Weight of Tare (g)	23.24	23.13		23.17	23.30	
Weight of water (g)	2.30	2.21		3.59	4.40	
Weight of Dry Soil (g)	11.74	11.46		10.17	12.45	
Water Content (% of dry wt.)	19.6%	19.3%		35.3%	35.3%	
Number of Blows				25	25	

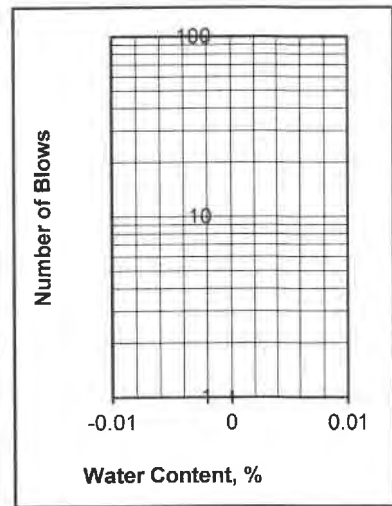
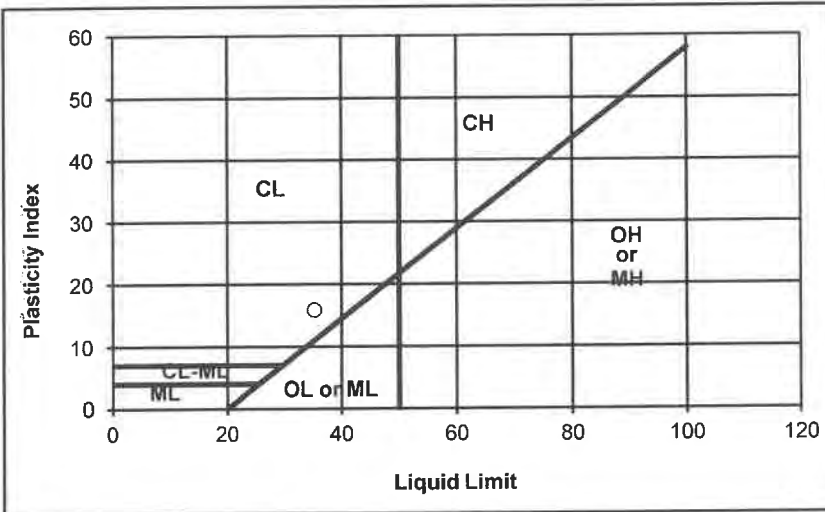
Plastic Limit : 19

Liquid Limit : 35

Plasticity Index : 16

Unified Soil Classification : CL **Requirement:**

Approx. % of Material Retained on # 40 Sieve:



Departures from Outlined Procedure:

Unusual Conditions, Other Notes:

APPENDIX B

EARTHWORK SPECIFICATIONS

GENERAL

When the text of the report conflicts with the general specifications in this appendix, the recommendations in the report have precedence.

SCOPE OF WORK: These specifications and applicable plans pertain to and include all earthwork associated with the site rough grading, including but not limited to the furnishing of all labor, tools, and equipment necessary for site clearing and grubbing, stripping, preparation of foundation materials for receiving fill, excavation, processing, placement and compaction of fill and backfill materials to the lines and grades shown on the project grading plans, and disposal of excess materials.

PERFORMANCE: The Contractor shall be responsible for the satisfactory completion of all earthwork in accordance with the project plans and specifications. This work shall be inspected and tested by a representative of Krazan and Associates, Inc., hereinafter known as the Soils Engineer and/or Testing Agency. Attainment of design grades when achieved shall be certified by the project Civil Engineer. Both the Soils Engineer and the Civil Engineer are the Owner's representatives. If the Contractor should fail to meet the technical or design requirements embodied in this document and on the applicable plans, he shall make the necessary readjustments until all work is deemed satisfactory as determined by both the Soils Engineer and the Civil Engineer. No deviation from these specifications shall be made except upon written approval of the Soils Engineer, Civil Engineer or project Architect.

No earthwork shall be performed without the physical presence or approval of the Soils Engineer. The Contractor shall notify the Soils Engineer at least 2 working days prior to the commencement of any aspect of the site earthwork.

The Contractor agrees that he shall assume sole and complete responsibility for job site conditions during the course of construction of this project, including safety of all persons and property; that this requirement shall apply continuously and not be limited to normal working hours; and that the Contractor shall defend, indemnify and hold the Owner and the Engineers harmless from any and all liability, real or alleged, in connection with the performance of work on this project, except for liability arising from the sole negligence of the Owner or the Engineers.

TECHNICAL REQUIREMENTS: All compacted materials shall be densified to a density not less than 90 percent relative compaction based on ASTM Test Method D1557 or CAL-216, as specified in the technical portion of the Soil Engineer's report. The location and frequency of field density tests shall be as determined by the Soils Engineer. The results of these tests and compliance with these specifications shall be the basis upon which satisfactory completion of work will be judged by the Soils Engineer.

SOILS AND FOUNDATION CONDITIONS: The Contractor is presumed to have visited the site and to have familiarized himself with existing site conditions and the contents of the data presented in the soil report.

The Contractor shall make his own interpretation of the data contained in said report, and the Contractor shall not be relieved of liability under the Contract documents for any loss sustained as a result of any variance between conditions indicated by or deduced from said report and the actual conditions encountered during the progress of the work.

DUST CONTROL: The work includes dust control as required for the alleviation or prevention of any dust nuisance on or about the site or the borrow area, or off-site if caused by the Contractor's operation either during the performance of the earthwork or resulting from the conditions in which the Contractor leaves the site. The Contractor shall assume all liability, including court costs of codefendants, for all claims related to dust or windblown materials attributable to his work.

SITE PREPARATION

Site preparation shall consist of site clearing and grubbing and the preparations of foundation materials for receiving fill.

CLEARING AND GRUBBING: The Contractor shall accept the site in this present condition and shall demolish and/or remove from the area of designated project earthwork all structures, both surface and subsurface, trees, brush, roots, debris, organic matter, and all other matter determined by the Soils Engineer to be deleterious or otherwise unsuitable. Such materials shall become the property of the Contractor and shall be removed from the site.

Tree root systems in proposed building areas should be removed to a minimum depth of 3 feet and to such an extent which would permit removal of all roots larger than 1 inch. Tree roots removed in parking areas may be limited to the upper 1½ feet of the ground surface. Backfill of tree root excavations should not be permitted until all exposed surfaces have been inspected and the Soils Engineer is present for the proper control of backfill placement and compaction. Burning in areas which are to receive fill materials shall not be permitted.

SUBGRADE PREPARATION: Surfaces to receive Engineered Fill, building or slab loads shall be prepared as outlined above, excavated/scarified to a depth of 12 inches, moisture-conditioned as necessary, and compacted to 90 percent relative compaction.

Loose soil areas, areas of uncertified fill, and/or areas of disturbed soils shall be moisture-conditioned as necessary and recompacted to 90 percent relative compaction. All ruts, hummocks, or other uneven surface features shall be removed by surface grading prior to placement of any fill materials. All areas which are to receive fill materials shall be approved by the Soils Engineer prior to the placement of any of the fill material.

EXCAVATION: All excavation shall be accomplished to the tolerance normally defined by the Civil Engineer as shown on the project grading plans. All over-excavation below the grades specified shall be backfilled at the Contractor's expense and shall be compacted in accordance with the applicable technical requirements.

FILL AND BACKFILL MATERIAL: No material shall be moved or compacted without the presence of the Soils Engineer. Material from the required site excavation may be utilized for construction site fills provided prior approval is given by the Soils Engineer. All materials utilized for constructing site fills shall be free from vegetation or other deleterious matter as determined by the Soils Engineer.

PLACEMENT, SPREADING AND COMPACTION: The placement and spreading of approved fill materials and the processing and compaction of approved fill and native materials shall be the responsibility of the Contractor. However, compaction of fill materials by flooding, ponding, or jetting shall not be permitted unless specifically approved by local code, as well as the Soils Engineer.

Both cut and fill areas shall be surface-compacted to the satisfaction of the Soils Engineer prior to final acceptance.

SEASONAL LIMITS: No fill material shall be placed, spread, or rolled while it is frozen or thawing or during unfavorable wet weather conditions. When the work is interrupted by heavy rains, fill operations shall not be resumed until the Soils Engineer indicates that the moisture content and density of previously placed fill are as specified.

APPENDIX C

PAVEMENT SPECIFICATIONS

1. DEFINITIONS - The term "pavement" shall include asphaltic concrete surfacing, untreated aggregate base, and aggregate subbase. The term "subgrade" is that portion of the area on which surfacing, base, or subbase is to be placed.

The term "Standard Specifications": hereinafter referred to is the 2018 Standard Specifications of the State of California, Department of Transportation, and the "Materials Manual" is the Materials Manual of Testing and Control Procedures, State of California, Department of Public Works, Division of Highways. The term "relative compaction" refers to the field density expressed as a percentage of the maximum laboratory density as defined in the applicable tests outlined in the Materials Manual.

2. SCOPE OF WORK - This portion of the work shall include all labor, materials, tools, and equipment necessary for, and reasonably incidental to the completion of the pavement shown on the plans and as herein specified, except work specifically noted as "Work Not Included."

3. PREPARATION OF THE SUBGRADE - The Contractor shall prepare the surface of the various subgrades receiving subsequent pavement courses to the lines, grades, and dimensions given on the plans. The upper 12 inches of the soil subgrade beneath the pavement section shall be compacted to a minimum relative compaction of 90 percent. The finished subgrades shall be tested and approved by the Soils Engineer prior to the placement of additional pavement courses.

4. UNTREATED AGGREGATE BASE - The aggregate base material shall be spread and compacted on the prepared subgrade in conformity with the lines, grades, and dimensions shown on the plans. The aggregate base material shall conform to the requirements of Section 26 of the Standard Specifications for Class 2 material, 1½ inches maximum size. The aggregate base material shall be spread and compacted in accordance with Section 26 of the Standard Specifications. The aggregate base material shall be spread in layers not exceeding 6 inches and each layer of aggregate material course shall be tested and approved by the Soils Engineer prior to the placement of successive layers. The aggregate base material shall be compacted to a minimum relative compaction of 95 percent.

5. AGGREGATE SUBBASE - The aggregate subbase shall be spread and compacted on the prepared subgrade in conformity with the lines, grades, and dimensions shown on the plans. The aggregate subbase material shall conform to the requirements of Section 25 of the Standard Specifications for Class 2 material. The aggregate subbase material shall be compacted to a minimum relative compaction of 95 percent, and it shall be spread and compacted in accordance with Section 25 of the Standard Specifications. Each layer of aggregate subbase shall be tested and approved by the Soils Engineer prior to the placement of successive layers.

6. ASPHALTIC CONCRETE SURFACING - Asphaltic concrete surfacing shall consist of a mixture of mineral aggregate and paving grade asphalt, mixed at a central mixing plant and spread and compacted on a prepared base in conformity with the lines, grades and dimensions shown on the plans. The viscosity grade of the asphalt shall be PG 64-10. The mineral aggregate shall be Type B, ½ inch maximum size, medium grading and shall conform to the requirements set forth in Section 39 of the Standard Specifications. The drying, proportioning and mixing of the materials shall conform to Section 39.

The prime coat, spreading and compacting equipment and spreading and compacting mixture shall conform to the applicable chapters of Section 39, with the exception that no surface course shall be placed when the atmospheric temperature is below 50° F. The surfacing shall be rolled with a combination of steel wheel and pneumatic rollers, as described in Section 39-6. The surface course shall be placed with an approved self-propelled mechanical spreading and finishing machine.

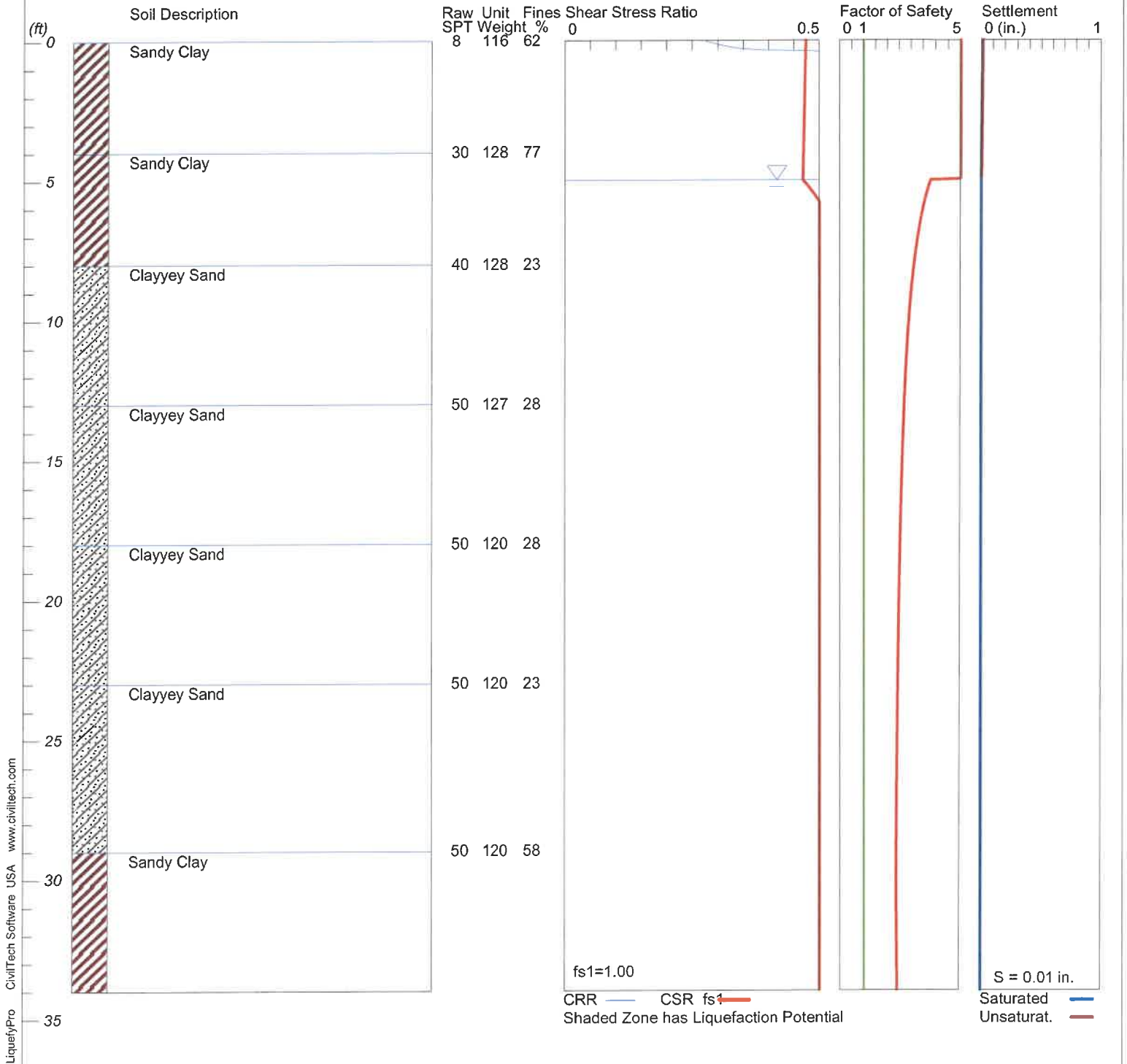
7. FOG SEAL COAT - The fog seal (mixing type asphaltic emulsion) shall conform to and be applied in accordance with the requirements of Section 37.

LIQUEFACTION ANALYSIS

Multifamily Residential Development

Hole No.=B-5 Water Depth=5 ft

Magnitude=7.86
Acceleration=0.728g



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LiquifyPro

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Input File Name: H:\Liquefy5\04222001B5.liq
Title: Multifamily Residential Development
Subtitle: Mill Valley
Hole No.=B-5
Depth of Hole= 34.00 ft
Water Table during Earthquake= 5.00 ft
Water Table during In-Situ Testing= 5.00 ft
Max. Acceleration= 0.73 g
Earthquake Magnitude= 7.86

Input Data:

Depth of Hole=34.00 ft
Water Table during Earthquake= 5.00 ft
Water Table during In-Situ Testing= 5.00 ft
Max. Acceleration=0.73 g
Earthquake Magnitude=7.86
No-Liquefiable Soils: Based on Analysis

1. SPT or BPT Calculation.
 2. Settlement Analysis Method: Tokimatsu/Seed
 3. Fines Correction for Liquefaction: Modify Stark/Olson
 4. Fine Correction for Settlement: During Liquefaction*
 5. Settlement Calculation in: All zones*
 6. Hammer Energy Ratio, Ce = 1.25
 7. Borehole Diameter, Cb= 1
 8. Sampling Method, Cs= 1
 9. User request factor of safety (apply to CSR) , User= 1
Plot one CSR curve (fs1=User)
 10. Use Curve Smoothing: Yes*
- * Recommended Options

In-Situ Test Data:

Depth ft	SPT	gamma pcf	Fines %
0.00	8.00	116.00	62.00
4.00	30.00	128.00	77.00
8.00	40.00	128.00	23.00
13.00	50.00	127.00	28.00
18.00	50.00	120.00	28.00
23.00	50.00	120.00	23.00
29.00	50.00	120.00	58.00
30.00	50.00	120.00	58.00

Output Results:

Settlement of Saturated Sands=0.00 in.
Settlement of Unsaturated Sands=0.01 in.
Total Settlement of Saturated and Unsaturated Sands=0.01 in.
Differential Settlement=0.005 to 0.007 in.

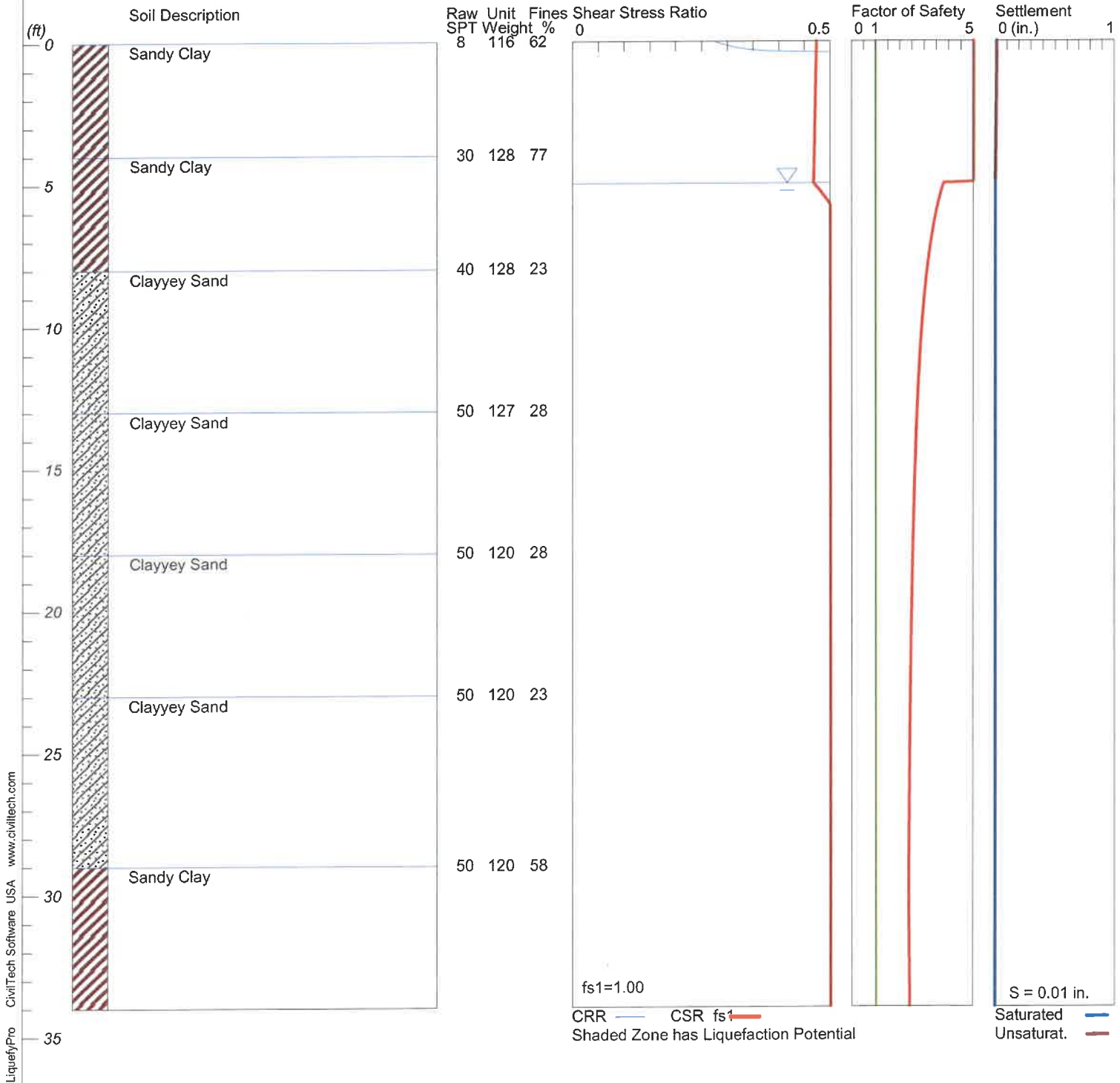
Depth ft	CRRm	CSRfs	F.S.	S_sat. in.	S_dry in.	S_all in.
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LIQUEFACTION ANALYSIS

Multifamily Residential Development

Hole No.=B-5 Water Depth=5 ft

Magnitude=7.86
Acceleration=0.728g



LiquefyPro CivilTech Software USA www.civiltch.com

LIQUEFACTION ANALYSIS SUMMARY
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Licensed to Krazan, 8/1/2023 8:26:26 AM
Input File Name: H:\Liquefy5\04222001B5.liq
Title: Multifamily Residential Development
Subtitle: Mill Valley
Hole No.=B-5
Depth of Hole= 34.00 ft
Water Table during Earthquake= 5.00 ft
Water Table during In-Situ Testing= 5.00 ft
Max. Acceleration= 0.73 g
Earthquake Magnitude= 7.86

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13.00	50.00	127.00	28.00
18.00	50.00	120.00	28.00
23.00	50.00	120.00	23.00
29.00	50.00	120.00	58.00
30.00	50.00	120.00	58.00

Output Results:

Settlement of Saturated Sands=0.00 in.
Settlement of Unsaturated Sands=0.01 in.
Total Settlement of Saturated and Unsaturated Sands=0.01 in.
Differential Settlement=0.005 to 0.007 in.

