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April 29, 2013

Andy Berman  
Mayor / Chair – MV2040 General Plan Advisory Committee  
City of Mill Valley  
26 Corte Madera Avenue  
Mill Valley, California 94941

Re: Housing Element Update 2009-2014  
Draft Version February 26, 2013  
*Summary View*

Dear Andy:

As a follow-up to our GPAC review of the April 10, 2013 *Draft General Plan* (not including the *Draft Housing Element*), and in advance of our May 2