Depth ft	CRRm	CSRfs	F.S.	S_sat. in.	S_dry in.	S_all in.
-------------	------	-------	------	---------------	--------------	--------------

0.00	0.27	0.47	5.00	0.00	0.01	0.01
0.05	0.28	0.47	5.00	0.00	0.01	0.01
0.10	0.29	0.47	5.00	0.00	0.01	0.01
0.15	0.30	0.47	5.00	0.00	0.01	0.01
0.20	0.31	0.47	5.00	0.00	0.01	0.01
0.25	0.33	0.47	5.00	0.00	0.01	0.01
0.30	0.35	0.47	5.00	0.00	0.01	0.01
0.35	0.38	0.47	5.00	0.00	0.01	0.01
0.40	1.77	0.47	5.00	0.00	0.01	0.01
0.45	1.77	0.47	5.00	0.00	0.01	0.01
0.50	1.77	0.47	5.00	0.00	0.01	0.01
0.55	1.77	0.47	5.00	0.00	0.01	0.01
0.60	1.77	0.47	5.00	0.00	0.01	0.01
0.65	1.77	0.47	5.00	0.00	0.01	0.01
0.70	1.77	0.47	5.00	0.00	0.01	0.01
0.75	1.77	0.47	5.00	0.00	0.01	0.01
0.80	1.77	0.47	5.00	0.00	0.01	0.01
0.85	1.77	0.47	5.00	0.00	0.01	0.01
0.90	1.77	0.47	5.00	0.00	0.01	0.01
0.95	1.77	0.47	5.00	0.00	0.01	0.01
1.00	1.77	0.47	5.00	0.00	0.01	0.01
1.05	1.77	0.47	5.00	0.00	0.01	0.01
1.10	1.77	0.47	5.00	0.00	0.01	0.01
1.15	1.77	0.47	5.00	0.00	0.01	0.01
1.20	1.77	0.47	5.00	0.00	0.01	0.01
1.25	1.77	0.47	5.00	0.00	0.01	0.01
1.30	1.77	0.47	5.00	0.00	0.01	0.01
1.35	1.77	0.47	5.00	0.00	0.01	0.01
1.40	1.77	0.47	5.00	0.00	0.01	0.01
1.45	1.77	0.47	5.00	0.00	0.01	0.01
1.50	1.77	0.47	5.00	0.00	0.01	0.01
1.55	1.77	0.47	5.00	0.00	0.01	0.01
1.60	1.77	0.47	5.00	0.00	0.01	0.01
1.65	1.77	0.47	5.00	0.00	0.01	0.01
1.70	1.77	0.47	5.00	0.00	0.01	0.01
1.75	1.77	0.47	5.00	0.00	0.01	0.01
1.80	1.77	0.47	5.00	0.00	0.01	0.01
1.85	1.77	0.47	5.00	0.00	0.01	0.01
1.90	1.77	0.47	5.00	0.00	0.01	0.01
1.95	1.77	0.47	5.00	0.00	0.01	0.01
2.00	1.77	0.47	5.00	0.00	0.01	0.01
2.05	1.77	0.47	5.00	0.00	0.01	0.01
2.10	1.77	0.47	5.00	0.00	0.01	0.01
2.15	1.77	0.47	5.00	0.00	0.01	0.01
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2.25	1.77	0.47	5.00	0.00	0.01	0.01
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2.55	1.77	0.47	5.00	0.00	0.01	0.01
2.60	1.77	0.47	5.00	0.00	0.01	0.01
2.65	1.77	0.47	5.00	0.00	0.01	0.01
2.70	1.77	0.47	5.00	0.00	0.01	0.01
2.75	1.77	0.47	5.00	0.00	0.01	0.01
2.80	1.77	0.47	5.00	0.00	0.01	0.01

2.85	1.77	0.47	5.00	0.00	0.01	0.01
2.90	1.77	0.47	5.00	0.00	0.01	0.01
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3.75	1.77	0.47	5.00	0.00	0.00	0.00
3.80	1.77	0.47	5.00	0.00	0.00	0.00
3.85	1.77	0.47	5.00	0.00	0.00	0.00
3.90	1.77	0.47	5.00	0.00	0.00	0.00
3.95	1.77	0.47	5.00	0.00	0.00	0.00
4.00	1.77	0.47	5.00	0.00	0.00	0.00
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4.15	1.77	0.47	5.00	0.00	0.00	0.00
4.20	1.77	0.47	5.00	0.00	0.00	0.00
4.25	1.77	0.47	5.00	0.00	0.00	0.00
4.30	1.77	0.47	5.00	0.00	0.00	0.00
4.35	1.77	0.47	5.00	0.00	0.00	0.00
4.40	1.77	0.47	5.00	0.00	0.00	0.00
4.45	1.77	0.47	5.00	0.00	0.00	0.00
4.50	1.77	0.47	5.00	0.00	0.00	0.00
4.55	1.77	0.47	5.00	0.00	0.00	0.00
4.60	1.77	0.47	5.00	0.00	0.00	0.00
4.65	1.77	0.47	5.00	0.00	0.00	0.00
4.70	1.77	0.47	5.00	0.00	0.00	0.00
4.75	1.77	0.47	5.00	0.00	0.00	0.00
4.80	1.77	0.47	5.00	0.00	0.00	0.00
4.85	1.77	0.47	5.00	0.00	0.00	0.00
4.90	1.77	0.47	5.00	0.00	0.00	0.00
4.95	1.77	0.47	5.00	0.00	0.00	0.00
5.00	1.77	0.47	3.79	0.00	0.00	0.00
5.05	1.77	0.47	3.77	0.00	0.00	0.00
5.10	1.77	0.47	3.75	0.00	0.00	0.00
5.15	1.77	0.47	3.74	0.00	0.00	0.00
5.20	1.77	0.48	3.72	0.00	0.00	0.00
5.25	1.77	0.48	3.70	0.00	0.00	0.00
5.30	1.77	0.48	3.69	0.00	0.00	0.00
5.35	1.77	0.48	3.67	0.00	0.00	0.00
5.40	1.77	0.49	3.65	0.00	0.00	0.00
5.45	1.77	0.49	3.64	0.00	0.00	0.00
5.50	1.77	0.49	3.62	0.00	0.00	0.00
5.55	1.77	0.49	3.61	0.00	0.00	0.00
5.60	1.77	0.49	3.59	0.00	0.00	0.00
5.65	1.77	0.50	3.58	0.00	0.00	0.00
5.70	1.77	0.50	3.56	0.00	0.00	0.00

5.75	1.77	0.50	3.55	0.00	0.00	0.00
5.80	1.77	0.50	3.53	0.00	0.00	0.00
5.85	1.77	0.50	3.52	0.00	0.00	0.00
5.90	1.77	0.51	3.51	0.00	0.00	0.00
5.95	1.77	0.51	3.49	0.00	0.00	0.00
6.00	1.77	0.51	3.48	0.00	0.00	0.00
6.05	1.77	0.51	3.47	0.00	0.00	0.00
6.10	1.77	0.51	3.46	0.00	0.00	0.00
6.15	1.77	0.51	3.44	0.00	0.00	0.00
6.20	1.77	0.52	3.43	0.00	0.00	0.00
6.25	1.77	0.52	3.42	0.00	0.00	0.00
6.30	1.77	0.52	3.41	0.00	0.00	0.00
6.35	1.77	0.52	3.40	0.00	0.00	0.00
6.40	1.77	0.52	3.39	0.00	0.00	0.00
6.45	1.77	0.53	3.37	0.00	0.00	0.00
6.50	1.77	0.53	3.36	0.00	0.00	0.00
6.55	1.77	0.53	3.35	0.00	0.00	0.00
6.60	1.77	0.53	3.34	0.00	0.00	0.00
6.65	1.77	0.53	3.33	0.00	0.00	0.00
6.70	1.77	0.53	3.32	0.00	0.00	0.00
6.75	1.77	0.54	3.31	0.00	0.00	0.00
6.80	1.77	0.54	3.30	0.00	0.00	0.00
6.85	1.77	0.54	3.29	0.00	0.00	0.00
6.90	1.77	0.54	3.28	0.00	0.00	0.00
6.95	1.77	0.54	3.27	0.00	0.00	0.00
7.00	1.77	0.54	3.26	0.00	0.00	0.00
7.05	1.77	0.54	3.25	0.00	0.00	0.00
7.10	1.77	0.55	3.25	0.00	0.00	0.00
7.15	1.77	0.55	3.24	0.00	0.00	0.00
7.20	1.77	0.55	3.23	0.00	0.00	0.00
7.25	1.77	0.55	3.22	0.00	0.00	0.00
7.30	1.77	0.55	3.21	0.00	0.00	0.00
7.35	1.77	0.55	3.20	0.00	0.00	0.00
7.40	1.77	0.56	3.19	0.00	0.00	0.00
7.45	1.77	0.56	3.19	0.00	0.00	0.00
7.50	1.77	0.56	3.18	0.00	0.00	0.00
7.55	1.77	0.56	3.17	0.00	0.00	0.00
7.60	1.77	0.56	3.16	0.00	0.00	0.00
7.65	1.77	0.56	3.15	0.00	0.00	0.00
7.70	1.77	0.56	3.15	0.00	0.00	0.00
7.75	1.77	0.56	3.14	0.00	0.00	0.00
7.80	1.77	0.57	3.13	0.00	0.00	0.00
7.85	1.77	0.57	3.12	0.00	0.00	0.00
7.90	1.77	0.57	3.12	0.00	0.00	0.00
7.95	1.77	0.57	3.11	0.00	0.00	0.00
8.00	1.77	0.57	3.10	0.00	0.00	0.00
8.05	1.77	0.57	3.10	0.00	0.00	0.00
8.10	1.77	0.57	3.09	0.00	0.00	0.00
8.15	1.77	0.58	3.08	0.00	0.00	0.00
8.20	1.77	0.58	3.08	0.00	0.00	0.00
8.25	1.77	0.58	3.07	0.00	0.00	0.00
8.30	1.77	0.58	3.06	0.00	0.00	0.00
8.35	1.77	0.58	3.06	0.00	0.00	0.00
8.40	1.77	0.58	3.05	0.00	0.00	0.00
8.45	1.77	0.58	3.04	0.00	0.00	0.00
8.50	1.77	0.58	3.04	0.00	0.00	0.00
8.55	1.77	0.58	3.03	0.00	0.00	0.00
8.60	1.77	0.59	3.03	0.00	0.00	0.00

8.65	1.77	0.59	3.02	0.00	0.00	0.00
8.70	1.77	0.59	3.01	0.00	0.00	0.00
8.75	1.77	0.59	3.01	0.00	0.00	0.00
8.80	1.77	0.59	3.00	0.00	0.00	0.00
8.85	1.77	0.59	3.00	0.00	0.00	0.00
8.90	1.77	0.59	2.99	0.00	0.00	0.00
8.95	1.77	0.59	2.99	0.00	0.00	0.00
9.00	1.77	0.59	2.98	0.00	0.00	0.00
9.05	1.77	0.60	2.97	0.00	0.00	0.00
9.10	1.77	0.60	2.97	0.00	0.00	0.00
9.15	1.77	0.60	2.96	0.00	0.00	0.00
9.20	1.77	0.60	2.96	0.00	0.00	0.00
9.25	1.77	0.60	2.95	0.00	0.00	0.00
9.30	1.77	0.60	2.95	0.00	0.00	0.00
9.35	1.77	0.60	2.94	0.00	0.00	0.00
9.40	1.77	0.60	2.94	0.00	0.00	0.00
9.45	1.77	0.60	2.93	0.00	0.00	0.00
9.50	1.77	0.61	2.93	0.00	0.00	0.00
9.55	1.77	0.61	2.92	0.00	0.00	0.00
9.60	1.77	0.61	2.92	0.00	0.00	0.00
9.65	1.77	0.61	2.91	0.00	0.00	0.00
9.70	1.77	0.61	2.91	0.00	0.00	0.00
9.75	1.77	0.61	2.91	0.00	0.00	0.00
9.80	1.77	0.61	2.90	0.00	0.00	0.00
9.85	1.77	0.61	2.90	0.00	0.00	0.00
9.90	1.77	0.61	2.89	0.00	0.00	0.00
9.95	1.77	0.61	2.89	0.00	0.00	0.00
10.00	1.77	0.62	2.88	0.00	0.00	0.00
10.05	1.77	0.62	2.88	0.00	0.00	0.00
10.10	1.77	0.62	2.87	0.00	0.00	0.00
10.15	1.77	0.62	2.87	0.00	0.00	0.00
10.20	1.77	0.62	2.87	0.00	0.00	0.00
10.25	1.77	0.62	2.86	0.00	0.00	0.00
10.30	1.77	0.62	2.86	0.00	0.00	0.00
10.35	1.77	0.62	2.85	0.00	0.00	0.00
10.40	1.77	0.62	2.85	0.00	0.00	0.00
10.45	1.77	0.62	2.85	0.00	0.00	0.00
10.50	1.77	0.62	2.84	0.00	0.00	0.00
10.55	1.77	0.62	2.84	0.00	0.00	0.00
10.60	1.77	0.63	2.83	0.00	0.00	0.00
10.65	1.77	0.63	2.83	0.00	0.00	0.00
10.70	1.77	0.63	2.83	0.00	0.00	0.00
10.75	1.77	0.63	2.82	0.00	0.00	0.00
10.80	1.77	0.63	2.82	0.00	0.00	0.00
10.85	1.77	0.63	2.82	0.00	0.00	0.00
10.90	1.77	0.63	2.81	0.00	0.00	0.00
10.95	1.77	0.63	2.81	0.00	0.00	0.00
11.00	1.77	0.63	2.80	0.00	0.00	0.00
11.05	1.77	0.63	2.80	0.00	0.00	0.00
11.10	1.77	0.63	2.80	0.00	0.00	0.00
11.15	1.77	0.63	2.79	0.00	0.00	0.00
11.20	1.77	0.64	2.79	0.00	0.00	0.00
11.25	1.77	0.64	2.79	0.00	0.00	0.00
11.30	1.77	0.64	2.78	0.00	0.00	0.00
11.35	1.77	0.64	2.78	0.00	0.00	0.00
11.40	1.77	0.64	2.78	0.00	0.00	0.00
11.45	1.77	0.64	2.77	0.00	0.00	0.00
11.50	1.77	0.64	2.77	0.00	0.00	0.00

11.55	1.77	0.64	2.77	0.00	0.00	0.00
11.60	1.77	0.64	2.76	0.00	0.00	0.00
11.65	1.77	0.64	2.76	0.00	0.00	0.00
11.70	1.77	0.64	2.76	0.00	0.00	0.00
11.75	1.77	0.64	2.76	0.00	0.00	0.00
11.80	1.77	0.64	2.75	0.00	0.00	0.00
11.85	1.77	0.65	2.75	0.00	0.00	0.00
11.90	1.77	0.65	2.75	0.00	0.00	0.00
11.95	1.77	0.65	2.74	0.00	0.00	0.00
12.00	1.77	0.65	2.74	0.00	0.00	0.00
12.05	1.77	0.65	2.74	0.00	0.00	0.00
12.10	1.77	0.65	2.73	0.00	0.00	0.00
12.15	1.77	0.65	2.73	0.00	0.00	0.00
12.20	1.77	0.65	2.73	0.00	0.00	0.00
12.25	1.77	0.65	2.73	0.00	0.00	0.00
12.30	1.77	0.65	2.72	0.00	0.00	0.00
12.35	1.77	0.65	2.72	0.00	0.00	0.00
12.40	1.77	0.65	2.72	0.00	0.00	0.00
12.45	1.77	0.65	2.71	0.00	0.00	0.00
12.50	1.77	0.65	2.71	0.00	0.00	0.00
12.55	1.77	0.65	2.71	0.00	0.00	0.00
12.60	1.77	0.66	2.71	0.00	0.00	0.00
12.65	1.77	0.66	2.70	0.00	0.00	0.00
12.70	1.77	0.66	2.70	0.00	0.00	0.00
12.75	1.77	0.66	2.70	0.00	0.00	0.00
12.80	1.77	0.66	2.70	0.00	0.00	0.00
12.85	1.77	0.66	2.69	0.00	0.00	0.00
12.90	1.77	0.66	2.69	0.00	0.00	0.00
12.95	1.77	0.66	2.69	0.00	0.00	0.00
13.00	1.77	0.66	2.69	0.00	0.00	0.00
13.05	1.77	0.66	2.68	0.00	0.00	0.00
13.10	1.77	0.66	2.68	0.00	0.00	0.00
13.15	1.77	0.66	2.68	0.00	0.00	0.00
13.20	1.77	0.66	2.68	0.00	0.00	0.00
13.25	1.77	0.66	2.67	0.00	0.00	0.00
13.30	1.77	0.66	2.67	0.00	0.00	0.00
13.35	1.77	0.66	2.67	0.00	0.00	0.00
13.40	1.77	0.66	2.67	0.00	0.00	0.00
13.45	1.77	0.67	2.66	0.00	0.00	0.00
13.50	1.77	0.67	2.66	0.00	0.00	0.00
13.55	1.77	0.67	2.66	0.00	0.00	0.00
13.60	1.77	0.67	2.66	0.00	0.00	0.00
13.65	1.77	0.67	2.66	0.00	0.00	0.00
13.70	1.77	0.67	2.65	0.00	0.00	0.00
13.75	1.77	0.67	2.65	0.00	0.00	0.00
13.80	1.77	0.67	2.65	0.00	0.00	0.00
13.85	1.77	0.67	2.65	0.00	0.00	0.00
13.90	1.77	0.67	2.64	0.00	0.00	0.00
13.95	1.77	0.67	2.64	0.00	0.00	0.00
14.00	1.77	0.67	2.64	0.00	0.00	0.00
14.05	1.77	0.67	2.64	0.00	0.00	0.00
14.10	1.77	0.67	2.64	0.00	0.00	0.00
14.15	1.77	0.67	2.63	0.00	0.00	0.00
14.20	1.77	0.67	2.63	0.00	0.00	0.00
14.25	1.77	0.67	2.63	0.00	0.00	0.00
14.30	1.77	0.67	2.63	0.00	0.00	0.00
14.35	1.77	0.68	2.63	0.00	0.00	0.00
14.40	1.77	0.68	2.62	0.00	0.00	0.00

14.45	1.77	0.68	2.62	0.00	0.00	0.00
14.50	1.77	0.68	2.62	0.00	0.00	0.00
14.55	1.77	0.68	2.62	0.00	0.00	0.00
14.60	1.77	0.68	2.62	0.00	0.00	0.00
14.65	1.77	0.68	2.61	0.00	0.00	0.00
14.70	1.77	0.68	2.61	0.00	0.00	0.00
14.75	1.77	0.68	2.61	0.00	0.00	0.00
14.80	1.77	0.68	2.61	0.00	0.00	0.00
14.85	1.77	0.68	2.61	0.00	0.00	0.00
14.90	1.77	0.68	2.60	0.00	0.00	0.00
14.95	1.77	0.68	2.60	0.00	0.00	0.00
15.00	1.77	0.68	2.60	0.00	0.00	0.00
15.05	1.77	0.68	2.60	0.00	0.00	0.00
15.10	1.77	0.68	2.60	0.00	0.00	0.00
15.15	1.77	0.68	2.59	0.00	0.00	0.00
15.20	1.77	0.68	2.59	0.00	0.00	0.00
15.25	1.77	0.68	2.59	0.00	0.00	0.00
15.30	1.77	0.68	2.59	0.00	0.00	0.00
15.35	1.77	0.69	2.59	0.00	0.00	0.00
15.40	1.77	0.69	2.59	0.00	0.00	0.00
15.45	1.77	0.69	2.58	0.00	0.00	0.00
15.50	1.77	0.69	2.58	0.00	0.00	0.00
15.55	1.77	0.69	2.58	0.00	0.00	0.00
15.60	1.77	0.69	2.58	0.00	0.00	0.00
15.65	1.77	0.69	2.58	0.00	0.00	0.00
15.70	1.77	0.69	2.57	0.00	0.00	0.00
15.75	1.77	0.69	2.57	0.00	0.00	0.00
15.80	1.77	0.69	2.57	0.00	0.00	0.00
15.85	1.77	0.69	2.57	0.00	0.00	0.00
15.90	1.77	0.69	2.57	0.00	0.00	0.00
15.95	1.77	0.69	2.57	0.00	0.00	0.00
16.00	1.77	0.69	2.56	0.00	0.00	0.00
16.05	1.77	0.69	2.56	0.00	0.00	0.00
16.10	1.77	0.69	2.56	0.00	0.00	0.00
16.15	1.77	0.69	2.56	0.00	0.00	0.00
16.20	1.77	0.69	2.56	0.00	0.00	0.00
16.25	1.77	0.69	2.56	0.00	0.00	0.00
16.30	1.77	0.69	2.55	0.00	0.00	0.00
16.35	1.77	0.69	2.55	0.00	0.00	0.00
16.40	1.77	0.69	2.55	0.00	0.00	0.00
16.45	1.77	0.70	2.55	0.00	0.00	0.00
16.50	1.77	0.70	2.55	0.00	0.00	0.00
16.55	1.77	0.70	2.55	0.00	0.00	0.00
16.60	1.77	0.70	2.55	0.00	0.00	0.00
16.65	1.77	0.70	2.54	0.00	0.00	0.00
16.70	1.77	0.70	2.54	0.00	0.00	0.00
16.75	1.77	0.70	2.54	0.00	0.00	0.00
16.80	1.77	0.70	2.54	0.00	0.00	0.00
16.85	1.77	0.70	2.54	0.00	0.00	0.00
16.90	1.77	0.70	2.54	0.00	0.00	0.00
16.95	1.77	0.70	2.53	0.00	0.00	0.00
17.00	1.77	0.70	2.53	0.00	0.00	0.00
17.05	1.77	0.70	2.53	0.00	0.00	0.00
17.10	1.77	0.70	2.53	0.00	0.00	0.00
17.15	1.77	0.70	2.53	0.00	0.00	0.00
17.20	1.77	0.70	2.53	0.00	0.00	0.00
17.25	1.77	0.70	2.53	0.00	0.00	0.00
17.30	1.77	0.70	2.52	0.00	0.00	0.00

17.35	1.77	0.70	2.52	0.00	0.00	0.00
17.40	1.77	0.70	2.52	0.00	0.00	0.00
17.45	1.77	0.70	2.52	0.00	0.00	0.00
17.50	1.77	0.70	2.52	0.00	0.00	0.00
17.55	1.77	0.70	2.52	0.00	0.00	0.00
17.60	1.77	0.70	2.52	0.00	0.00	0.00
17.65	1.77	0.71	2.51	0.00	0.00	0.00
17.70	1.77	0.71	2.51	0.00	0.00	0.00
17.75	1.77	0.71	2.51	0.00	0.00	0.00
17.80	1.77	0.71	2.51	0.00	0.00	0.00
17.85	1.77	0.71	2.51	0.00	0.00	0.00
17.90	1.77	0.71	2.51	0.00	0.00	0.00
17.95	1.77	0.71	2.51	0.00	0.00	0.00
18.00	1.77	0.71	2.50	0.00	0.00	0.00
18.05	1.77	0.71	2.50	0.00	0.00	0.00
18.10	1.77	0.71	2.50	0.00	0.00	0.00
18.15	1.77	0.71	2.50	0.00	0.00	0.00
18.20	1.77	0.71	2.50	0.00	0.00	0.00
18.25	1.77	0.71	2.50	0.00	0.00	0.00
18.30	1.77	0.71	2.50	0.00	0.00	0.00
18.35	1.77	0.71	2.49	0.00	0.00	0.00
18.40	1.77	0.71	2.49	0.00	0.00	0.00
18.45	1.77	0.71	2.49	0.00	0.00	0.00
18.50	1.77	0.71	2.49	0.00	0.00	0.00
18.55	1.77	0.71	2.49	0.00	0.00	0.00
18.60	1.77	0.71	2.49	0.00	0.00	0.00
18.65	1.77	0.71	2.49	0.00	0.00	0.00
18.70	1.77	0.71	2.49	0.00	0.00	0.00
18.75	1.77	0.71	2.48	0.00	0.00	0.00
18.80	1.77	0.71	2.48	0.00	0.00	0.00
18.85	1.77	0.71	2.48	0.00	0.00	0.00
18.90	1.77	0.71	2.48	0.00	0.00	0.00
18.95	1.77	0.72	2.48	0.00	0.00	0.00
19.00	1.77	0.72	2.48	0.00	0.00	0.00
19.05	1.77	0.72	2.48	0.00	0.00	0.00
19.10	1.77	0.72	2.48	0.00	0.00	0.00
19.15	1.77	0.72	2.48	0.00	0.00	0.00
19.20	1.77	0.72	2.47	0.00	0.00	0.00
19.25	1.77	0.72	2.47	0.00	0.00	0.00
19.30	1.77	0.72	2.47	0.00	0.00	0.00
19.35	1.77	0.72	2.47	0.00	0.00	0.00
19.40	1.77	0.72	2.47	0.00	0.00	0.00
19.45	1.77	0.72	2.47	0.00	0.00	0.00
19.50	1.77	0.72	2.47	0.00	0.00	0.00
19.55	1.77	0.72	2.47	0.00	0.00	0.00
19.60	1.77	0.72	2.46	0.00	0.00	0.00
19.65	1.77	0.72	2.46	0.00	0.00	0.00
19.70	1.77	0.72	2.46	0.00	0.00	0.00
19.75	1.77	0.72	2.46	0.00	0.00	0.00
19.80	1.77	0.72	2.46	0.00	0.00	0.00
19.85	1.77	0.72	2.46	0.00	0.00	0.00
19.90	1.77	0.72	2.46	0.00	0.00	0.00
19.95	1.77	0.72	2.46	0.00	0.00	0.00
20.00	1.77	0.72	2.46	0.00	0.00	0.00
20.05	1.77	0.72	2.45	0.00	0.00	0.00
20.10	1.77	0.72	2.45	0.00	0.00	0.00
20.15	1.77	0.72	2.45	0.00	0.00	0.00
20.20	1.77	0.72	2.45	0.00	0.00	0.00

20.25	1.77	0.72	2.45	0.00	0.00	0.00
20.30	1.77	0.72	2.45	0.00	0.00	0.00
20.35	1.77	0.72	2.45	0.00	0.00	0.00
20.40	1.77	0.72	2.45	0.00	0.00	0.00
20.45	1.77	0.72	2.45	0.00	0.00	0.00
20.50	1.77	0.73	2.45	0.00	0.00	0.00
20.55	1.77	0.73	2.44	0.00	0.00	0.00
20.60	1.77	0.73	2.44	0.00	0.00	0.00
20.65	1.77	0.73	2.44	0.00	0.00	0.00
20.70	1.77	0.73	2.44	0.00	0.00	0.00
20.75	1.77	0.73	2.44	0.00	0.00	0.00
20.80	1.77	0.73	2.44	0.00	0.00	0.00
20.85	1.77	0.73	2.44	0.00	0.00	0.00
20.90	1.77	0.73	2.44	0.00	0.00	0.00
20.95	1.77	0.73	2.44	0.00	0.00	0.00
21.00	1.77	0.73	2.44	0.00	0.00	0.00
21.05	1.77	0.73	2.43	0.00	0.00	0.00
21.10	1.77	0.73	2.43	0.00	0.00	0.00
21.15	1.77	0.73	2.43	0.00	0.00	0.00
21.20	1.77	0.73	2.43	0.00	0.00	0.00
21.25	1.77	0.73	2.43	0.00	0.00	0.00
21.30	1.77	0.73	2.43	0.00	0.00	0.00
21.35	1.77	0.73	2.43	0.00	0.00	0.00
21.40	1.77	0.73	2.43	0.00	0.00	0.00
21.45	1.77	0.73	2.43	0.00	0.00	0.00
21.50	1.77	0.73	2.43	0.00	0.00	0.00
21.55	1.77	0.73	2.43	0.00	0.00	0.00
21.60	1.77	0.73	2.42	0.00	0.00	0.00
21.65	1.77	0.73	2.42	0.00	0.00	0.00
21.70	1.77	0.73	2.42	0.00	0.00	0.00
21.75	1.77	0.73	2.42	0.00	0.00	0.00
21.80	1.77	0.73	2.42	0.00	0.00	0.00
21.85	1.77	0.73	2.42	0.00	0.00	0.00
21.90	1.77	0.73	2.42	0.00	0.00	0.00
21.95	1.77	0.73	2.42	0.00	0.00	0.00
22.00	1.77	0.73	2.42	0.00	0.00	0.00
22.05	1.77	0.73	2.42	0.00	0.00	0.00
22.10	1.77	0.73	2.42	0.00	0.00	0.00
22.15	1.77	0.73	2.42	0.00	0.00	0.00
22.20	1.77	0.73	2.41	0.00	0.00	0.00
22.25	1.77	0.73	2.41	0.00	0.00	0.00
22.30	1.77	0.73	2.41	0.00	0.00	0.00
22.35	1.77	0.74	2.41	0.00	0.00	0.00
22.40	1.77	0.74	2.41	0.00	0.00	0.00
22.45	1.77	0.74	2.41	0.00	0.00	0.00
22.50	1.77	0.74	2.41	0.00	0.00	0.00
22.55	1.77	0.74	2.41	0.00	0.00	0.00
22.60	1.77	0.74	2.41	0.00	0.00	0.00
22.65	1.77	0.74	2.41	0.00	0.00	0.00
22.70	1.77	0.74	2.41	0.00	0.00	0.00
22.75	1.77	0.74	2.41	0.00	0.00	0.00
22.80	1.77	0.74	2.40	0.00	0.00	0.00
22.85	1.77	0.74	2.40	0.00	0.00	0.00
22.90	1.77	0.74	2.40	0.00	0.00	0.00
22.95	1.77	0.74	2.40	0.00	0.00	0.00
23.00	1.77	0.74	2.40	0.00	0.00	0.00
23.05	1.77	0.74	2.40	0.00	0.00	0.00
23.10	1.77	0.74	2.40	0.00	0.00	0.00

31.85	1.77	0.76	2.34	0.00	0.00	0.00
31.90	1.77	0.76	2.34	0.00	0.00	0.00
31.95	1.77	0.76	2.34	0.00	0.00	0.00
32.00	1.77	0.76	2.35	0.00	0.00	0.00
32.05	1.77	0.76	2.35	0.00	0.00	0.00
32.10	1.77	0.76	2.35	0.00	0.00	0.00
32.15	1.77	0.76	2.35	0.00	0.00	0.00
32.20	1.77	0.76	2.35	0.00	0.00	0.00
32.25	1.77	0.76	2.35	0.00	0.00	0.00
32.30	1.77	0.76	2.35	0.00	0.00	0.00
32.35	1.77	0.75	2.35	0.00	0.00	0.00
32.40	1.77	0.75	2.35	0.00	0.00	0.00
32.45	1.77	0.75	2.35	0.00	0.00	0.00
32.50	1.77	0.75	2.35	0.00	0.00	0.00
32.55	1.77	0.75	2.35	0.00	0.00	0.00
32.60	1.77	0.75	2.35	0.00	0.00	0.00
32.65	1.77	0.75	2.35	0.00	0.00	0.00
32.70	1.77	0.75	2.35	0.00	0.00	0.00
32.75	1.77	0.75	2.35	0.00	0.00	0.00
32.80	1.77	0.75	2.35	0.00	0.00	0.00
32.85	1.77	0.75	2.35	0.00	0.00	0.00
32.90	1.77	0.75	2.35	0.00	0.00	0.00
32.95	1.77	0.75	2.35	0.00	0.00	0.00
33.00	1.77	0.75	2.36	0.00	0.00	0.00
33.05	1.77	0.75	2.36	0.00	0.00	0.00
33.10	1.77	0.75	2.36	0.00	0.00	0.00
33.15	1.77	0.75	2.36	0.00	0.00	0.00
33.20	1.77	0.75	2.36	0.00	0.00	0.00
33.25	1.77	0.75	2.36	0.00	0.00	0.00
33.30	1.77	0.75	2.36	0.00	0.00	0.00
33.35	1.77	0.75	2.36	0.00	0.00	0.00
33.40	1.77	0.75	2.36	0.00	0.00	0.00
33.45	1.77	0.75	2.36	0.00	0.00	0.00
33.50	1.77	0.75	2.36	0.00	0.00	0.00
33.55	1.77	0.75	2.36	0.00	0.00	0.00
33.60	1.77	0.75	2.36	0.00	0.00	0.00
33.65	1.77	0.75	2.36	0.00	0.00	0.00
33.70	1.77	0.75	2.36	0.00	0.00	0.00
33.75	1.77	0.75	2.36	0.00	0.00	0.00
33.80	1.77	0.75	2.36	0.00	0.00	0.00
33.85	1.77	0.75	2.36	0.00	0.00	0.00
33.90	1.77	0.75	2.36	0.00	0.00	0.00
33.95	1.77	0.75	2.37	0.00	0.00	0.00
34.00	1.77	0.75	2.37	0.00	0.00	0.00

* F.S.<1, Liquefaction Potential Zone
(F.S. is limited to 5, CRR is limited to 2, CSR is limited to 2)

Units: Unit: qc, fs, Stress or Pressure = atm (1.0581tsf); Unit Weight = pcf;
Depth = ft; Settlement = in.

1 atm (atmosphere) = 1 tsf (ton/ft²)
CRRm Cyclic resistance ratio from soils
CSRsf Cyclic stress ratio induced by a given earthquake (with user
request factor of safety)
F.S. Factor of Safety against liquefaction, F.S.=CRRm/CSRsf
S_sat Settlement from saturated sands

S_dry
S_all
NoLiq

Settlement from Unsaturated Sands
Total Settlement from Saturated and Unsaturated Sands
No-Liquefy Soils

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*  
*   E Q S E A R C H   *  
*  
*   Version 3.00     *  
*  
*****
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ESTIMATION OF
PEAK ACCELERATION FROM
CALIFORNIA EARTHQUAKE CATALOGS

JOB NUMBER: 04222001

DATE: 07-31-2023

JOB NAME: 04222001

EARTHQUAKE-CATALOG-FILE NAME: ALLQUAKE.DAT

MAGNITUDE RANGE:

MINIMUM MAGNITUDE: 4.00
MAXIMUM MAGNITUDE: 9.00

SITE COORDINATES:

SITE LATITUDE: 37.8477
SITE LONGITUDE: 122.5226

SEARCH DATES:

START DATE: 1800
END DATE: 2022

SEARCH RADIUS:

50.0 mi
80.5 km

ATTENUATION RELATION: 3) Boore et al. (1997) Horiz. - NEHRP D (250)

UNCERTAINTY (M=Median, S=Sigma): M Number of sigmas: 0.0
ASSUMED SOURCE TYPE: DS [SS=Strike-slip, DS=Reverse-slip, BT=Blind-thrust]
SCOND: 0 Depth Source: A
Basement Depth: 5.00 km Campbell SSR: Campbell SHR:
COMPUTE PEAK HORIZONTAL ACCELERATION

MINIMUM DEPTH VALUE (km): 0.0

 EARTHQUAKE SEARCH RESULTS

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FILE CODE	LAT. NORTH	LONG. WEST	DATE	TIME (UTC)			DEPTH (km)	QUAKE MAG.	SITE ACC. g	SITE MM INT.	APPROX. DISTANCE mi [km]
				H	M	Sec					
MGI	37.8000	122.5000	06/21/1808	0	0	0.0	0.0	6.30	0.394	X	3.5(5.7)
MGI	37.8000	122.5000	12/03/1905	1930	0.0	0.0	0.0	4.00	0.117	VII	3.5(5.7)
MGI	37.9000	122.6000	09/18/1902	1151	0.0	0.0	0.0	4.60	0.129	VIII	5.5(8.9)
MGI	37.9200	122.5700	01/07/1926	553	0.0	0.0	0.0	4.00	0.093	VII	5.6(9.0)
T-A	37.7500	122.5000	09/29/1862	23	5	0.0	0.0	4.30	0.097	VII	6.9(11.0)
T-A	37.7500	122.5000	11/13/1851	3	0	0.0	0.0	4.30	0.097	VII	6.9(11.0)
T-A	37.7500	122.5000	09/13/1858	340	0.0	0.0	0.0	4.30	0.097	VII	6.9(11.0)
T-A	37.7500	122.5000	03/28/1888	941	0.0	0.0	0.0	4.30	0.097	VII	6.9(11.0)
T-A	37.7500	122.5000	10/26/1854	0	0	0.0	0.0	4.30	0.097	VII	6.9(11.0)
T-A	37.7500	122.5000	07/01/1890	833	0.0	0.0	0.0	4.30	0.097	VII	6.9(11.0)
T-A	37.7500	122.5000	10/22/1855	345	0.0	0.0	0.0	4.30	0.097	VII	6.9(11.0)
T-A	37.7500	122.5000	12/11/1855	12	0	0.0	0.0	5.00	0.141	VIII	6.9(11.0)
T-A	37.7500	122.5000	12/01/1859	850	0.0	0.0	0.0	4.30	0.097	VII	6.9(11.0)
T-A	37.7500	122.5000	10/22/1854	330	0.0	0.0	0.0	5.00	0.141	VIII	6.9(11.0)
T-A	37.7500	122.5000	02/06/1857	255	0.0	0.0	0.0	4.30	0.097	VII	6.9(11.0)
T-A	37.7500	122.5000	07/05/1857	15	0	0.0	0.0	4.30	0.097	VII	6.9(11.0)
T-A	37.7500	122.5000	10/20/1857	230	0.0	0.0	0.0	4.30	0.097	VII	6.9(11.0)
T-A	37.7500	122.5000	10/20/1857	915	0.0	0.0	0.0	4.30	0.097	VII	6.9(11.0)
T-A	37.7500	122.5000	04/02/1869	147	0.0	0.0	0.0	4.30	0.097	VII	6.9(11.0)
T-A	37.7500	122.5000	02/26/1864	840	0.0	0.0	0.0	5.00	0.141	VIII	6.9(11.0)
T-A	37.7500	122.5000	10/10/1883	9	5	0.0	0.0	4.30	0.097	VII	6.9(11.0)
T-A	37.7500	122.5000	04/17/1860	330	0.0	0.0	0.0	4.30	0.097	VII	6.9(11.0)
T-A	37.7500	122.5000	03/26/1884	117	0.0	0.0	0.0	4.30	0.097	VII	6.9(11.0)
T-A	37.7500	122.5000	09/22/1859	0	0	0.0	0.0	4.30	0.097	VII	6.9(11.0)
T-A	37.7500	122.5000	06/27/1882	1322	0.0	0.0	0.0	4.30	0.097	VII	6.9(11.0)
T-A	37.7500	122.5000	03/18/1863	10	0	0.0	0.0	4.30	0.097	VII	6.9(11.0)
T-A	37.7500	122.5000	04/26/1865	2355	0.0	0.0	0.0	4.30	0.097	VII	6.9(11.0)
MGI	37.7500	122.5000	05/23/1929	2317	0.0	0.0	0.0	4.30	0.097	VII	6.9(11.0)
T-A	37.7500	122.5000	06/26/1864	453	0.0	0.0	0.0	4.30	0.097	VII	6.9(11.0)
MGI	37.8000	122.4000	05/15/1851	1610	0.0	0.0	0.0	5.00	0.133	VIII	7.4(12.0)
MGI	37.8000	122.4000	08/11/1902	1410	0.0	0.0	0.0	4.00	0.079	VII	7.4(12.0)
MGI	37.8000	122.4000	10/05/1859	2016	0.0	0.0	0.0	5.00	0.133	VIII	7.4(12.0)
GSB	37.9070	122.6860	08/18/1999	010619	0.0	7.0	4.50	0.085	0.085	VII	9.8(15.8)
DMG	37.7000	122.5200	03/23/1957	81348	0.0	0.0	4.20	0.071	0.071	VI	10.2(16.4)
MGI	37.7000	122.5000	04/18/1906	1619	0.0	0.0	4.00	0.063	0.063	VI	10.3(16.5)
MGI	37.7000	122.5000	04/18/1906	1614	0.0	0.0	4.00	0.063	0.063	VI	10.3(16.5)
MGI	37.7000	122.5000	04/18/1906	2230	0.0	0.0	4.60	0.087	0.087	VII	10.3(16.5)
MGI	37.7000	122.5000	04/18/1906	19	0	0.0	4.00	0.063	0.063	VI	10.3(16.5)
MGI	37.7000	122.5000	05/15/1906	120	0.0	0.0	4.00	0.063	0.063	VI	10.3(16.5)
MGI	37.7000	122.5000	04/25/1906	2315	0.0	0.0	5.30	0.126	0.126	VIII	10.3(16.5)
DMG	37.7000	122.5000	04/18/1906	131221	0.0	0.0	8.25	0.596	0.596	X	10.3(16.5)
MGI	37.7000	122.5000	04/18/1906	23	0	0.0	4.00	0.063	0.063	VI	10.3(16.5)
MGI	37.7000	122.5000	04/18/1906	1615	0.0	0.0	4.00	0.063	0.063	VI	10.3(16.5)
MGI	37.7000	122.5000	05/18/1906	421	0.0	0.0	4.60	0.087	0.087	VII	10.3(16.5)
MGI	37.7000	122.5000	06/05/1906	751	0.0	0.0	4.00	0.063	0.063	VI	10.3(16.5)
MGI	37.7000	122.5000	04/25/1906	20	0	0.0	4.00	0.063	0.063	VI	10.3(16.5)
MGI	37.7000	122.5000	04/18/1906	2235	0.0	0.0	4.60	0.087	0.087	VII	10.3(16.5)
DMG	37.7000	122.5000	01/01/1905	2338	0.0	0.0	4.00	0.063	0.063	VI	10.3(16.5)
DMG	37.7000	122.5000	06/02/1899	719	0.0	0.0	5.40	0.133	0.133	VIII	10.3(16.5)
MGI	37.7000	122.5000	05/17/1906	818	0.0	0.0	4.60	0.087	0.087	VII	10.3(16.5)
DMG	37.7000	122.5700	12/11/1958	95227	0.0	0.0	4.70	0.090	0.090	VII	10.5(16.9)
T-A	37.6700	122.5000	11/23/1852	7	0	0.0	5.70	0.137	0.137	VIII	12.3(19.8)
DMG	38.0000	122.4000	06/30/1893	1330	0.0	0.0	4.60	0.076	0.076	VII	12.5(20.0)

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 EARTHQUAKE SEARCH RESULTS

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FILE CODE	LAT. NORTH	LONG. WEST	DATE	TIME (UTC) H M Sec	DEPTH (km)	QUAKE MAG.	SITE ACC. g	SITE MM INT.	APPROX. DISTANCE mi [km]
DMG	37.6700	122.4800	03/22/1957	194421.0	8.5	5.30	0.110	VII	12.5(20.1)
DMG	37.9000	122.3000	11/18/1888	2228 0.0	0.0	4.30	0.064	VI	12.7(20.4)
DMG	37.9000	122.3000	12/14/1904	1510 0.0	0.0	4.00	0.055	VI	12.7(20.4)
MGI	37.9000	122.3000	12/14/1901	161358.0	0.0	4.00	0.055	VI	12.7(20.4)
MGI	37.9000	122.3000	09/20/1900	755 0.0	0.0	4.00	0.055	VI	12.7(20.4)
DMG	37.9000	122.3000	04/02/1870	1948 0.0	0.0	5.30	0.109	VII	12.7(20.4)
GSB	37.9270	122.3100	03/05/2012	133320.5	8.0	4.00	0.054	VI	12.8(20.6)
DMG	37.6700	122.4200	10/25/1913	945 0.0	0.0	4.00	0.052	VI	13.5(21.7)
GSB	37.9170	122.2890	06/26/1994	084250.2	7.0	4.20	0.058	VI	13.6(21.9)
DMG	37.6500	122.4800	03/23/1957	02655.0	0.0	4.00	0.051	VI	13.8(22.3)
BRK	37.6500	122.4600	04/28/1979	04444.0	0.0	4.40	0.063	VI	14.1(22.6)
DMG	37.6500	122.4500	03/22/1957	231435.0	0.0	4.40	0.062	VI	14.2(22.9)
GSB	37.8552	122.2568	01/04/2018	103937.7	12.3	4.38	0.061	VI	14.5(23.3)
MGI	37.8500	122.2500	09/10/1935	2355 0.0	0.0	5.00	0.082	VII	14.9(23.9)
DMG	37.8300	122.2500	10/08/1915	526 0.0	0.0	4.50	0.063	VI	14.9(24.0)
T-A	38.0000	122.3200	03/22/1864	21 0 0.0	0.0	4.30	0.056	VI	15.2(24.5)
MGI	38.0000	122.3200	09/04/1919	2016 0.0	0.0	4.60	0.066	VI	15.2(24.5)
GSB	37.8367	122.2322	08/17/2015	134917.3	4.7	4.01	0.047	VI	15.8(25.5)
GSB	37.8420	122.2240	09/05/2003	013953.7	11.0	4.00	0.045	VI	16.3(26.2)
DMG	37.6100	122.5600	08/04/1963	1735 3.6	0.0	4.00	0.045	VI	16.5(26.6)
DMG	38.1000	122.5000	08/27/1855	11 0 0.0	0.0	4.90	0.069	VI	17.5(28.1)
GSB	37.8770	122.2030	03/29/1986	162404.2	9.0	4.00	0.043	VI	17.5(28.2)
MGI	37.8000	122.2000	04/19/1902	16 9 0.0	0.0	4.60	0.058	VI	17.9(28.8)
MGI	37.8000	122.2000	05/29/1946	558 0.0	0.0	4.30	0.050	VI	17.9(28.8)
DMG	37.8000	122.2000	06/10/1836	1530 0.0	0.0	6.80	0.185	VIII	17.9(28.8)
DMG	37.8000	122.2000	03/08/1937	1031 0.0	0.0	4.50	0.055	VI	17.9(28.8)
DMG	37.8000	122.2000	07/31/1889	1247 0.0	0.0	5.20	0.080	VII	17.9(28.8)
GSB	37.8040	122.1930	07/20/2007	114222.4	5.0	4.20	0.046	VI	18.2(29.3)
DMG	37.6000	122.4000	06/01/1838	0 0 0.0	0.0	7.00	0.202	VIII	18.4(29.5)
BRK	37.9000	122.1800	01/08/1977	938 7.0	0.0	4.30	0.047	VI	19.0(30.6)
BRK	37.9000	122.1800	01/08/1977	85813.0	0.0	4.00	0.040	V	19.0(30.6)
GSB	37.8030	122.1750	05/11/1987	064547.5	4.0	4.30	0.047	VI	19.2(30.9)
MGI	37.8300	122.1700	08/02/1929	10 2 0.0	0.0	4.00	0.040	V	19.3(31.0)
DMG	37.5800	122.4200	01/05/1931	943 0.0	0.0	4.00	0.040	V	19.3(31.1)
DMG	37.5800	122.4200	01/24/1914	333 0.0	0.0	4.00	0.040	V	19.3(31.1)
DMG	37.7500	122.1800	10/13/1952	034 9.0	0.0	4.20	0.044	VI	19.9(32.0)
T-A	37.7500	122.1700	10/05/1888	124130.0	0.0	4.30	0.045	VI	20.4(32.8)
T-A	37.7500	122.1700	05/18/1893	18 3 0.0	0.0	4.30	0.045	VI	20.4(32.8)
DMG	37.8000	122.1500	10/22/1952	04551.0	0.0	4.00	0.038	V	20.6(33.1)
T-A	38.0000	122.1700	09/24/1860	5 0 0.0	0.0	4.30	0.043	VI	21.9(35.2)
GSB	37.8970	122.1110	03/02/2007	044000.8	16.0	4.20	0.039	V	22.7(36.5)
MGI	37.6000	122.8000	10/25/1934	320 0.0	0.0	4.30	0.041	V	22.8(36.8)
DMG	37.6000	122.8000	10/02/1934	2020 0.0	0.0	4.00	0.035	V	22.8(36.8)
DMG	37.6000	122.8000	10/02/1934	2030 0.0	0.0	4.00	0.035	V	22.8(36.8)
GSB	37.7270	122.1300	03/27/1984	033635.6	7.0	4.40	0.043	VI	23.0(37.0)
DMG	37.7200	122.1300	12/17/1954	7 858.0	0.0	4.50	0.045	VI	23.2(37.3)
DMG	37.7200	122.1200	12/29/1942	181814.0	0.0	4.30	0.040	V	23.7(38.1)
DMG	37.5000	122.5000	01/02/1856	1815 0.0	0.0	5.30	0.067	VI	24.0(38.7)
DMG	37.7000	122.1000	10/21/1868	1553 0.0	0.0	6.80	0.143	VIII	25.2(40.6)
DMG	38.2000	122.4000	03/31/1898	743 0.0	0.0	6.20	0.104	VII	25.2(40.6)
DMG	37.6000	122.8800	09/24/1936	1411 0.0	0.0	4.00	0.032	V	25.9(41.8)
MGI	38.2000	122.7000	02/09/1900	1230 0.0	0.0	4.60	0.044	VI	26.2(42.1)
DMG	37.5000	122.3300	10/01/1915	1526 0.0	0.0	4.00	0.032	V	26.2(42.2)

 EARTHQUAKE SEARCH RESULTS

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FILE CODE	LAT. NORTH	LONG. WEST	DATE	TIME (UTC)		DEPTH (km)	QUAKE MAG.	SITE ACC. g	SITE MM INT.	APPROX. DISTANCE	
				H	M Sec					mi	[km]
MGI	37.5000	122.3200	02/10/1925	9	5 0.0	0.0	4.00	0.032	V	26.4	(42.5)
DMG	37.5000	122.3000	02/15/1856	1325	0.0	0.0	5.50	0.069	VI	26.9	(43.3)
DMG	37.9700	122.0500	10/24/1955	41044	.0	0.0	5.40	0.065	VI	27.1	(43.6)
T-A	37.6700	122.0700	12/04/1887	1230	0.0	0.0	4.30	0.036	V	27.6	(44.4)
GSB	38.2152	122.3123	08/24/2014	102044	.1	11.1	6.02	0.088	VII	27.8	(44.8)
DMG	38.0000	123.0000	12/19/1931	6	0 0.0	0.0	4.00	0.030	V	28.0	(45.1)
T-A	37.5000	122.2500	09/14/1850	0	0 0.0	0.0	4.30	0.035	V	28.2	(45.5)
DMG	37.8000	122.0000	07/04/1861	011	0.0	0.0	5.60	0.069	VI	28.7	(46.2)
DMG	37.6000	122.1000	05/21/1864	2	1 0.0	0.0	5.30	0.059	VI	28.7	(46.2)
GSB	37.8660	121.9960	09/06/2008	040015	.3	16.0	4.10	0.031	V	28.7	(46.2)
T-A	38.2500	122.6700	08/19/1858	648	0.0	0.0	5.00	0.050	VI	28.9	(46.5)
GSB	37.8720	121.9850	04/07/1990	023918	.2	1.0	4.20	0.032	V	29.3	(47.2)
GSB	37.8850	121.9830	04/28/1990	044148	.0	6.0	4.60	0.040	V	29.5	(47.5)
DMG	37.9700	122.0000	05/31/1958	22	711.0	0.0	4.10	0.030	V	29.7	(47.8)
DMG	37.5000	122.2000	12/19/1863	2238	0.0	0.0	4.80	0.044	VI	29.8	(47.9)
BRK	37.7900	121.9800	08/20/1976	22	553.0	0.0	4.00	0.029	V	29.9	(48.0)
MGI	38.2500	122.3200	01/20/1919	925	0.0	0.0	4.00	0.029	V	29.9	(48.1)
T-A	38.2500	122.3200	05/21/1864	257	0.0	0.0	4.30	0.034	V	29.9	(48.1)
T-A	38.2500	122.3200	10/14/1891	1230	0.0	0.0	4.30	0.034	V	29.9	(48.1)
T-A	38.2500	122.3200	03/08/1865	730	0.0	0.0	4.30	0.034	V	29.9	(48.1)
DMG	37.7000	122.0000	03/05/1864	1649	0.0	0.0	5.70	0.070	VI	30.3	(48.7)
DMG	37.8000	121.9480	06/12/1970	16	336.3	5.0	4.01	0.028	V	31.5	(50.7)
DMG	37.7990	121.9480	06/12/1970	33049	.9	7.5	4.12	0.029	V	31.5	(50.7)
GSB	37.8420	121.9400	10/11/1986	051736	.2	7.0	4.70	0.040	V	31.8	(51.1)
DMG	37.7830	121.9440	06/12/1970	33018	.1	5.0	4.26	0.031	V	31.9	(51.3)
DMG	38.3000	122.4000	10/12/1891	628	0.0	0.0	5.50	0.060	VI	31.9	(51.4)
DMG	37.7860	121.9410	06/12/1970	330	3.3	5.0	4.27	0.031	V	32.0	(51.5)
GSB	37.7480	121.9460	02/02/2003	184738	.8	16.0	4.10	0.029	V	32.2	(51.8)
MGI	38.0200	121.9700	10/27/1955	193332	.0	0.0	4.30	0.032	V	32.4	(52.1)
GSB	37.7420	121.9420	02/02/2003	182258	.3	16.0	4.10	0.028	V	32.5	(52.3)
DMG	38.3000	122.7000	02/29/1888	2250	0.0	0.0	4.20	0.030	V	32.7	(52.6)
DMG	37.6000	122.0000	05/16/1933	114526	.0	0.0	4.50	0.034	V	33.3	(53.5)
DMG	37.6000	122.0000	06/05/1907	827	0.0	0.0	4.00	0.026	V	33.3	(53.5)
DMG	37.6000	122.0000	07/22/1864	641	0.0	0.0	4.70	0.038	V	33.3	(53.5)
DMG	38.3300	122.5000	02/25/1919	2239	0.0	0.0	4.50	0.034	V	33.3	(53.6)
DMG	37.8170	121.8830	03/17/1963	213844	.5	0.0	4.10	0.027	V	34.9	(56.2)
DMG	37.8200	121.8800	03/17/1962	213844	.5	2.0	4.10	0.027	V	35.1	(56.5)
T-A	37.4200	122.1700	02/00/1888	12	0 0.0	0.0	4.30	0.030	V	35.3	(56.7)
DMG	38.0000	121.9000	05/19/1889	1110	0.0	0.0	6.00	0.072	VI	35.5	(57.1)
GSB	38.3640	122.5890	08/03/2006	030812	.9	8.0	4.40	0.031	V	35.8	(57.7)
MGI	37.9000	121.8500	11/11/1936	225	0.0	0.0	4.30	0.029	V	36.8	(59.3)
GSB	38.3790	122.4130	09/03/2000	083630	.1	10.0	5.00	0.041	V	37.2	(59.8)
DMG	38.2000	122.0000	05/21/1902	620	0.0	0.0	4.00	0.024	V	37.4	(60.2)
BRK	37.5600	121.9400	03/03/1981	104512	.0	0.0	4.40	0.030	V	37.5	(60.4)
GSB	38.3930	122.6330	09/22/1999	222713	.1	7.0	4.30	0.028	V	38.1	(61.3)
DMG	37.3500	122.2200	10/31/1957	1947	6.0	0.0	4.10	0.025	V	38.1	(61.4)
GSB	38.0370	121.8620	06/22/1989	011325	.2	16.0	4.30	0.028	V	38.3	(61.6)
DMG	38.4000	122.6000	08/09/1893	915	0.0	0.0	5.10	0.042	VI	38.4	(61.7)
DMG	38.4000	122.6000	03/08/1865	1430	0.0	0.0	4.70	0.034	V	38.4	(61.7)
DMG	37.6300	121.8700	03/29/1943	114555	.0	0.0	4.20	0.026	V	38.7	(62.2)
BRK	37.8400	121.8100	01/27/1980	1058	1.0	0.0	4.10	0.025	V	38.9	(62.5)
BRK	37.8600	121.8100	01/25/1980	52436	.0	0.0	4.60	0.032	V	38.9	(62.5)
BRK	37.8300	121.8100	01/24/1980	19	0 9.0	0.0	5.80	0.060	VI	38.9	(62.6)

EARTHQUAKE SEARCH RESULTS

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FILE CODE	LAT. NORTH	LONG. WEST	DATE	TIME (UTC)			DEPTH (km)	QUAKE MAG.	SITE ACC. g	SITE MM INT.	APPROX. DISTANCE	
				H	M	Sec					mi	[km]
DMG	37.6000	121.8800	09/24/1936	3	9	0.0	0.0	4.30	0.027	V	39.0	(62.8)
DMG	38.0100	121.8200	09/10/1965	21	28	34.3	16.0	4.90	0.037	V	39.9	(64.2)
BRK	37.8400	121.7900	01/24/1980	19	31	9.0	0.0	4.80	0.035	V	39.9	(64.3)
BRK	37.8400	121.7900	01/25/1980	5	12	42.0	0.0	4.40	0.028	V	39.9	(64.3)
BRK	37.8200	121.7900	01/24/1980	19	14	5.0	0.0	4.00	0.023	IV	40.0	(64.4)
BRK	37.8100	121.7900	01/24/1980	19	1	2.0	0.0	5.10	0.041	V	40.0	(64.4)
DMG	37.3300	122.1700	09/12/1912	17	27	0.0	0.0	4.50	0.029	V	40.6	(65.4)
DMG	37.4200	122.0000	02/11/1930	21	21	0.0	0.0	4.00	0.022	IV	41.1	(66.1)
T-A	38.4200	122.7500	11/08/1868	0	0	0.0	0.0	4.30	0.026	V	41.4	(66.6)
MGI	38.4200	122.7500	02/16/1934	9	31	0.0	0.0	4.30	0.026	V	41.4	(66.6)
MGI	38.4200	122.7500	02/16/1934	15	58	0.0	0.0	4.30	0.026	V	41.4	(66.6)
MGI	38.4200	122.7500	02/14/1934	22	34	0.0	0.0	4.30	0.026	V	41.4	(66.6)
MGI	38.4200	122.7500	02/14/1934	22	24	0.0	0.0	4.30	0.026	V	41.4	(66.6)
T-A	38.4200	122.7500	01/09/1865	15	0	0.0	0.0	4.30	0.026	V	41.4	(66.6)
MGI	38.4200	122.7500	02/18/1929	3	25	0.0	0.0	4.30	0.026	V	41.4	(66.6)
T-A	38.4200	122.7500	06/29/1890	15	25	0.0	0.0	4.30	0.026	V	41.4	(66.6)
T-A	38.4200	122.7500	10/13/1899	5	0	0.0	0.0	5.70	0.055	VI	41.4	(66.6)
MGI	38.4200	122.7500	02/16/1934	5	37	0.0	0.0	4.30	0.026	V	41.4	(66.6)
MGI	38.4200	122.7500	02/14/1934	18	43	0.0	0.0	4.30	0.026	V	41.4	(66.6)
GSB	38.3780	122.1660	05/08/2005	08	43	55.3	9.0	4.10	0.024	IV	41.4	(66.7)
DMG	37.2700	122.3100	05/22/1963	22	41	4.8	0.0	4.60	0.031	V	41.5	(66.9)
DMG	37.5000	121.9000	11/26/1858	8	35	0.0	0.0	6.10	0.067	VI	41.6	(67.0)
GSB	37.8050	121.7430	10/22/1987	03	48	00.3	7.0	4.40	0.027	V	42.6	(68.6)
DMG	37.6800	121.7700	04/15/1943	15	31	2.0	0.0	4.10	0.023	IV	42.7	(68.7)
DMG	37.6800	121.7700	04/15/1943	15	23	4.0	0.0	4.00	0.022	IV	42.7	(68.7)
GSB	38.4317	122.2503	05/22/2015	02	53	00.8	12.8	4.09	0.023	IV	42.9	(69.1)
DMG	37.6000	121.8000	06/11/1903	13	12	0.0	0.0	5.50	0.048	VI	43.0	(69.2)
GSB	37.7230	121.7480	03/10/1991	17	46	01.1	16.0	4.00	0.022	IV	43.1	(69.4)
GSB	37.7580	121.7400	03/18/1984	05	27	30.3	12.0	4.30	0.025	V	43.1	(69.4)
GSG	38.4580	122.6990	05/25/2003	07	09	33.7	5.0	4.30	0.025	V	43.2	(69.5)
DMG	38.4600	122.6900	10/02/1969	6	19	57.1	0.0	5.70	0.053	VI	43.2	(69.6)
DMG	38.4000	122.9000	05/29/1876	18	55	0.0	0.0	4.20	0.024	V	43.3	(69.7)
DMG	37.6200	121.7800	04/26/1943	11	54	0.0	0.0	4.10	0.023	IV	43.5	(70.0)
BRK	37.7600	121.7300	01/27/1980	23	33	6.0	0.0	5.40	0.045	VI	43.7	(70.3)
DMG	38.4700	122.6900	10/02/1969	4	56	46.5	0.0	5.60	0.050	VI	43.9	(70.7)
MGI	37.6500	121.7500	05/01/1943	2	52	0.0	0.0	4.30	0.025	V	44.3	(71.3)
DMG	37.9000	121.7000	09/20/1940	18	59	0.0	0.0	4.00	0.021	IV	45.0	(72.4)
DMG	37.9000	121.7000	09/19/1940	8	20	18.0	0.0	4.00	0.021	IV	45.0	(72.4)
MGI	38.5000	122.5000	10/13/1948	0	23	0.0	0.0	4.30	0.024	V	45.1	(72.5)
DMG	38.4800	122.7300	04/25/1968	19	49	45.2	0.0	4.60	0.029	V	45.1	(72.5)
DMG	38.4900	122.6800	10/02/1969	12	27	5.5	0.0	4.30	0.024	V	45.2	(72.7)
DMG	37.6800	121.7200	04/21/1943	23	39	44.0	0.0	4.20	0.023	IV	45.3	(72.9)
DMG	38.3000	121.9000	05/19/1902	18	31	0.0	0.0	5.50	0.045	VI	46.0	(74.1)
DMG	37.5000	121.8000	12/01/1938	16	17	0.0	0.0	4.50	0.027	V	46.2	(74.4)
GSB	37.4810	121.7980	01/07/2010	18	09	35.0	11.0	4.10	0.021	IV	47.0	(75.6)
DMG	38.5300	122.5200	04/05/1956	4	29	32.0	0.0	4.20	0.022	IV	47.1	(75.8)
DMG	38.5300	122.5200	04/05/1956	4	29	13.0	0.0	4.40	0.025	V	47.1	(75.8)
DMG	38.4000	122.0000	04/19/1892	10	50	0.0	0.0	6.40	0.071	VI	47.5	(76.5)
GSB	37.4580	121.8000	12/29/1986	15	28	04.9	6.0	4.50	0.026	V	47.8	(76.9)
T-A	38.5000	122.8200	01/03/1876	18	55	0.0	0.0	5.00	0.034	V	47.8	(77.0)
DMG	37.2500	122.0800	06/14/1932	9	44	17.0	0.0	4.50	0.026	V	47.9	(77.0)
DMG	37.4800	121.7800	10/31/1958	0	26	14.0	0.0	4.20	0.022	IV	47.9	(77.0)
DMG	38.1000	121.7000	02/14/1909	15	55	0.0	0.0	4.50	0.026	V	48.0	(77.3)

EARTHQUAKE SEARCH RESULTS

FILE CODE	LAT. NORTH	LONG. WEST	DATE	TIME (UTC)			DEPTH (km)	QUAKE MAG.	SITE ACC. g	SITE MM INT.	APPROX. DISTANCE mi [km]
				H	M	Sec					
BRK	37.6600	121.6700	06/21/1977	243	6.0	0.0	4.40	0.024	V	48.3(77.7)	
T-A	37.3300	121.9200	08/11/1859	530	0.0	0.0	4.30	0.023	IV	48.6(78.2)	
T-A	37.3300	121.9200	07/23/1885	2025	0.0	0.0	4.30	0.023	IV	48.6(78.2)	
MGI	37.3300	121.9200	09/09/1920	1647	0.0	0.0	4.00	0.020	IV	48.6(78.2)	
T-A	37.3300	121.9200	08/30/1873	0	0	0.0	4.30	0.023	IV	48.6(78.2)	
T-A	37.3300	121.9200	04/04/1859	21	0	0.0	4.30	0.023	IV	48.6(78.2)	
DMG	37.3300	121.9200	06/10/1931	1220	0.0	0.0	4.00	0.020	IV	48.6(78.2)	
GSB	37.4220	121.7950	04/03/1989	1746	34.4	9.0	4.70	0.028	V	49.5(79.6)	
GSG	37.4350	121.7790	10/31/2007	2254	24.5	8.0	4.00	0.019	IV	49.6(79.9)	
GSB	37.4340	121.7740	10/31/2007	0304	54.8	10.0	5.50	0.043	VI	49.9(80.3)	
T-A	38.5000	122.9200	08/02/1878	330	0.0	0.0	4.30	0.023	IV	49.9(80.4)	

-END OF SEARCH- 223 EARTHQUAKES FOUND WITHIN THE SPECIFIED SEARCH AREA.

TIME PERIOD OF SEARCH: 1800 TO 2022

LENGTH OF SEARCH TIME: 223 years

THE EARTHQUAKE CLOSEST TO THE SITE IS ABOUT 3.5 MILES (5.7 km) AWAY.

LARGEST EARTHQUAKE MAGNITUDE FOUND IN THE SEARCH RADIUS: 8.3

LARGEST EARTHQUAKE SITE ACCELERATION FROM THIS SEARCH: 0.596 g

COEFFICIENTS FOR GUTENBERG & RICHTER RECURRENCE RELATION:

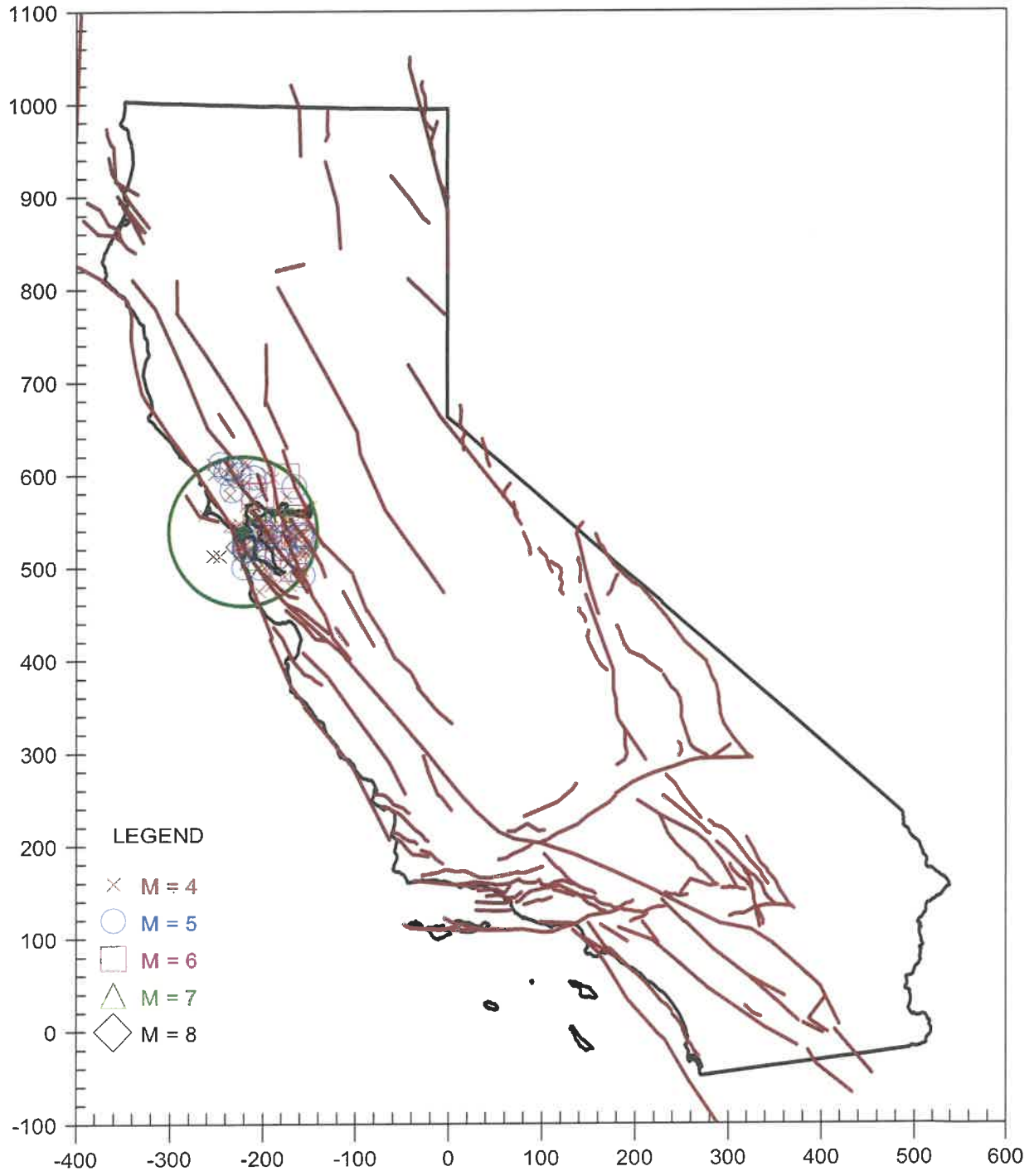
a-value= 2.519
b-value= 0.646
beta-value= 1.487

TABLE OF MAGNITUDES AND EXCEEDANCES:

Earthquake Magnitude	Number of Times Exceeded	Cumulative No. / Year
4.0	223	1.00450
4.5	75	0.33784
5.0	42	0.18919
5.5	22	0.09910
6.0	10	0.04505
6.5	4	0.01802
7.0	2	0.00901
7.5	1	0.00450
8.0	1	0.00450

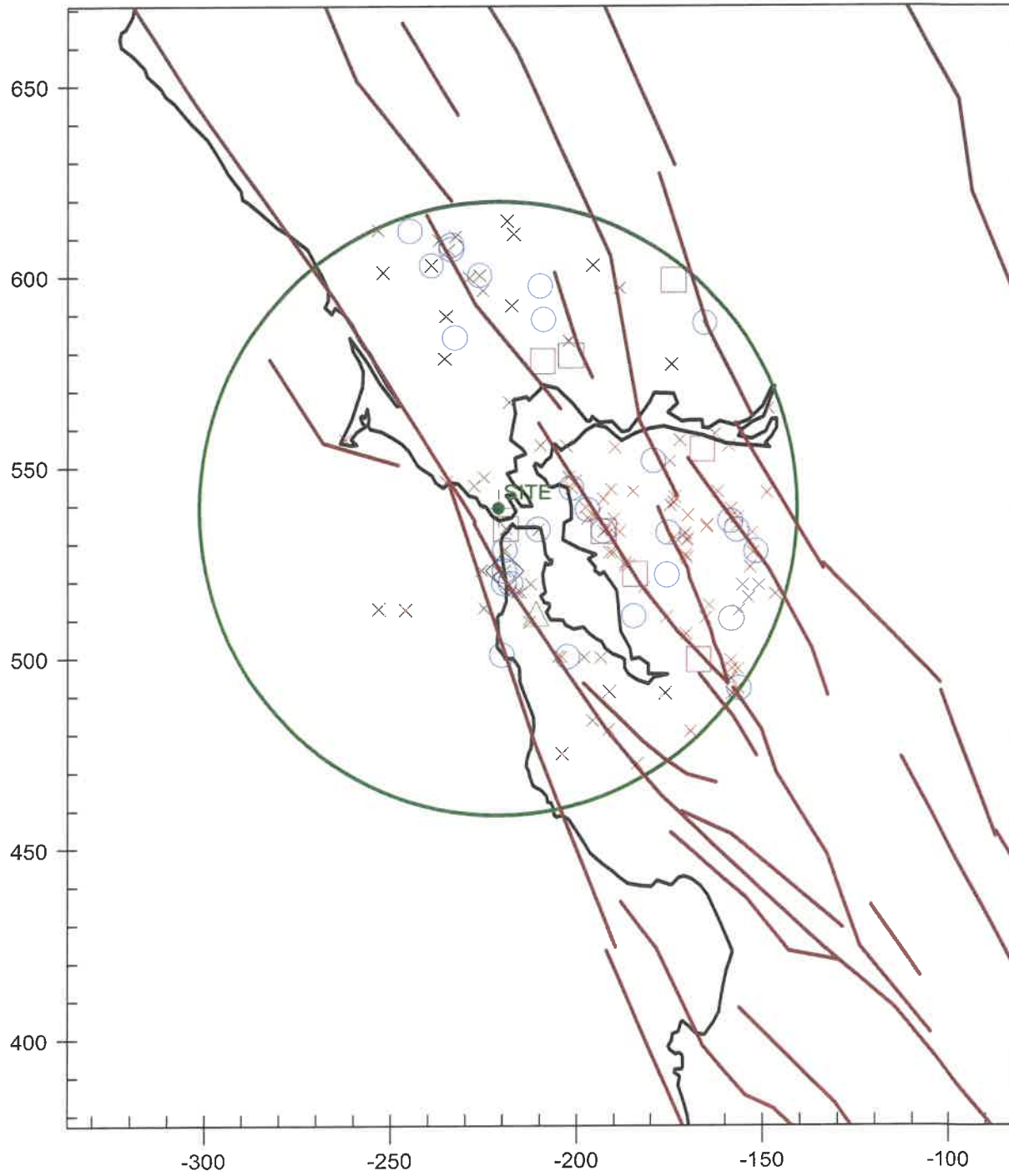
EARTHQUAKE EPICENTER MAP

04222001



EARTHQUAKE EPICENTER MAP

04222001



04222001.OUT

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*   E Q S E A R C H   *  
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*   Version 3.00     *  
*  
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ESTIMATION OF
PEAK ACCELERATION FROM
CALIFORNIA EARTHQUAKE CATALOGS

JOB NUMBER: 04222001

DATE: 07-31-2023

JOB NAME: 04222001

EARTHQUAKE-CATALOG-FILE NAME: ALLQUAKE.DAT

MAGNITUDE RANGE:

MINIMUM MAGNITUDE: 4.00
MAXIMUM MAGNITUDE: 9.00

SITE COORDINATES:

SITE LATITUDE: 37.8477
SITE LONGITUDE: 122.5226

SEARCH DATES:

START DATE: 1800
END DATE: 2022

SEARCH RADIUS:

50.0 mi
80.5 km

ATTENUATION RELATION: 3) Boore et al. (1997) Horiz. - NEHRP D (250)

UNCERTAINTY (M=Median, S=Sigma): M Number of sigmas: 0.0
ASSUMED SOURCE TYPE: DS [SS=Strike-slip, DS=Reverse-slip, BT=Blind-thrust]
SCOND: 0 Depth Source: A
Basement Depth: 5.00 km Campbell SSR: Campbell SHR:
COMPUTE PEAK HORIZONTAL ACCELERATION

MINIMUM DEPTH VALUE (km): 0.0

 EARTHQUAKE SEARCH RESULTS

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FILE CODE	LAT. NORTH	LONG. WEST	DATE	TIME (UTC)			DEPTH (km)	QUAKE MAG.	SITE ACC. g	SITE MM INT.	APPROX. DISTANCE mi [km]
				H	M	Sec					
MGI	37.8000	122.5000	06/21/1808	0	0	0.0	0.0	6.30	0.394	X	3.5(5.7)
MGI	37.8000	122.5000	12/03/1905	1930	0	0.0	0.0	4.00	0.117	VII	3.5(5.7)
MGI	37.9000	122.6000	09/18/1902	1151	0	0.0	0.0	4.60	0.129	VIII	5.5(8.9)
MGI	37.9200	122.5700	01/07/1926	553	0	0.0	0.0	4.00	0.093	VII	5.6(9.0)
T-A	37.7500	122.5000	09/29/1862	23	5	0.0	0.0	4.30	0.097	VII	6.9(11.0)
T-A	37.7500	122.5000	11/13/1851	3	0	0.0	0.0	4.30	0.097	VII	6.9(11.0)
T-A	37.7500	122.5000	09/13/1858	340	0	0.0	0.0	4.30	0.097	VII	6.9(11.0)
T-A	37.7500	122.5000	03/28/1888	941	0	0.0	0.0	4.30	0.097	VII	6.9(11.0)
T-A	37.7500	122.5000	10/26/1854	0	0	0.0	0.0	4.30	0.097	VII	6.9(11.0)
T-A	37.7500	122.5000	07/01/1890	833	0	0.0	0.0	4.30	0.097	VII	6.9(11.0)
T-A	37.7500	122.5000	10/22/1855	345	0	0.0	0.0	4.30	0.097	VII	6.9(11.0)
T-A	37.7500	122.5000	12/11/1855	12	0	0.0	0.0	5.00	0.141	VIII	6.9(11.0)
T-A	37.7500	122.5000	12/01/1859	850	0	0.0	0.0	4.30	0.097	VII	6.9(11.0)
T-A	37.7500	122.5000	10/22/1854	330	0	0.0	0.0	5.00	0.141	VIII	6.9(11.0)
T-A	37.7500	122.5000	02/06/1857	255	0	0.0	0.0	4.30	0.097	VII	6.9(11.0)
T-A	37.7500	122.5000	07/05/1857	15	0	0.0	0.0	4.30	0.097	VII	6.9(11.0)
T-A	37.7500	122.5000	10/20/1857	230	0	0.0	0.0	4.30	0.097	VII	6.9(11.0)
T-A	37.7500	122.5000	10/20/1857	915	0	0.0	0.0	4.30	0.097	VII	6.9(11.0)
T-A	37.7500	122.5000	04/02/1869	147	0	0.0	0.0	4.30	0.097	VII	6.9(11.0)
T-A	37.7500	122.5000	02/26/1864	840	0	0.0	0.0	5.00	0.141	VIII	6.9(11.0)
T-A	37.7500	122.5000	10/10/1883	9	5	0.0	0.0	4.30	0.097	VII	6.9(11.0)
T-A	37.7500	122.5000	04/17/1860	330	0	0.0	0.0	4.30	0.097	VII	6.9(11.0)
T-A	37.7500	122.5000	03/26/1884	117	0	0.0	0.0	4.30	0.097	VII	6.9(11.0)
T-A	37.7500	122.5000	09/22/1859	0	0	0.0	0.0	4.30	0.097	VII	6.9(11.0)
T-A	37.7500	122.5000	06/27/1882	1322	0	0.0	0.0	4.30	0.097	VII	6.9(11.0)
T-A	37.7500	122.5000	03/18/1863	10	0	0.0	0.0	4.30	0.097	VII	6.9(11.0)
T-A	37.7500	122.5000	04/26/1865	2355	0	0.0	0.0	4.30	0.097	VII	6.9(11.0)
MGI	37.7500	122.5000	05/23/1929	2317	0	0.0	0.0	4.30	0.097	VII	6.9(11.0)
T-A	37.7500	122.5000	06/26/1864	453	0	0.0	0.0	4.30	0.097	VII	6.9(11.0)
MGI	37.8000	122.4000	05/15/1851	1610	0	0.0	0.0	5.00	0.133	VIII	7.4(12.0)
MGI	37.8000	122.4000	08/11/1902	1410	0	0.0	0.0	4.00	0.079	VII	7.4(12.0)
MGI	37.8000	122.4000	10/05/1859	2016	0	0.0	0.0	5.00	0.133	VIII	7.4(12.0)
GSB	37.9070	122.6860	08/18/1999	0106	19.0	7.0	4.50	0.085	0.085	VII	9.8(15.8)
DMG	37.7000	122.5200	03/23/1957	813	48.0	0.0	4.20	0.071	0.071	VI	10.2(16.4)
MGI	37.7000	122.5000	04/18/1906	1619	0	0.0	4.00	0.063	0.063	VI	10.3(16.5)
MGI	37.7000	122.5000	04/18/1906	1614	0	0.0	4.00	0.063	0.063	VI	10.3(16.5)
MGI	37.7000	122.5000	04/18/1906	2230	0	0.0	4.60	0.087	0.087	VII	10.3(16.5)
MGI	37.7000	122.5000	04/18/1906	19	0	0.0	4.00	0.063	0.063	VI	10.3(16.5)
MGI	37.7000	122.5000	05/15/1906	120	0	0.0	4.00	0.063	0.063	VI	10.3(16.5)
MGI	37.7000	122.5000	04/25/1906	2315	0	0.0	5.30	0.126	0.126	VIII	10.3(16.5)
DMG	37.7000	122.5000	04/18/1906	1312	21.0	0.0	8.25	0.596	0.596	X	10.3(16.5)
MGI	37.7000	122.5000	04/18/1906	23	0	0.0	4.00	0.063	0.063	VI	10.3(16.5)
MGI	37.7000	122.5000	04/18/1906	1615	0	0.0	4.00	0.063	0.063	VI	10.3(16.5)
MGI	37.7000	122.5000	05/18/1906	421	0	0.0	4.60	0.087	0.087	VII	10.3(16.5)
MGI	37.7000	122.5000	06/05/1906	751	0	0.0	4.00	0.063	0.063	VI	10.3(16.5)
MGI	37.7000	122.5000	04/25/1906	20	0	0.0	4.00	0.063	0.063	VI	10.3(16.5)
MGI	37.7000	122.5000	04/18/1906	2235	0	0.0	4.60	0.087	0.087	VII	10.3(16.5)
DMG	37.7000	122.5000	01/01/1905	2338	0	0.0	4.00	0.063	0.063	VI	10.3(16.5)
DMG	37.7000	122.5000	06/02/1899	719	0	0.0	5.40	0.133	0.133	VIII	10.3(16.5)
MGI	37.7000	122.5000	05/17/1906	818	0	0.0	4.60	0.087	0.087	VII	10.3(16.5)
DMG	37.7000	122.5700	12/11/1958	952	27.0	0.0	4.70	0.090	0.090	VII	10.5(16.9)
T-A	37.6700	122.5000	11/23/1852	7	0	0.0	5.70	0.137	0.137	VIII	12.3(19.8)
DMG	38.0000	122.4000	06/30/1893	1330	0	0.0	4.60	0.076	0.076	VII	12.5(20.0)

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FILE CODE	LAT. NORTH	LONG. WEST	DATE	TIME (UTC) H M Sec	DEPTH (km)	QUAKE MAG.	SITE ACC. g	SITE MM INT.	APPROX. DISTANCE mi [km]
DMG	37.6700	122.4800	03/22/1957	194421.0	8.5	5.30	0.110	VII	12.5(20.1)
DMG	37.9000	122.3000	11/18/1888	2228 0.0	0.0	4.30	0.064	VI	12.7(20.4)
DMG	37.9000	122.3000	12/14/1904	1510 0.0	0.0	4.00	0.055	VI	12.7(20.4)
MGI	37.9000	122.3000	12/14/1901	161358.0	0.0	4.00	0.055	VI	12.7(20.4)
MGI	37.9000	122.3000	09/20/1900	755 0.0	0.0	4.00	0.055	VI	12.7(20.4)
DMG	37.9000	122.3000	04/02/1870	1948 0.0	0.0	5.30	0.109	VII	12.7(20.4)
GSB	37.9270	122.3100	03/05/2012	133320.5	8.0	4.00	0.054	VI	12.8(20.6)
DMG	37.6700	122.4200	10/25/1913	945 0.0	0.0	4.00	0.052	VI	13.5(21.7)
GSB	37.9170	122.2890	06/26/1994	084250.2	7.0	4.20	0.058	VI	13.6(21.9)
DMG	37.6500	122.4800	03/23/1957	02655.0	0.0	4.00	0.051	VI	13.8(22.3)
BRK	37.6500	122.4600	04/28/1979	04444.0	0.0	4.40	0.063	VI	14.1(22.6)
DMG	37.6500	122.4500	03/22/1957	231435.0	0.0	4.40	0.062	VI	14.2(22.9)
GSB	37.8552	122.2568	01/04/2018	103937.7	12.3	4.38	0.061	VI	14.5(23.3)
MGI	37.8500	122.2500	09/10/1935	2355 0.0	0.0	5.00	0.082	VII	14.9(23.9)
DMG	37.8300	122.2500	10/08/1915	526 0.0	0.0	4.50	0.063	VI	14.9(24.0)
T-A	38.0000	122.3200	03/22/1864	21 0 0.0	0.0	4.30	0.056	VI	15.2(24.5)
MGI	38.0000	122.3200	09/04/1919	2016 0.0	0.0	4.60	0.066	VI	15.2(24.5)
GSB	37.8367	122.2322	08/17/2015	134917.3	4.7	4.01	0.047	VI	15.8(25.5)
GSB	37.8420	122.2240	09/05/2003	013953.7	11.0	4.00	0.045	VI	16.3(26.2)
DMG	37.6100	122.5600	08/04/1963	1735 3.6	0.0	4.00	0.045	VI	16.5(26.6)
DMG	38.1000	122.5000	08/27/1855	11 0 0.0	0.0	4.90	0.069	VI	17.5(28.1)
GSB	37.8770	122.2030	03/29/1986	162404.2	9.0	4.00	0.043	VI	17.5(28.2)
MGI	37.8000	122.2000	04/19/1902	16 9 0.0	0.0	4.60	0.058	VI	17.9(28.8)
MGI	37.8000	122.2000	05/29/1946	558 0.0	0.0	4.30	0.050	VI	17.9(28.8)
DMG	37.8000	122.2000	06/10/1836	1530 0.0	0.0	6.80	0.185	VIII	17.9(28.8)
DMG	37.8000	122.2000	03/08/1937	1031 0.0	0.0	4.50	0.055	VI	17.9(28.8)
DMG	37.8000	122.2000	07/31/1889	1247 0.0	0.0	5.20	0.080	VII	17.9(28.8)
GSB	37.8040	122.1930	07/20/2007	114222.4	5.0	4.20	0.046	VI	18.2(29.3)
DMG	37.6000	122.4000	06/01/1838	0 0 0.0	0.0	7.00	0.202	VIII	18.4(29.5)
BRK	37.9000	122.1800	01/08/1977	938 7.0	0.0	4.30	0.047	VI	19.0(30.6)
BRK	37.9000	122.1800	01/08/1977	85813.0	0.0	4.00	0.040	V	19.0(30.6)
GSB	37.8030	122.1750	05/11/1987	064547.5	4.0	4.30	0.047	VI	19.2(30.9)
MGI	37.8300	122.1700	08/02/1929	10 2 0.0	0.0	4.00	0.040	V	19.3(31.0)
DMG	37.5800	122.4200	01/05/1931	943 0.0	0.0	4.00	0.040	V	19.3(31.1)
DMG	37.5800	122.4200	01/24/1914	333 0.0	0.0	4.00	0.040	V	19.3(31.1)
DMG	37.7500	122.1800	10/13/1952	034 9.0	0.0	4.20	0.044	VI	19.9(32.0)
T-A	37.7500	122.1700	10/05/1888	124130.0	0.0	4.30	0.045	VI	20.4(32.8)
T-A	37.7500	122.1700	05/18/1893	18 3 0.0	0.0	4.30	0.045	VI	20.4(32.8)
DMG	37.8000	122.1500	10/22/1952	04551.0	0.0	4.00	0.038	V	20.6(33.1)
T-A	38.0000	122.1700	09/24/1860	5 0 0.0	0.0	4.30	0.043	VI	21.9(35.2)
GSB	37.8970	122.1110	03/02/2007	044000.8	16.0	4.20	0.039	V	22.7(36.5)
MGI	37.6000	122.8000	10/25/1934	320 0.0	0.0	4.30	0.041	V	22.8(36.8)
DMG	37.6000	122.8000	10/02/1934	2020 0.0	0.0	4.00	0.035	V	22.8(36.8)
DMG	37.6000	122.8000	10/02/1934	2030 0.0	0.0	4.00	0.035	V	22.8(36.8)
GSB	37.7270	122.1300	03/27/1984	033635.6	7.0	4.40	0.043	VI	23.0(37.0)
DMG	37.7200	122.1300	12/17/1954	7 858.0	0.0	4.50	0.045	VI	23.2(37.3)
DMG	37.7200	122.1200	12/29/1942	181814.0	0.0	4.30	0.040	V	23.7(38.1)
DMG	37.5000	122.5000	01/02/1856	1815 0.0	0.0	5.30	0.067	VI	24.0(38.7)
DMG	37.7000	122.1000	10/21/1868	1553 0.0	0.0	6.80	0.143	VIII	25.2(40.6)
DMG	38.2000	122.4000	03/31/1898	743 0.0	0.0	6.20	0.104	VII	25.2(40.6)
DMG	37.6000	122.8800	09/24/1936	1411 0.0	0.0	4.00	0.032	V	25.9(41.8)
MGI	38.2000	122.7000	02/09/1900	1230 0.0	0.0	4.60	0.044	VI	26.2(42.1)
DMG	37.5000	122.3300	10/01/1915	1526 0.0	0.0	4.00	0.032	V	26.2(42.2)

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FILE CODE	LAT. NORTH	LONG. WEST	DATE	TIME (UTC) H M Sec	DEPTH (km)	QUAKE MAG.	SITE ACC. g	SITE MM INT.	APPROX. DISTANCE mi [km]
MGI	37.5000	122.3200	02/10/1925	9 5 0.0	0.0	4.00	0.032	V	26.4(42.5)
DMG	37.5000	122.3000	02/15/1856	1325 0.0	0.0	5.50	0.069	VI	26.9(43.3)
DMG	37.9700	122.0500	10/24/1955	41044.0	0.0	5.40	0.065	VI	27.1(43.6)
T-A	37.6700	122.0700	12/04/1887	1230 0.0	0.0	4.30	0.036	V	27.6(44.4)
GSB	38.2152	122.3123	08/24/2014	102044.1	11.1	6.02	0.088	VII	27.8(44.8)
DMG	38.0000	123.0000	12/19/1931	6 0 0.0	0.0	4.00	0.030	V	28.0(45.1)
T-A	37.5000	122.2500	09/14/1850	0 0 0.0	0.0	4.30	0.035	V	28.2(45.5)
DMG	37.8000	122.0000	07/04/1861	011 0.0	0.0	5.60	0.069	VI	28.7(46.2)
DMG	37.6000	122.1000	05/21/1864	2 1 0.0	0.0	5.30	0.059	VI	28.7(46.2)
GSB	37.8660	121.9960	09/06/2008	040015.3	16.0	4.10	0.031	V	28.7(46.2)
T-A	38.2500	122.6700	08/19/1858	648 0.0	0.0	5.00	0.050	VI	28.9(46.5)
GSB	37.8720	121.9850	04/07/1990	023918.2	1.0	4.20	0.032	V	29.3(47.2)
GSB	37.8850	121.9830	04/28/1990	044148.0	6.0	4.60	0.040	V	29.5(47.5)
DMG	37.9700	122.0000	05/31/1958	22 711.0	0.0	4.10	0.030	V	29.7(47.8)
DMG	37.5000	122.2000	12/19/1863	2238 0.0	0.0	4.80	0.044	VI	29.8(47.9)
BRK	37.7900	121.9800	08/20/1976	22 553.0	0.0	4.00	0.029	V	29.9(48.0)
MGI	38.2500	122.3200	01/20/1919	925 0.0	0.0	4.00	0.029	V	29.9(48.1)
T-A	38.2500	122.3200	05/21/1864	257 0.0	0.0	4.30	0.034	V	29.9(48.1)
T-A	38.2500	122.3200	10/14/1891	1230 0.0	0.0	4.30	0.034	V	29.9(48.1)
T-A	38.2500	122.3200	03/08/1865	730 0.0	0.0	4.30	0.034	V	29.9(48.1)
DMG	37.7000	122.0000	03/05/1864	1649 0.0	0.0	5.70	0.070	VI	30.3(48.7)
DMG	37.8000	121.9480	06/12/1970	16 336.3	5.0	4.01	0.028	V	31.5(50.7)
DMG	37.7990	121.9480	06/12/1970	33049.9	7.5	4.12	0.029	V	31.5(50.7)
GSB	37.8420	121.9400	10/11/1986	051736.2	7.0	4.70	0.040	V	31.8(51.1)
DMG	37.7830	121.9440	06/12/1970	33018.1	5.0	4.26	0.031	V	31.9(51.3)
DMG	38.3000	122.4000	10/12/1891	628 0.0	0.0	5.50	0.060	VI	31.9(51.4)
DMG	37.7860	121.9410	06/12/1970	330 3.3	5.0	4.27	0.031	V	32.0(51.5)
GSB	37.7480	121.9460	02/02/2003	184738.8	16.0	4.10	0.029	V	32.2(51.8)
MGI	38.0200	121.9700	10/27/1955	193332.0	0.0	4.30	0.032	V	32.4(52.1)
GSB	37.7420	121.9420	02/02/2003	182258.3	16.0	4.10	0.028	V	32.5(52.3)
DMG	38.3000	122.7000	02/29/1888	2250 0.0	0.0	4.20	0.030	V	32.7(52.6)
DMG	37.6000	122.0000	05/16/1933	114526.0	0.0	4.50	0.034	V	33.3(53.5)
DMG	37.6000	122.0000	06/05/1907	827 0.0	0.0	4.00	0.026	V	33.3(53.5)
DMG	37.6000	122.0000	07/22/1864	641 0.0	0.0	4.70	0.038	V	33.3(53.5)
DMG	38.3300	122.5000	02/25/1919	2239 0.0	0.0	4.50	0.034	V	33.3(53.6)
DMG	37.8170	121.8830	03/17/1963	213844.5	0.0	4.10	0.027	V	34.9(56.2)
DMG	37.8200	121.8800	03/17/1962	213844.5	2.0	4.10	0.027	V	35.1(56.5)
T-A	37.4200	122.1700	02/00/1888	12 0 0.0	0.0	4.30	0.030	V	35.3(56.7)
DMG	38.0000	121.9000	05/19/1889	1110 0.0	0.0	6.00	0.072	VI	35.5(57.1)
GSB	38.3640	122.5890	08/03/2006	030812.9	8.0	4.40	0.031	V	35.8(57.7)
MGI	37.9000	121.8500	11/11/1936	225 0.0	0.0	4.30	0.029	V	36.8(59.3)
GSB	38.3790	122.4130	09/03/2000	083630.1	10.0	5.00	0.041	V	37.2(59.8)
DMG	38.2000	122.0000	05/21/1902	620 0.0	0.0	4.00	0.024	V	37.4(60.2)
BRK	37.5600	121.9400	03/03/1981	104512.0	0.0	4.40	0.030	V	37.5(60.4)
GSB	38.3930	122.6330	09/22/1999	222713.1	7.0	4.30	0.028	V	38.1(61.3)
DMG	37.3500	122.2200	10/31/1957	1947 6.0	0.0	4.10	0.025	V	38.1(61.4)
GSB	38.0370	121.8620	06/22/1989	011325.2	16.0	4.30	0.028	V	38.3(61.6)
DMG	38.4000	122.6000	08/09/1893	915 0.0	0.0	5.10	0.042	VI	38.4(61.7)
DMG	38.4000	122.6000	03/08/1865	1430 0.0	0.0	4.70	0.034	V	38.4(61.7)
DMG	37.6300	121.8700	03/29/1943	114555.0	0.0	4.20	0.026	V	38.7(62.2)
BRK	37.8400	121.8100	01/27/1980	1058 1.0	0.0	4.10	0.025	V	38.9(62.5)
BRK	37.8600	121.8100	01/25/1980	52436.0	0.0	4.60	0.032	V	38.9(62.5)
BRK	37.8300	121.8100	01/24/1980	19 0 9.0	0.0	5.80	0.060	VI	38.9(62.6)

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FILE CODE	LAT. NORTH	LONG. WEST	DATE	TIME (UTC)			DEPTH (km)	QUAKE MAG.	SITE ACC. g	SITE MM INT.	APPROX. DISTANCE	
				H	M	Sec					mi	[km]
DMG	37.6000	121.8800	09/24/1936	3	9	0.0	0.0	4.30	0.027	V	39.0	(62.8)
DMG	38.0100	121.8200	09/10/1965	21	28	34.3	16.0	4.90	0.037	V	39.9	(64.2)
BRK	37.8400	121.7900	01/24/1980	19	31	9.0	0.0	4.80	0.035	V	39.9	(64.3)
BRK	37.8400	121.7900	01/25/1980	5	12	42.0	0.0	4.40	0.028	V	39.9	(64.3)
BRK	37.8200	121.7900	01/24/1980	19	14	5.0	0.0	4.00	0.023	IV	40.0	(64.4)
BRK	37.8100	121.7900	01/24/1980	19	1	2.0	0.0	5.10	0.041	V	40.0	(64.4)
DMG	37.3300	122.1700	09/12/1912	17	27	0.0	0.0	4.50	0.029	V	40.6	(65.4)
DMG	37.4200	122.0000	02/11/1930	2	12	1.0	0.0	4.00	0.022	IV	41.1	(66.1)
T-A	38.4200	122.7500	11/08/1868	0	0	0.0	0.0	4.30	0.026	V	41.4	(66.6)
MGI	38.4200	122.7500	02/16/1934	9	31	0.0	0.0	4.30	0.026	V	41.4	(66.6)
MGI	38.4200	122.7500	02/16/1934	15	58	0.0	0.0	4.30	0.026	V	41.4	(66.6)
MGI	38.4200	122.7500	02/14/1934	2	23	4.0	0.0	4.30	0.026	V	41.4	(66.6)
MGI	38.4200	122.7500	02/14/1934	2	22	4.0	0.0	4.30	0.026	V	41.4	(66.6)
T-A	38.4200	122.7500	01/09/1865	15	0	0.0	0.0	4.30	0.026	V	41.4	(66.6)
MGI	38.4200	122.7500	02/18/1929	3	25	0.0	0.0	4.30	0.026	V	41.4	(66.6)
T-A	38.4200	122.7500	06/29/1890	1	5	25.0	0.0	4.30	0.026	V	41.4	(66.6)
T-A	38.4200	122.7500	10/13/1899	5	0	0.0	0.0	5.70	0.055	VI	41.4	(66.6)
MGI	38.4200	122.7500	02/16/1934	5	37	0.0	0.0	4.30	0.026	V	41.4	(66.6)
MGI	38.4200	122.7500	02/14/1934	1	8	43.0	0.0	4.30	0.026	V	41.4	(66.6)
GSB	38.3780	122.1660	05/08/2005	08	43	55.3	9.0	4.10	0.024	IV	41.4	(66.7)
DMG	37.2700	122.3100	05/22/1963	2	24	4.8	0.0	4.60	0.031	V	41.5	(66.9)
DMG	37.5000	121.9000	11/26/1858	8	35	0.0	0.0	6.10	0.067	VI	41.6	(67.0)
GSB	37.8050	121.7430	10/22/1987	0	34	800.3	7.0	4.40	0.027	V	42.6	(68.6)
DMG	37.6800	121.7700	04/15/1943	1	53	2.0	0.0	4.10	0.023	IV	42.7	(68.7)
DMG	37.6800	121.7700	04/15/1943	1	52	4.0	0.0	4.00	0.022	IV	42.7	(68.7)
GSB	38.4317	122.2503	05/22/2015	02	53	00.8	12.8	4.09	0.023	IV	42.9	(69.1)
DMG	37.6000	121.8000	06/11/1903	1	31	2.0	0.0	5.50	0.048	VI	43.0	(69.2)
GSB	37.7230	121.7480	03/10/1991	1	74	601.1	16.0	4.00	0.022	IV	43.1	(69.4)
GSB	37.7580	121.7400	03/18/1984	0	52	730.3	12.0	4.30	0.025	V	43.1	(69.4)
GSG	38.4580	122.6990	05/25/2003	07	09	33.7	5.0	4.30	0.025	V	43.2	(69.5)
DMG	38.4600	122.6900	10/02/1969	6	19	57.1	0.0	5.70	0.053	VI	43.2	(69.6)
DMG	38.4000	122.9000	05/29/1876	1	85	5.0	0.0	4.20	0.024	V	43.3	(69.7)
DMG	37.6200	121.7800	04/26/1943	1	15	4.0	0.0	4.10	0.023	IV	43.5	(70.0)
BRK	37.7600	121.7300	01/27/1980	2	33	36.0	0.0	5.40	0.045	VI	43.7	(70.3)
DMG	38.4700	122.6900	10/02/1969	4	56	46.5	0.0	5.60	0.050	VI	43.9	(70.7)
MGI	37.6500	121.7500	05/01/1943	2	52	0.0	0.0	4.30	0.025	V	44.3	(71.3)
DMG	37.9000	121.7000	09/20/1940	1	85	9.0	0.0	4.00	0.021	IV	45.0	(72.4)
DMG	37.9000	121.7000	09/19/1940	8	20	18.0	0.0	4.00	0.021	IV	45.0	(72.4)
MGI	38.5000	122.5000	10/13/1948	0	23	0.0	0.0	4.30	0.024	V	45.1	(72.5)
DMG	38.4800	122.7300	04/25/1968	1	94	945.2	0.0	4.60	0.029	V	45.1	(72.5)
DMG	38.4900	122.6800	10/02/1969	1	22	5.5	0.0	4.30	0.024	V	45.2	(72.7)
DMG	37.6800	121.7200	04/21/1943	2	33	944.0	0.0	4.20	0.023	IV	45.3	(72.9)
DMG	38.3000	121.9000	05/19/1902	1	83	1.0	0.0	5.50	0.045	VI	46.0	(74.1)
DMG	37.5000	121.8000	12/01/1938	1	61	7.0	0.0	4.50	0.027	V	46.2	(74.4)
GSB	37.4810	121.7980	01/07/2010	1	80	935.0	11.0	4.10	0.021	IV	47.0	(75.6)
DMG	38.5300	122.5200	04/05/1956	4	29	32.0	0.0	4.20	0.022	IV	47.1	(75.8)
DMG	38.5300	122.5200	04/05/1956	4	29	13.0	0.0	4.40	0.025	V	47.1	(75.8)
DMG	38.4000	122.0000	04/19/1892	1	05	0.0	0.0	6.40	0.071	VI	47.5	(76.5)
GSB	37.4580	121.8000	12/29/1986	1	52	804.9	6.0	4.50	0.026	V	47.8	(76.9)
T-A	38.5000	122.8200	01/03/1876	1	85	5.0	0.0	5.00	0.034	V	47.8	(77.0)
DMG	37.2500	122.0800	06/14/1932	9	44	17.0	0.0	4.50	0.026	V	47.9	(77.0)
DMG	37.4800	121.7800	10/31/1958	0	26	14.0	0.0	4.20	0.022	IV	47.9	(77.0)
DMG	38.1000	121.7000	02/14/1909	1	55	5.0	0.0	4.50	0.026	V	48.0	(77.3)

EARTHQUAKE SEARCH RESULTS

FILE CODE	LAT. NORTH	LONG. WEST	DATE	TIME (UTC) H M Sec	DEPTH (km)	QUAKE MAG.	SITE ACC. g	SITE MM INT.	APPROX. DISTANCE mi [km]
BRK	37.6600	121.6700	06/21/1977	243 6.0	0.0	4.40	0.024	V	48.3(77.7)
T-A	37.3300	121.9200	08/11/1859	530 0.0	0.0	4.30	0.023	IV	48.6(78.2)
T-A	37.3300	121.9200	07/23/1885	2025 0.0	0.0	4.30	0.023	IV	48.6(78.2)
MGI	37.3300	121.9200	09/09/1920	1647 0.0	0.0	4.00	0.020	IV	48.6(78.2)
T-A	37.3300	121.9200	08/30/1873	0 0 0.0	0.0	4.30	0.023	IV	48.6(78.2)
T-A	37.3300	121.9200	04/04/1859	21 0 0.0	0.0	4.30	0.023	IV	48.6(78.2)
DMG	37.3300	121.9200	06/10/1931	1220 0.0	0.0	4.00	0.020	IV	48.6(78.2)
GSB	37.4220	121.7950	04/03/1989	174634.4	9.0	4.70	0.028	V	49.5(79.6)
GSG	37.4350	121.7790	10/31/2007	225424.5	8.0	4.00	0.019	IV	49.6(79.9)
GSB	37.4340	121.7740	10/31/2007	030454.8	10.0	5.50	0.043	VI	49.9(80.3)
T-A	38.5000	122.9200	08/02/1878	330 0.0	0.0	4.30	0.023	IV	49.9(80.4)

-END OF SEARCH- 223 EARTHQUAKES FOUND WITHIN THE SPECIFIED SEARCH AREA.

TIME PERIOD OF SEARCH: 1800 TO 2022

LENGTH OF SEARCH TIME: 223 years

THE EARTHQUAKE CLOSEST TO THE SITE IS ABOUT 3.5 MILES (5.7 km) AWAY.

LARGEST EARTHQUAKE MAGNITUDE FOUND IN THE SEARCH RADIUS: 8.3

LARGEST EARTHQUAKE SITE ACCELERATION FROM THIS SEARCH: 0.596 g

COEFFICIENTS FOR GUTENBERG & RICHTER RECURRENCE RELATION:

a-value= 2.519

b-value= 0.646

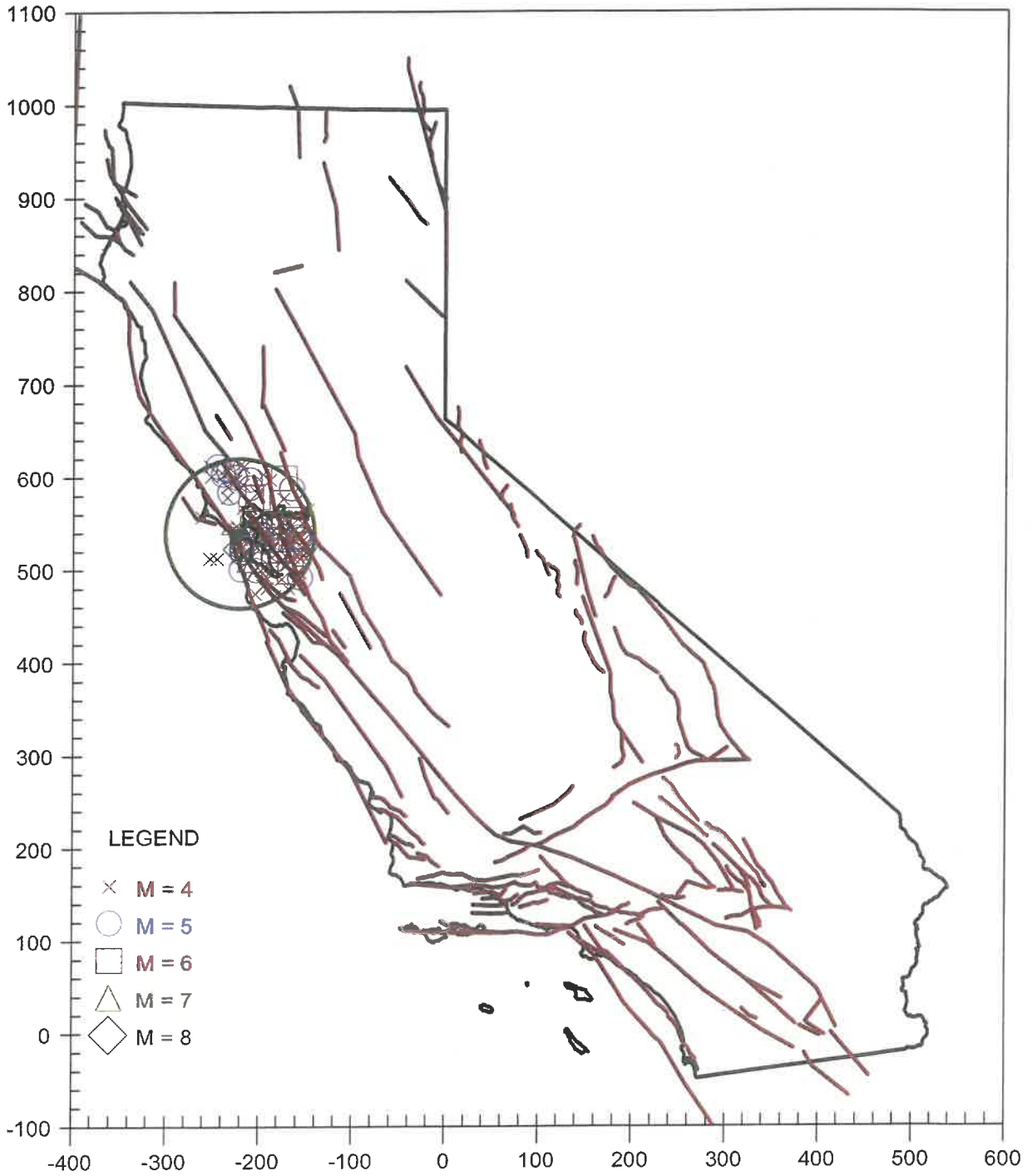
beta-value= 1.487

TABLE OF MAGNITUDES AND EXCEEDANCES:

Earthquake Magnitude	Number of Times Exceeded	Cumulative No. / Year
4.0	223	1.00450
4.5	75	0.33784
5.0	42	0.18919
5.5	22	0.09910
6.0	10	0.04505
6.5	4	0.01802
7.0	2	0.00901
7.5	1	0.00450
8.0	1	0.00450

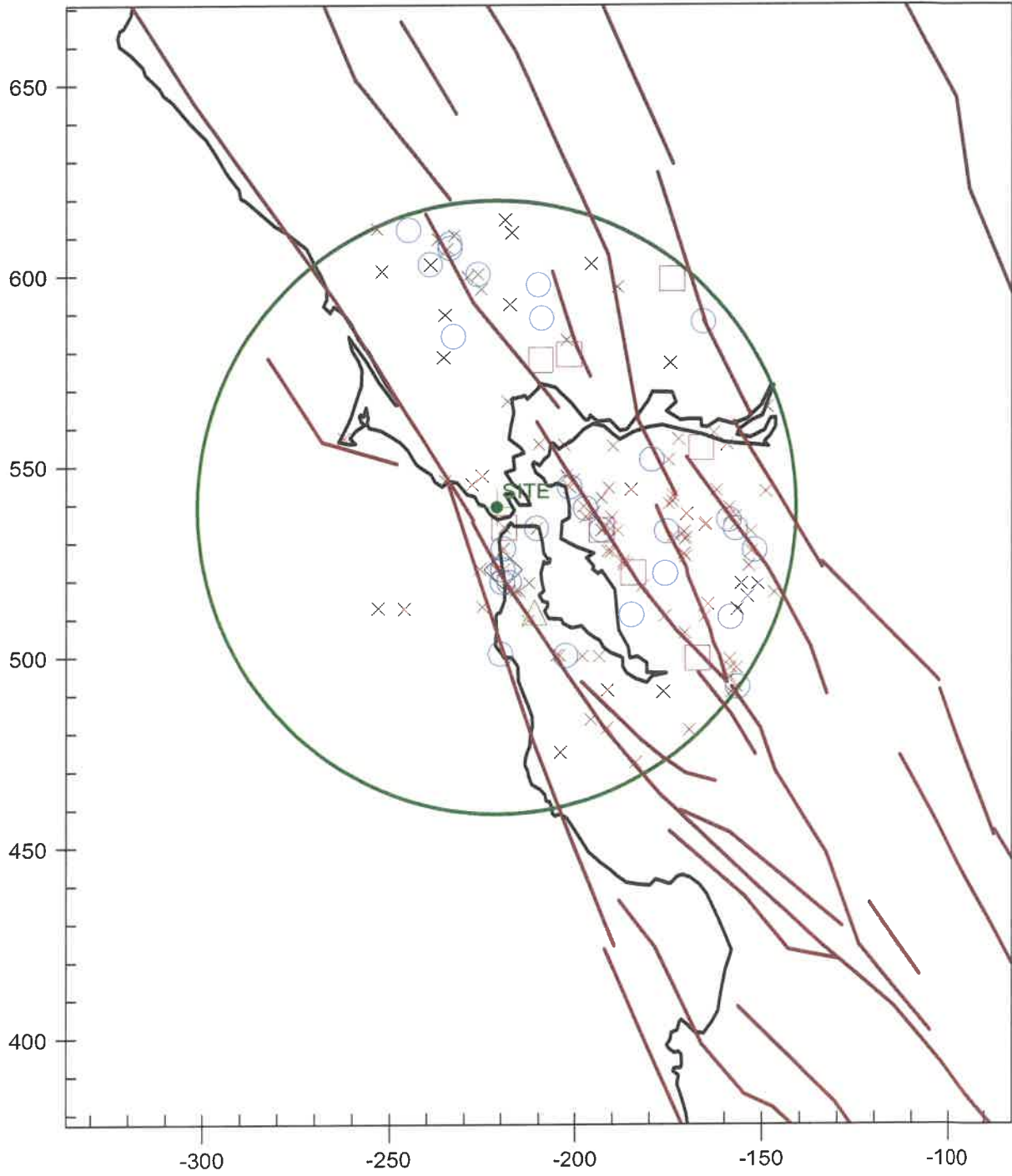
EARTHQUAKE EPICENTER MAP

04222001



EARTHQUAKE EPICENTER MAP

04222001



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*****  
*  
*   E Q S E A R C H   *  
*  
*   Version 3.00   *  
*  
*****
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ESTIMATION OF
PEAK ACCELERATION FROM
CALIFORNIA EARTHQUAKE CATALOGS

JOB NUMBER: 04222001

DATE: 07-31-2023

JOB NAME: 04222001

EARTHQUAKE-CATALOG-FILE NAME: ALLQUAKE.DAT

MAGNITUDE RANGE:

MINIMUM MAGNITUDE: 5.00
MAXIMUM MAGNITUDE: 9.00

SITE COORDINATES:

SITE LATITUDE: 37.8477
SITE LONGITUDE: 122.5226

SEARCH DATES:

START DATE: 1800
END DATE: 2022

SEARCH RADIUS:

100.0 mi
160.9 km

ATTENUATION RELATION: 3) Boore et al. (1997) Horiz. - NEHRP D (250)

UNCERTAINTY (M=Median, S=Sigma): M Number of Sigmas: 0.0
ASSUMED SOURCE TYPE: DS [SS=Strike-slip, DS=Reverse-slip, BT=Blind-thrust]
SCOND: 0 Depth Source: A
Basement Depth: 5.00 km Campbell SSR: Campbell SHR:
COMPUTE PEAK HORIZONTAL ACCELERATION

MINIMUM DEPTH VALUE (km): 0.0

 EARTHQUAKE SEARCH RESULTS

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FILE CODE	LAT. NORTH	LONG. WEST	DATE	TIME (UTC)			DEPTH (km)	QUAKE MAG.	SITE ACC. g	SITE MM INT.	APPROX. DISTANCE	
				H	M	Sec					mi	[km]
MGI	37.8000	122.5000	06/21/1808	0	0	0.0	0.0	6.30	0.394	X	3.5	(5.7)
T-A	37.7500	122.5000	12/11/1855	12	0	0.0	0.0	5.00	0.141	VIII	6.9	(11.0)
T-A	37.7500	122.5000	02/26/1864	840	0	0.0	0.0	5.00	0.141	VIII	6.9	(11.0)
T-A	37.7500	122.5000	10/22/1854	330	0	0.0	0.0	5.00	0.141	VIII	6.9	(11.0)
MGI	37.8000	122.4000	05/15/1851	1610	0	0.0	0.0	5.00	0.133	VIII	7.4	(12.0)
MGI	37.8000	122.4000	10/05/1859	2016	0	0.0	0.0	5.00	0.133	VIII	7.4	(12.0)
DMG	37.7000	122.5000	04/18/1906	131221	0	0.0	0.0	8.25	0.596	X	10.3	(16.5)
DMG	37.7000	122.5000	06/02/1899	719	0	0.0	0.0	5.40	0.133	VIII	10.3	(16.5)
MGI	37.7000	122.5000	04/25/1906	2315	0	0.0	0.0	5.30	0.126	VIII	10.3	(16.5)
T-A	37.6700	122.5000	11/23/1852	7	0	0.0	0.0	5.70	0.137	VIII	12.3	(19.8)
DMG	37.6700	122.4800	03/22/1957	194421	0	8.5	5.30	0.110		VII	12.5	(20.1)
DMG	37.9000	122.3000	04/02/1870	1948	0	0.0	5.30	0.109		VII	12.7	(20.4)
MGI	37.8500	122.2500	09/10/1935	2355	0	0.0	5.00	0.082		VII	14.9	(23.9)
DMG	37.8000	122.2000	06/10/1836	1530	0	0.0	6.80	0.185		VIII	17.9	(28.8)
DMG	37.8000	122.2000	07/31/1889	1247	0	0.0	5.20	0.080		VII	17.9	(28.8)
DMG	37.6000	122.4000	06/01/1838	0	0	0.0	7.00	0.202		VIII	18.4	(29.5)
DMG	37.5000	122.5000	01/02/1856	1815	0	0.0	5.30	0.067		VI	24.0	(38.7)
DMG	37.7000	122.1000	10/21/1868	1553	0	0.0	6.80	0.143		VIII	25.2	(40.6)
DMG	38.2000	122.4000	03/31/1898	743	0	0.0	6.20	0.104		VII	25.2	(40.6)
DMG	37.5000	122.3000	02/15/1856	1325	0	0.0	5.50	0.069		VI	26.9	(43.3)
DMG	37.9700	122.0500	10/24/1955	41044	0	0.0	5.40	0.065		VI	27.1	(43.6)
GSB	38.2152	122.3123	08/24/2014	102044	1	11.1	6.02	0.088		VII	27.8	(44.8)
DMG	37.8000	122.0000	07/04/1861	011	0	0.0	5.60	0.069		VI	28.7	(46.2)
DMG	37.6000	122.1000	05/21/1864	2	1	0.0	5.30	0.059		VI	28.7	(46.2)
T-A	38.2500	122.6700	08/19/1858	648	0	0.0	5.00	0.050		VI	28.9	(46.5)
DMG	37.7000	122.0000	03/05/1864	1649	0	0.0	5.70	0.070		VI	30.3	(48.7)
DMG	38.3000	122.4000	10/12/1891	628	0	0.0	5.50	0.060		VI	31.9	(51.4)
DMG	38.0000	121.9000	05/19/1889	1110	0	0.0	6.00	0.072		VI	35.5	(57.1)
GSB	38.3790	122.4130	09/03/2000	083630	1	10.0	5.00	0.041		V	37.2	(59.8)
DMG	38.4000	122.6000	08/09/1893	915	0	0.0	5.10	0.042		VI	38.4	(61.7)
BRK	37.8300	121.8100	01/24/1980	19	0	9.0	5.80	0.060		VI	38.9	(62.6)
BRK	37.8100	121.7900	01/24/1980	19	1	2.0	5.10	0.041		V	40.0	(64.4)
T-A	38.4200	122.7500	10/13/1899	5	0	0.0	5.70	0.055		VI	41.4	(66.6)
DMG	37.5000	121.9000	11/26/1858	835	0	0.0	6.10	0.067		VI	41.6	(67.0)
DMG	37.6000	121.8000	06/11/1903	1312	0	0.0	5.50	0.048		VI	43.0	(69.2)
DMG	38.4600	122.6900	10/02/1969	61957	1	0.0	5.70	0.053		VI	43.2	(69.6)
BRK	37.7600	121.7300	01/27/1980	23336	0	0.0	5.40	0.045		VI	43.7	(70.3)
DMG	38.4700	122.6900	10/02/1969	45646	5	0.0	5.60	0.050		VI	43.9	(70.7)
DMG	38.3000	121.9000	05/19/1902	1831	0	0.0	5.50	0.045		VI	46.0	(74.1)
DMG	38.4000	122.0000	04/19/1892	1050	0	0.0	6.40	0.071		VI	47.5	(76.5)
T-A	38.5000	122.8200	01/03/1876	1855	0	0.0	5.00	0.034		V	47.8	(77.0)
GSB	37.4340	121.7740	10/31/2007	030454	8	10.0	5.50	0.043		VI	49.9	(80.3)
GSB	37.1980	122.1050	10/18/1989	004124	7	19.0	5.10	0.034		V	50.3	(81.0)
DMG	37.2000	122.1000	02/17/1870	2012	0	0.0	5.80	0.050		VI	50.3	(81.0)
DMG	37.3000	121.9000	10/08/1865	2046	0	0.0	6.30	0.064		VI	50.9	(81.9)
MGI	37.3000	121.9000	05/28/1927	1739	0	0.0	5.00	0.032		V	50.9	(81.9)
MGI	38.5000	123.0000	05/02/1906	530	0	0.0	5.00	0.032		V	52.0	(83.6)
GSB	37.4830	121.6900	03/31/1986	115540	0	8.0	5.70	0.046		VI	52.0	(83.7)
GSB	37.3850	121.7720	06/13/1988	014536	8	7.0	5.40	0.039		V	52.0	(83.7)
DMG	37.3700	121.7800	09/05/1955	2	118	0	5.50	0.041		V	52.3	(84.2)
DMG	37.1000	122.2000	03/26/1884	040	0	0.0	5.90	0.049		VI	54.6	(87.8)
DMG	37.3000	121.8000	08/03/1903	649	0	0.0	5.50	0.040		V	54.7	(88.0)
DMG	37.3000	121.8000	01/02/1891	20	0	0.0	5.50	0.040		V	54.7	(88.0)

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 EARTHQUAKE SEARCH RESULTS

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FILE CODE	LAT. NORTH	LONG. WEST	DATE	TIME (UTC) H M Sec	DEPTH (km)	QUAKE MAG.	SITE ACC. g	SITE MM INT.	APPROX. DISTANCE mi [km]
DMG	38.4000	121.8000	04/30/1892	0 9 0.0	0.0	5.50	0.040	V	54.7(88.1)
DMG	37.1700	122.0000	11/09/1914	231 0.0	0.0	5.50	0.040	V	54.8(88.3)
DMG	38.5000	121.9000	04/21/1892	1743 0.0	0.0	6.20	0.056	VI	56.3(90.6)
GSB	37.3200	121.6980	04/24/1984	211519.0	8.0	6.20	0.055	VI	58.0(93.3)
GSB	37.1300	121.9520	08/08/1989	081327.5	15.0	5.30	0.034	V	58.6(94.3)
DMG	37.2500	121.7500	07/01/1911	22 0 0.0	0.0	6.60	0.067	VI	59.1(95.1)
DMG	37.0200	122.2000	10/24/1926	225149.5	0.0	5.50	0.037	V	59.8(96.3)
GSB	37.1300	121.8780	06/27/1988	184322.3	13.0	5.70	0.041	V	60.8(97.9)
DMG	36.9500	122.2600	02/15/1927	2354 3.5	0.0	5.00	0.027	V	63.6(102.4)
DMG	37.1000	121.8000	05/24/1865	1121 0.0	0.0	5.50	0.035	V	65.1(104.7)
T-A	37.0000	122.0000	06/30/1890	2030 0.0	0.0	5.00	0.027	V	65.2(104.9)
GSB	37.0780	121.8320	10/25/1989	012726.6	14.0	5.00	0.027	V	65.2(105.0)
GSB	37.0360	121.8830	10/18/1989	000415.2	18.5	7.00	0.075	VII	66.1(106.4)
DMG	37.1000	121.7000	02/26/1864	1347 0.0	0.0	5.90	0.041	V	68.5(110.3)
DMG	37.4000	121.4000	04/10/1881	10 0 0.0	0.0	5.90	0.041	V	68.7(110.6)
GSB	38.8222	122.8413	12/14/2016	164105.5	1.5	5.01	0.025	V	69.5(111.8)
DMG	37.5000	121.3000	07/15/1866	630 0.0	0.0	5.80	0.038	V	71.0(114.2)
DMG	37.0600	121.6900	11/16/1964	24641.7	0.0	5.00	0.025	V	71.0(114.2)
DMG	37.0000	121.7800	12/18/1967	172432.0	0.0	5.30	0.029	V	71.3(114.7)
DMG	37.2000	121.5000	07/06/1899	2010 0.0	0.0	5.80	0.038	V	71.7(115.3)
DMG	37.1000	121.6000	03/26/1866	2012 0.0	0.0	5.40	0.030	V	72.3(116.3)
T-A	38.8300	123.0000	08/01/1885	010 0.0	0.0	5.00	0.024	V	72.6(116.8)
BRK	37.1000	121.5000	08/06/1979	17 522.0	0.0	5.80	0.036	V	76.2(122.6)
DMG	36.9000	121.8000	03/11/1910	652 0.0	0.0	5.50	0.031	V	76.5(123.1)
GSB	36.9320	121.6950	04/18/1990	154603.7	9.0	5.20	0.026	V	77.8(125.3)
DMG	36.9800	121.6000	03/02/1959	232717.0	30.0	5.30	0.027	V	78.4(126.2)
DMG	36.9300	121.6800	04/25/1954	203328.0	0.0	5.30	0.027	V	78.4(126.2)
T-A	37.0000	121.5700	03/25/1859	0 0 0.0	0.0	5.00	0.023	IV	78.4(126.2)
MGI	37.0000	121.5700	01/09/1928	250 0.0	0.0	5.30	0.027	V	78.4(126.2)
GSB	36.9170	121.6750	04/18/1990	135351.4	5.0	5.40	0.028	V	79.3(127.6)
GSB	36.9180	121.6700	04/18/1990	134138.8	6.0	5.00	0.023	IV	79.4(127.8)
DMG	36.9000	121.7000	04/30/1899	2241 0.0	0.0	5.60	0.031	V	79.5(127.9)
DMG	37.0200	121.4800	03/09/1949	122839.0	0.0	5.20	0.025	V	80.8(130.1)
DMG	37.0000	121.5000	06/20/1897	2014 0.0	0.0	6.20	0.042	VI	81.0(130.4)
GSB	37.0250	121.4580	01/16/1993	062934.9	5.0	5.30	0.026	V	81.4(131.1)
DMG	36.9000	121.6000	03/30/1883	1545 0.0	0.0	5.60	0.030	V	82.7(133.1)
MGI	36.9000	121.6000	10/11/1800	0 0 0.0	0.0	5.70	0.032	V	82.7(133.1)
DMG	36.9000	121.6000	04/24/1890	1136 0.0	0.0	6.00	0.037	V	82.7(133.1)
DMG	36.8700	121.6300	09/14/1963	194617.0	0.0	5.40	0.027	V	83.4(134.2)
DMG	36.6100	122.3500	10/22/1926	1235 7.0	0.0	6.10	0.038	V	86.0(138.4)
DMG	36.9100	121.4800	11/28/1974	23 124.7	0.0	5.20	0.024	IV	86.4(139.0)
T-A	36.8300	121.5700	10/18/1800	0 0 0.0	0.0	7.00	0.061	VI	87.6(140.9)
DMG	36.5700	122.1700	10/22/1926	133522.0	0.0	6.10	0.037	V	90.3(145.4)
MGI	36.6000	122.0000	07/03/1841	22 7 0.0	0.0	5.00	0.021	IV	90.8(146.1)
DMG	36.8000	121.5000	11/13/1892	1245 0.0	0.0	5.60	0.028	V	91.6(147.4)
DMG	39.1000	123.1000	10/08/1869	930 0.0	0.0	5.00	0.020	IV	91.9(147.9)
DMG	36.8300	121.4200	12/31/1910	1211 0.0	0.0	5.00	0.020	IV	92.7(149.2)
DMG	36.8000	121.4500	06/24/1939	13 2 0.0	0.0	5.50	0.026	V	93.3(150.1)
DMG	39.0700	123.3200	06/06/1962	1750 6.2	5.0	5.20	0.022	IV	94.8(152.5)
DMG	36.8000	121.4000	04/02/1885	1525 0.0	0.0	5.40	0.025	V	95.0(152.9)
DMG	36.7800	121.4300	01/20/1960	32553.0	0.0	5.00	0.020	IV	95.0(153.0)
GSB	36.7550	121.4640	08/12/1998	141025.1	8.0	5.40	0.024	V	95.2(153.3)
MGI	39.2000	122.9000	05/07/1906	410 0.0	0.0	5.30	0.023	IV	95.6(153.8)

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 EARTHQUAKE SEARCH RESULTS

Page 3

FILE CODE	LAT. NORTH	LONG. WEST	DATE	TIME (UTC) H M Sec	DEPTH (km)	QUAKE MAG.	SITE ACC. g	SITE MM INT.	APPROX. DISTANCE mi [km]
MGI	39.2000	122.9000	05/07/1906	5 0 0.0	0.0	5.30	0.023	IV	95.6(153.8)
DMG	36.9000	121.2000	03/06/1882	2145 0.0	0.0	5.70	0.028	V	97.7(157.2)
GSB	36.8030	121.3020	02/20/1988	083957.5	9.0	5.30	0.023	IV	98.5(158.4)
GSB	36.8100	121.2750	01/26/1986	192051.2	7.0	5.50	0.025	V	99.1(159.5)

 -END OF SEARCH- 110 EARTHQUAKES FOUND WITHIN THE SPECIFIED SEARCH AREA.

TIME PERIOD OF SEARCH: 1800 TO 2022

LENGTH OF SEARCH TIME: 223 years

THE EARTHQUAKE CLOSEST TO THE SITE IS ABOUT 3.5 MILES (5.7 km) AWAY.

LARGEST EARTHQUAKE MAGNITUDE FOUND IN THE SEARCH RADIUS: 8.3

LARGEST EARTHQUAKE SITE ACCELERATION FROM THIS SEARCH: 0.596 g

COEFFICIENTS FOR GUTENBERG & RICHTER RECURRENCE RELATION:

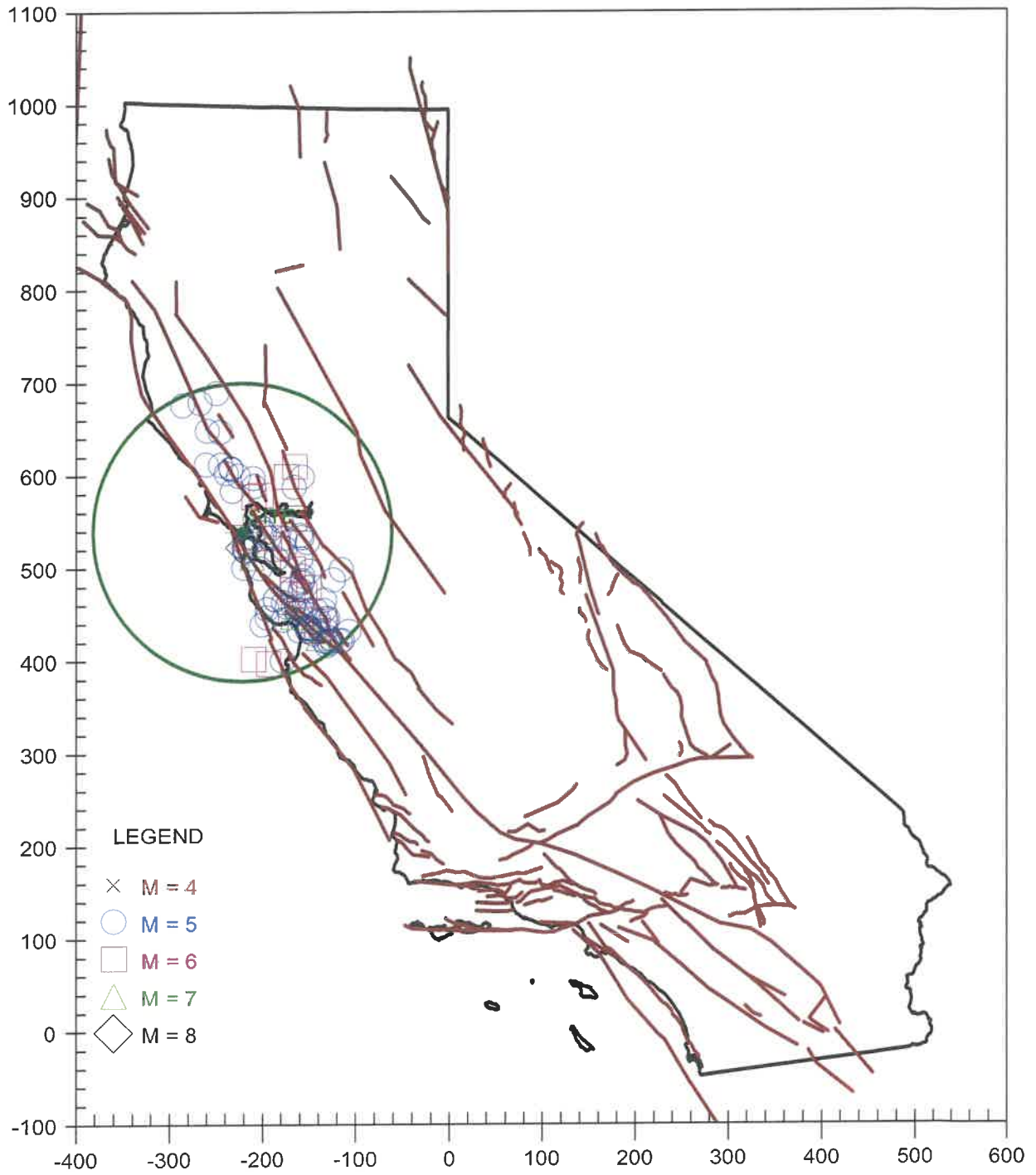
a-value= 1.260
 b-value= 0.355
 beta-value= 0.817

 TABLE OF MAGNITUDES AND EXCEEDANCES:

Earthquake Magnitude	Number of Times Exceeded	Cumulative No. / Year
4.0	110	0.49550
4.5	110	0.49550
5.0	110	0.49550
5.5	56	0.25225
6.0	20	0.09009
6.5	7	0.03153
7.0	4	0.01802
7.5	1	0.00450
8.0	1	0.00450

EARTHQUAKE EPICENTER MAP

04222001



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*****  
*  
*   E Q S E A R C H   *  
*  
*   Version 3.00     *  
*  
*****
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ESTIMATION OF
PEAK ACCELERATION FROM
CALIFORNIA EARTHQUAKE CATALOGS

JOB NUMBER: 04222001

DATE: 07-31-2023

JOB NAME: 04222001

EARTHQUAKE-CATALOG-FILE NAME: ALLQUAKE.DAT

MAGNITUDE RANGE:

MINIMUM MAGNITUDE: 5.00
MAXIMUM MAGNITUDE: 9.00

SITE COORDINATES:

SITE LATITUDE: 37.8477
SITE LONGITUDE: 122.5226

SEARCH DATES:

START DATE: 1800
END DATE: 2022

SEARCH RADIUS:

100.0 mi
160.9 km

ATTENUATION RELATION: 3) Boore et al. (1997) Horiz. - NEHRP D (250)

UNCERTAINTY (M=Median, S=Sigma): M Number of sigmas: 0.0

ASSUMED SOURCE TYPE: DS [SS=Strike-slip, DS=Reverse-slip, BT=Blind-thrust]

SCOND: 0 Depth Source: A

Basement Depth: 5.00 km Campbell SSR: Campbell SHR:

COMPUTE PEAK HORIZONTAL ACCELERATION

MINIMUM DEPTH VALUE (km): 0.0

 EARTHQUAKE SEARCH RESULTS

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FILE CODE	LAT. NORTH	LONG. WEST	DATE	TIME (UTC)			DEPTH (km)	QUAKE MAG.	SITE ACC. g	SITE MM INT.	APPROX. DISTANCE mi [km]
				H	M	Sec					
MGI	37.8000	122.5000	06/21/1808	0	0	0.0	0.0	6.30	0.394	X	3.5(5.7)
T-A	37.7500	122.5000	12/11/1855	12	0	0.0	0.0	5.00	0.141	VIII	6.9(11.0)
T-A	37.7500	122.5000	02/26/1864	840	0	0.0	0.0	5.00	0.141	VIII	6.9(11.0)
T-A	37.7500	122.5000	10/22/1854	330	0	0.0	0.0	5.00	0.141	VIII	6.9(11.0)
MGI	37.8000	122.4000	05/15/1851	1610	0	0.0	0.0	5.00	0.133	VIII	7.4(12.0)
MGI	37.8000	122.4000	10/05/1859	2016	0	0.0	0.0	5.00	0.133	VIII	7.4(12.0)
DMG	37.7000	122.5000	04/18/1906	131221	0	0.0	0.0	8.25	0.596	X	10.3(16.5)
DMG	37.7000	122.5000	06/02/1899	719	0	0.0	0.0	5.40	0.133	VIII	10.3(16.5)
MGI	37.7000	122.5000	04/25/1906	2315	0	0.0	0.0	5.30	0.126	VIII	10.3(16.5)
T-A	37.6700	122.5000	11/23/1852	7	0	0.0	0.0	5.70	0.137	VIII	12.3(19.8)
DMG	37.6700	122.4800	03/22/1957	194421	0	8.5	5.30	0.110	0.110	VII	12.5(20.1)
DMG	37.9000	122.3000	04/02/1870	1948	0	0.0	0.0	5.30	0.109	VII	12.7(20.4)
MGI	37.8500	122.2500	09/10/1935	2355	0	0.0	0.0	5.00	0.082	VII	14.9(23.9)
DMG	37.8000	122.2000	06/10/1836	1530	0	0.0	0.0	6.80	0.185	VIII	17.9(28.8)
DMG	37.8000	122.2000	07/31/1889	1247	0	0.0	0.0	5.20	0.080	VII	17.9(28.8)
DMG	37.6000	122.4000	06/01/1838	0	0	0.0	0.0	7.00	0.202	VIII	18.4(29.5)
DMG	37.5000	122.5000	01/02/1856	1815	0	0.0	0.0	5.30	0.067	VI	24.0(38.7)
DMG	37.7000	122.1000	10/21/1868	1553	0	0.0	0.0	6.80	0.143	VIII	25.2(40.6)
DMG	38.2000	122.4000	03/31/1898	743	0	0.0	0.0	6.20	0.104	VII	25.2(40.6)
DMG	37.5000	122.3000	02/15/1856	1325	0	0.0	0.0	5.50	0.069	VI	26.9(43.3)
DMG	37.9700	122.0500	10/24/1955	41044	0	0.0	0.0	5.40	0.065	VI	27.1(43.6)
GSB	38.2152	122.3123	08/24/2014	102044	1	11.1	6.02	0.088	0.088	VII	27.8(44.8)
DMG	37.8000	122.0000	07/04/1861	011	0	0.0	0.0	5.60	0.069	VI	28.7(46.2)
DMG	37.6000	122.1000	05/21/1864	2	1	0.0	0.0	5.30	0.059	VI	28.7(46.2)
T-A	38.2500	122.6700	08/19/1858	648	0	0.0	0.0	5.00	0.050	VI	28.9(46.5)
DMG	37.7000	122.0000	03/05/1864	1649	0	0.0	0.0	5.70	0.070	VI	30.3(48.7)
DMG	38.3000	122.4000	10/12/1891	628	0	0.0	0.0	5.50	0.060	VI	31.9(51.4)
DMG	38.0000	121.9000	05/19/1889	1110	0	0.0	0.0	6.00	0.072	VI	35.5(57.1)
GSB	38.3790	122.4130	09/03/2000	083630	1	10.0	5.00	0.041	0.041	V	37.2(59.8)
DMG	38.4000	122.6000	08/09/1893	915	0	0.0	0.0	5.10	0.042	VI	38.4(61.7)
BRK	37.8300	121.8100	01/24/1980	19	0	9.0	0.0	5.80	0.060	VI	38.9(62.6)
BRK	37.8100	121.7900	01/24/1980	19	1	2.0	0.0	5.10	0.041	V	40.0(64.4)
T-A	38.4200	122.7500	10/13/1899	5	0	0.0	0.0	5.70	0.055	VI	41.4(66.6)
DMG	37.5000	121.9000	11/26/1858	835	0	0.0	0.0	6.10	0.067	VI	41.6(67.0)
DMG	37.6000	121.8000	06/11/1903	1312	0	0.0	0.0	5.50	0.048	VI	43.0(69.2)
DMG	38.4600	122.6900	10/02/1969	61957	1	0.0	5.70	0.053	0.053	VI	43.2(69.6)
BRK	37.7600	121.7300	01/27/1980	23336	0	0.0	5.40	0.045	0.045	VI	43.7(70.3)
DMG	38.4700	122.6900	10/02/1969	45646	5	0.0	5.60	0.050	0.050	VI	43.9(70.7)
DMG	38.3000	121.9000	05/19/1902	1831	0	0.0	0.0	5.50	0.045	VI	46.0(74.1)
DMG	38.4000	122.0000	04/19/1892	1050	0	0.0	0.0	6.40	0.071	VI	47.5(76.5)
T-A	38.5000	122.8200	01/03/1876	1855	0	0.0	0.0	5.00	0.034	V	47.8(77.0)
GSB	37.4340	121.7740	10/31/2007	030454	8	10.0	5.50	0.043	0.043	VI	49.9(80.3)
GSB	37.1980	122.1050	10/18/1989	004124	7	19.0	5.10	0.034	0.034	V	50.3(81.0)
DMG	37.2000	122.1000	02/17/1870	2012	0	0.0	0.0	5.80	0.050	VI	50.3(81.0)
DMG	37.3000	121.9000	10/08/1865	2046	0	0.0	0.0	6.30	0.064	VI	50.9(81.9)
MGI	37.3000	121.9000	05/28/1927	1739	0	0.0	0.0	5.00	0.032	V	50.9(81.9)
MGI	38.5000	123.0000	05/02/1906	530	0	0.0	0.0	5.00	0.032	V	52.0(83.6)
GSB	37.4830	121.6900	03/31/1986	115540	0	8.0	5.70	0.046	0.046	VI	52.0(83.7)
GSB	37.3850	121.7720	06/13/1988	014536	8	7.0	5.40	0.039	0.039	V	52.0(83.7)
DMG	37.3700	121.7800	09/05/1955	2	118	0	0.0	5.50	0.041	V	52.3(84.2)
DMG	37.1000	122.2000	03/26/1884	040	0	0.0	0.0	5.90	0.049	VI	54.6(87.8)
DMG	37.3000	121.8000	08/03/1903	649	0	0.0	0.0	5.50	0.040	V	54.7(88.0)
DMG	37.3000	121.8000	01/02/1891	20	0	0.0	0.0	5.50	0.040	V	54.7(88.0)

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 EARTHQUAKE SEARCH RESULTS

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FILE CODE	LAT. NORTH	LONG. WEST	DATE	TIME (UTC) H M Sec	DEPTH (km)	QUAKE MAG.	SITE ACC. g	SITE MM INT.	APPROX. DISTANCE mi [km]
DMG	38.4000	121.8000	04/30/1892	0 9 0.0	0.0	5.50	0.040	V	54.7(88.1)
DMG	37.1700	122.0000	11/09/1914	231 0.0	0.0	5.50	0.040	V	54.8(88.3)
DMG	38.5000	121.9000	04/21/1892	1743 0.0	0.0	6.20	0.056	VI	56.3(90.6)
GSB	37.3200	121.6980	04/24/1984	211519.0	8.0	6.20	0.055	VI	58.0(93.3)
GSB	37.1300	121.9520	08/08/1989	081327.5	15.0	5.30	0.034	V	58.6(94.3)
DMG	37.2500	121.7500	07/01/1911	22 0 0.0	0.0	6.60	0.067	VI	59.1(95.1)
DMG	37.0200	122.2000	10/24/1926	225149.5	0.0	5.50	0.037	V	59.8(96.3)
GSB	37.1300	121.8780	06/27/1988	184322.3	13.0	5.70	0.041	V	60.8(97.9)
DMG	36.9500	122.2600	02/15/1927	2354 3.5	0.0	5.00	0.027	V	63.6(102.4)
DMG	37.1000	121.8000	05/24/1865	1121 0.0	0.0	5.50	0.035	V	65.1(104.7)
T-A	37.0000	122.0000	06/30/1890	2030 0.0	0.0	5.00	0.027	V	65.2(104.9)
GSB	37.0780	121.8320	10/25/1989	012726.6	14.0	5.00	0.027	V	65.2(105.0)
GSB	37.0360	121.8830	10/18/1989	000415.2	18.5	7.00	0.075	VII	66.1(106.4)
DMG	37.1000	121.7000	02/26/1864	1347 0.0	0.0	5.90	0.041	V	68.5(110.3)
DMG	37.4000	121.4000	04/10/1881	10 0 0.0	0.0	5.90	0.041	V	68.7(110.6)
GSB	38.8222	122.8413	12/14/2016	164105.5	1.5	5.01	0.025	V	69.5(111.8)
DMG	37.5000	121.3000	07/15/1866	630 0.0	0.0	5.80	0.038	V	71.0(114.2)
DMG	37.0600	121.6900	11/16/1964	24641.7	0.0	5.00	0.025	V	71.0(114.2)
DMG	37.0000	121.7800	12/18/1967	172432.0	0.0	5.30	0.029	V	71.3(114.7)
DMG	37.2000	121.5000	07/06/1899	2010 0.0	0.0	5.80	0.038	V	71.7(115.3)
DMG	37.1000	121.6000	03/26/1866	2012 0.0	0.0	5.40	0.030	V	72.3(116.3)
T-A	38.8300	123.0000	08/01/1885	010 0.0	0.0	5.00	0.024	V	72.6(116.8)
BRK	37.1000	121.5000	08/06/1979	17 522.0	0.0	5.80	0.036	V	76.2(122.6)
DMG	36.9000	121.8000	03/11/1910	652 0.0	0.0	5.50	0.031	V	76.5(123.1)
GSB	36.9320	121.6950	04/18/1990	154603.7	9.0	5.20	0.026	V	77.8(125.3)
DMG	36.9800	121.6000	03/02/1959	232717.0	30.0	5.30	0.027	V	78.4(126.2)
DMG	36.9300	121.6800	04/25/1954	203328.0	0.0	5.30	0.027	V	78.4(126.2)
T-A	37.0000	121.5700	03/25/1859	0 0 0.0	0.0	5.00	0.023	IV	78.4(126.2)
MGI	37.0000	121.5700	01/09/1928	250 0.0	0.0	5.30	0.027	V	78.4(126.2)
GSB	36.9170	121.6750	04/18/1990	135351.4	5.0	5.40	0.028	V	79.3(127.6)
GSB	36.9180	121.6700	04/18/1990	134138.8	6.0	5.00	0.023	IV	79.4(127.8)
DMG	36.9000	121.7000	04/30/1899	2241 0.0	0.0	5.60	0.031	V	79.5(127.9)
DMG	37.0200	121.4800	03/09/1949	122839.0	0.0	5.20	0.025	V	80.8(130.1)
DMG	37.0000	121.5000	06/20/1897	2014 0.0	0.0	6.20	0.042	VI	81.0(130.4)
GSB	37.0250	121.4580	01/16/1993	062934.9	5.0	5.30	0.026	V	81.4(131.1)
DMG	36.9000	121.6000	03/30/1883	1545 0.0	0.0	5.60	0.030	V	82.7(133.1)
MGI	36.9000	121.6000	10/11/1800	0 0 0.0	0.0	5.70	0.032	V	82.7(133.1)
DMG	36.9000	121.6000	04/24/1890	1136 0.0	0.0	6.00	0.037	V	82.7(133.1)
DMG	36.8700	121.6300	09/14/1963	194617.0	0.0	5.40	0.027	V	83.4(134.2)
DMG	36.6100	122.3500	10/22/1926	1235 7.0	0.0	6.10	0.038	V	86.0(138.4)
DMG	36.9100	121.4800	11/28/1974	23 124.7	0.0	5.20	0.024	IV	86.4(139.0)
T-A	36.8300	121.5700	10/18/1800	0 0 0.0	0.0	7.00	0.061	VI	87.6(140.9)
DMG	36.5700	122.1700	10/22/1926	133522.0	0.0	6.10	0.037	V	90.3(145.4)
MGI	36.6000	122.0000	07/03/1841	22 7 0.0	0.0	5.00	0.021	IV	90.8(146.1)
DMG	36.8000	121.5000	11/13/1892	1245 0.0	0.0	5.60	0.028	V	91.6(147.4)
DMG	39.1000	123.1000	10/08/1869	930 0.0	0.0	5.00	0.020	IV	91.9(147.9)
DMG	36.8300	121.4200	12/31/1910	1211 0.0	0.0	5.00	0.020	IV	92.7(149.2)
DMG	36.8000	121.4500	06/24/1939	13 2 0.0	0.0	5.50	0.026	V	93.3(150.1)
DMG	39.0700	123.3200	06/06/1962	1750 6.2	5.0	5.20	0.022	IV	94.8(152.5)
DMG	36.8000	121.4000	04/02/1885	1525 0.0	0.0	5.40	0.025	V	95.0(152.9)
DMG	36.7800	121.4300	01/20/1960	32553.0	0.0	5.00	0.020	IV	95.0(153.0)
GSB	36.7550	121.4640	08/12/1998	141025.1	8.0	5.40	0.024	V	95.2(153.3)
MGI	39.2000	122.9000	05/07/1906	410 0.0	0.0	5.30	0.023	IV	95.6(153.8)

 EARTHQUAKE SEARCH RESULTS

Page 3

FILE CODE	LAT. NORTH	LONG. WEST	DATE	TIME (UTC) H M Sec	DEPTH (km)	QUAKE MAG.	SITE ACC. g	SITE MM INT.	APPROX. DISTANCE mi [km]
MGI	39.2000	122.9000	05/07/1906	5 0 0.0	0.0	5.30	0.023	IV	95.6(153.8)
DMG	36.9000	121.2000	03/06/1882	2145 0.0	0.0	5.70	0.028	V	97.7(157.2)
GSB	36.8030	121.3020	02/20/1988	083957.5	9.0	5.30	0.023	IV	98.5(158.4)
GSB	36.8100	121.2750	01/26/1986	192051.2	7.0	5.50	0.025	V	99.1(159.5)

 -END OF SEARCH- 110 EARTHQUAKES FOUND WITHIN THE SPECIFIED SEARCH AREA.

TIME PERIOD OF SEARCH: 1800 TO 2022

LENGTH OF SEARCH TIME: 223 years

THE EARTHQUAKE CLOSEST TO THE SITE IS ABOUT 3.5 MILES (5.7 km) AWAY.

LARGEST EARTHQUAKE MAGNITUDE FOUND IN THE SEARCH RADIUS: 8.3

LARGEST EARTHQUAKE SITE ACCELERATION FROM THIS SEARCH: 0.596 g

COEFFICIENTS FOR GUTENBERG & RICHTER RECURRENCE RELATION:

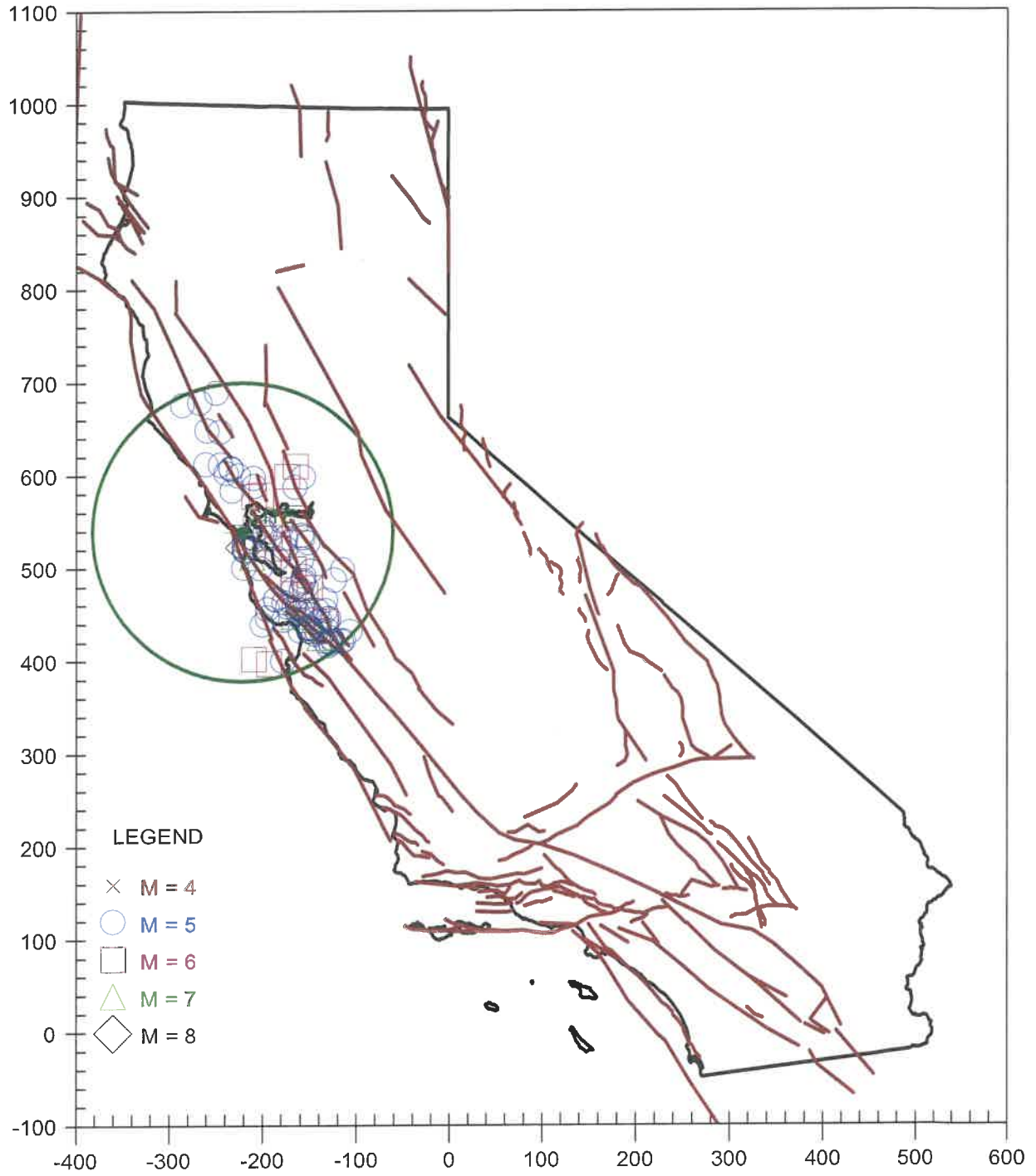
a-value= 1.260
 b-value= 0.355
 beta-value= 0.817

 TABLE OF MAGNITUDES AND EXCEEDANCES:

Earthquake Magnitude	Number of Times Exceeded	Cumulative No. / Year
4.0	110	0.49550
4.5	110	0.49550
5.0	110	0.49550
5.5	56	0.25225
6.0	20	0.09009
6.5	7	0.03153
7.0	4	0.01802
7.5	1	0.00450
8.0	1	0.00450

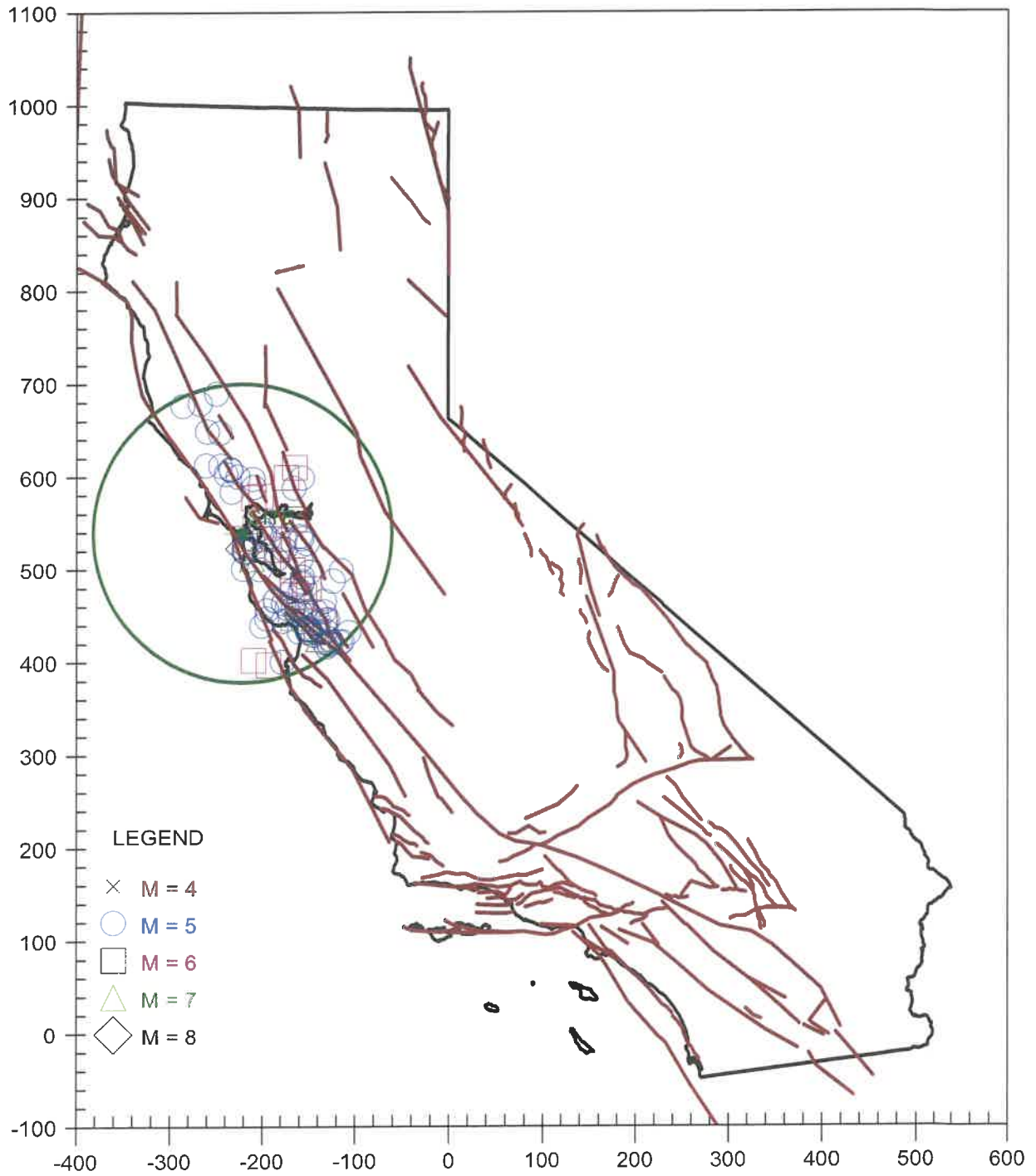
EARTHQUAKE EPICENTER MAP

04222001



EARTHQUAKE EPICENTER MAP

04222001



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APPENDIX C.
PREVIOUS CITY CORRESPONDENCE TO ISSUES RAISED BY FRIENDS
OF HAUKE PARK





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MEMORANDUM

TO: Honorable Mayor and Members of the City Council

CC: Alan Piombo, City Manager
Patrick Kelly, Director of Planning and Building
Danielle Staude, Senior Planner

FROM: Inder Khalsa, City Attorney

DATE: September 20, 2021

SUBJECT: Response to Letter from Friends of Hauke Park Regarding Item 4, 1 Hamilton Drive

INTRODUCTION AND BACKGROUND

On September 17, 2021 attorney Patrick M. Soluri, on behalf of Friends of Hauke Park (“FOHP”), sent a letter to the City providing comments (“Comment Letter”) regarding the 1 Hamilton Drive item on the September 20, 2021 Council agenda (Item Number 4). The Comment Letter suggests that at the present time the proposed action to designate a portion of the property at the 1 Hamilton Drive site as “exempt surplus land” and authorize staff to draft and exclusive negotiation agreement is “unnecessary and even improper and unlawful,” citing CEQA concerns. This memorandum responds to the legal arguments made in the Comment Letter and explains why the points raised in the Comment Letter are not supported by the law or facts at hand. In particular, this memorandum explains why:

1. No affordable housing development project is being approved by Council action on September 20.
2. The timing for considering the “exempt surplus land” determination is appropriate under State law.
3. There is currently no “project” for approval for purposes of CEQA for which additional environmental review is required.

ANALYSIS

1. No affordable housing development project is being approved by Council action on September 20.

Section II of the Comment Letter contends that the “exempt surplus land” determination may arguably constitute the City’s first “approval” of the proposed affordable housing project. However, no action under Council consideration is an approval of a specific affordable housing project. The Council is considering: (1) a resolution declaring the northern portions of the City-owned parcel located at 1 Hamilton Drive to be “exempt surplus land” pursuant to Government Code section 54221(f)(1)(A), and (2) a resolution authorizing the City Manager to negotiate and Draft an Exclusive Negotiating Agreement (“ENA”) with EAH Housing for the purpose of negotiating the terms and conditions for the potential ground lease or sale of property and development of affordable rental housing on the northern portion of 1 Hamilton Drive. As described in the staff report, these are preliminary procedural steps that must be taken in order to start the work of considering a potential affordable housing development on the site. Neither action constitutes a “project” as that term is defined under CEQA.

CEQA defines a “project” as an activity that (1) is a discretionary action by a governmental agency and (2) will either have a direct or reasonably foreseeable indirect impact on the environment. Pub. Res. Code, § 21065. The “exempt surplus land” determination is discretionary, but does not have either a direct or reasonably foreseeable indirect impact on the environment. The adoption of an “exempt surplus” finding does not require the development of the site. Rather, it provides that *if* the City does dispose of the land, it can do so directly to an entity that will develop affordable housing pursuant to Government Code section 37364 without having to go through the standard “notice of availability” process for “surplus land” under the California Surplus Land Act (Gov. Code § 54220 *et seq.*) (“SLA”), described below. Notwithstanding this “exempt surplus land” determination, the City could later decide to not dispose of the land, or to dispose of it for alternative purpose after making an alternative “surplus land” determination at that point.

Likewise, the authorization to negotiate an ENA is discretionary but does not commit the City to disposing of the land or approving a project that would have a direct or reasonably foreseeable indirect impact on the environment. Rather, it is simply authorization to negotiate the terms of a framework for a prospective transfer. The ENA would come back to Council for approval, and any actual disposition in the future would need to be accompanied by a disposition agreement. Any project approval, including approval of any necessary zoning and General Plan changes, as well as approval of the housing development itself under the City’s code, disposition of the property, and subdivision of the parcel, would happen only after environmental review has occurred.

2. The timing for considering the “exempt surplus land” determination is appropriate.

Section II of the Comment Letter questions whether the “exempt surplus land” determination is necessary at the present time. As explained in the staff report and below, the “exempt surplus land” designation must be made prior to participating in negotiations with a prospective transferee under State Law. The City must make this finding before it can engage with EAH Housing to discuss a potential future project. Therefore, the timing of this resolution is appropriate.

As noted in the staff report, before the City takes any action to dispose of land owned by the City, the City must comply with the SLA. Under the SLA, land may be declared either “surplus land” or “exempt surplus land” by the City Council, as supported by written findings, **prior to the City taking any action to dispose of the land**. Gov. Code § 54221(b)(1); HCD Guidelines § 200(a). Participating in negotiations to dispose of that property with a prospective transferee would be considered “an action to dispose of the property,” even if no disposition ultimately occurs. Thus, compliance with the SLA is required before the City can engage in negotiations with EAH Housing to the extent the negotiations could contemplate a disposition of the property.

To comply with the SLA the City generally has two options that must be completed prior to the City taking any action to dispose of the land or participating in negotiations to dispose of that land with a prospective transferee. The City can declare the land “surplus” and then must provide a notice of availability to certain developers and public entities for the purpose of developing low- and moderate-income housing. Gov. Code § 54222. The City must then follow a specified negotiation period with any responsive entities and comply with certain additional requirements prior to disposing of the property.

Alternatively, the City can declare the land “exempt surplus land” if it fits into an enumerated exemption category. Land declared “exempt surplus land” may be disposed of without complying with certain requirements of the SLA. The current proposal is to declare the property “exempt surplus land” pursuant to Government Code section 54221(f)(1)(A) because any potential disposition would be contingent upon meeting the requirements of Government Code section 37364 with respect to requiring a certain affordability requirements.

The California Department of Housing and Community Development (“HCD”) is tasked with monitoring local agency compliance with the SLA. Staff, with consultation from our office, has met with and discussed this issue with HCD on numerous occasions. HCD advised staff that prior to entering into any negotiations for the ultimate disposition of the property the City must comply with the SLA. Furthermore, HCD reviewed a draft of the resolution and found that it contains the necessary elements of the SLA exemption found in Government Code section 54221(f)(1)(A). HCD acknowledged the importance of CEQA review as part of any approval of an

affordable housing project, but consistently reiterated the importance of complying with the SLA *before* engaging with a partner to discuss designing a project, and therefore, *before* environmental review. Thus, the timing of the consideration of the “exempt surplus land” determination is appropriate under California law and consistent with guidance the City received from HCD.

3. There is currently no “project” for approval for purposes of CEQA for which additional environmental review is required.

In Section I, the Comment Letter asserts that the actions on the agenda constitute a “Project” under CEQA for which environmental analysis is required. The Comment Letter states:

“The relevant question presented here is therefore not whether the proposed approvals are a “project” under CEQA, but whether the actions commit the City to the affordable housing project and thereby constitute an “approval” of that project and resulting duty to comply with CEQA. Unfortunately, it is not always clear when this occurs. The CEQA Guidelines explain, “EIRs and negative declaration should be prepared as early as feasible in the planning process to enable environmental considerations to influence project program and design and yet late enough to provide meaningful information for environmental assessment,” and also “CEQA compliance should be completed prior to acquisition of a site for a public project.” (CEQA Guidelines, § 15004, subd. (b), (b)(1).)

First, as described in Section 1 of this Memorandum, no action the City is taking commits the City to develop affordable housing on this site and the physical details of any future project (height, size, design, location on the site, and other critical features) have not been established at this point. So, by its own logic, this comment is misguided. At this point, any proposed ideas for the site are conceptual and speculative. City does not have enough “meaningful information” at this point in time to conduct a thorough environmental assessment.

The City is declaring the site “exempt surplus land” contingent upon the development of a housing project that would satisfy the conditions of Government Code section 37364. As described above, the contingency does not mean that such a project must be developed. Instead, it means that the declaration that the land is “exempt surplus land” for purposes of the SLA is contingent upon that use. If the property were ultimately disposed of for some other use, then the declaration would be of no further force or effect, and the City would need to reconsider if that land were to be treated as surplus land or exempt surplus land at that point.

To Mr. Soluri’s point about the acquisition of land for public projects, the City already owns the site and is not acquiring it. As described above, the Surplus Lands Act and HCD

Guidelines clearly require the City to make the “exempt surplus land” finding *before* engaging with a partner to start the work of planning a project for the site and conducting environmental review. In addressing the procedural requirements of both the SLA and CEQA, the City has acted appropriately to make the “exempt finding” now, prior to entering an ENA and working with EAH to plan a proposed project, which would trigger the commencement of environmental review.

The City is “required to comply with CEQA procedures when the [City] proposes to carry out or approve” the project. CEQA Guidelines Section 15002(d)(e). Under the CEQA Guidelines section 15378(b)(5), a “project” for the purposes of CEQA does not include “administrative activities of governments that will not result in direct or indirect physical changes in the environment.” Furthermore, “a public agency entering into preliminary agreements regarding a project prior to approval shall not, as a practical matter, commit the agency to the project.” CEQA Guidelines Section 15004(b)(4). Such preliminary agreements “[c]ondition the agreement on compliance with CEQA,” “[do] [n]ot bind any party, or commit to any definite course of action, prior to CEQA compliance,” [do] [n]ot restrict the lead agency from considering any feasible mitigation measures and alternatives, including the “no project” alternative”; and [do] [n]ot restrict the lead agency from denying the project.” As detailed above, the declaration of the property as “exempt surplus land” and direction to negotiate and prepare a draft ENA in no way bind the City to a definite course of action, or restrict future consideration of environmental mitigation, project alternatives, or denial of the project.

The case law overwhelmingly supports the City’s proposed course of action. The Comment Letter cites *Citizens for a Megaplex-Free Alameda v. City of Alameda*, 149 Cal.App.4th 91 (2007). This case is cited for the proposition that CEQA must be performed for the first, not the last, discretionary approval for a project. As noted by Mr. Soluri, *Mexaplex* states that “[u]nder the Guidelines, ‘approval’ for a private project ‘occurs upon *the earliest commitment to issue* . . . a discretionary contract, grant, . . . or other entitlement for the project.’” However, the key is that there has to be a “commitment.” The City Council actions proposed for September 20 do not bind or commit the City to a specific project.

In *Cedar Fair v. City of Santa Clara*, 194 Cal. App. 4th 1150 (2011) the court found the City’s approval of a “Stadium Term Sheet” setting forth basic terms of proposed football stadium development on property tenant leased from agency did not constitute a project or a project approval such that an EIR was required prior to approval. The term sheet, although extremely detailed, expressly only bound the parties to continue negotiating in good faith and recognized that a “no project option” was still available. The court found that the Term Sheet “merely ‘memorialize[s] the preliminary terms’ and only mandates the parties use the terms sheet as the ‘general framework’ for ‘good faith negotiations.’” *Id.* at 1170. Furthermore the Term Sheet expressly said the City “‘retain[s] the absolute sole discretion’ to make decisions under CEQA including ‘not to proceed with the project.’” *Id.* at 1170. The court also stated that “[a]pproval,

within the meaning of Public Resources Code sections 21100 and 21151, **cannot be equated with the agency's mere interest in, or inclination to support, a project**, no matter how well defined.” *Id.* at 1165 (emphasis added).

Another case, *Delaware Tetra Technologies, Inc. v. County of San Bernardino*, 247 Cal. App. 4th 352 (2016), held that a County’s approval of an MOU among the County and several other parties regarding installation of groundwater wells “was not a project because it did not bind the County to a course of action.” *Id.* at 362. Similarly the court in *City of Santee v. City of San Diego*, 186 Cal. App. 4th (2010) found that a “siting agreement” under which the County agreed to identify potential locations for a state prison reentry facility in exchange for preference in the award of state financing of county jail facilities was “not a commitment to either a reentry facility or any jail facility” because the agreement “did not preclude as a practical matter any alternatives, mitigation measures, or the alternative of not going forward with any facility.” *Id.*

Finally, in *City of Irvine v. County of Orange*, 164 Cal. Rptr. 3d 586 (Cal. App. 2013) the court held that the County’s approval of an application for state funding for a jail expansion was not a project approval requiring CEQA compliance because the County did commit itself to moving forward with the expansion project and “at most permitted the County to explore the possibility of using state funds to expand the [jail] facility.” *Id.* at 599. The fact that the County had already devoted significant funds on the expansion plan and the application included a high level of detail did not transform the agency’s action into an approval under CEQA. CEQA “**requires both a definite course of action and a commitment to that definite court of action**” which was lacking in this scenario. *Id.* at 601 (emphasis added).

As stated by the *Irvine* court, “[t]he critical question is whether the totality of the circumstances surrounding the public agency’s action has effectively committed the agency to the project even though it has not provided all approvals or entitlements necessary to proceed.” *Id.* at 595. “In determining whether a public agency has effectively committed to a project so as to require CEQA compliance **it is important to distinguish between advocating or proposing a project and committing to it**. Public entities often are required to provide project approvals for their own public projects and also may partner with developers on private projects.” *Id.* at 596 (emphasis added). Critically, “**Approval [under CEQA] cannot be equated with the agency’s mere interest in, or inclination to support, a project, no matter how well defined.**” *Id.* at 596 (emphasis added).

The preliminary actions that the City is contemplating on September 20 do not “commit” the City to a specific project for the 1 Hamilton site. The fact that the City is taking preliminary steps to advance the development of affordable housing on City-owned property or expressed interest in exploring options for this site does not render a high-level conceptual idea into a project that is ready to be analyzed under CEQA. In acting to declare the property “exempt

surplus” under the Surplus Lands Act as well as authorize staff to engage with EAH Housing and start drafting an ENA (itself not a project under the case law described above) prior to starting the work of designing a project and conducting environmental review, the City is following the requirements of California law.

CONCLUSION

In conclusion, the legal arguments described in the Comment Letter are without merit. Contrary to the allegations in the Comment Letter, the City’s proposed approach to 1 Hamilton has been thoughtfully framed to comply with both the procedural and substantive requirements of CEQA as well as the Surplus Lands Act. If the City moves forward with the 1 Hamilton proposal, environmental review would occur at the time the proposed project has been designed and the City has enough information to analyze the impacts of the project. Assuming the proposal moves forward, there will be multiple additional opportunities for the public, City advisory bodies, and the City Council to weigh in on the specifics of any proposed project for the site.

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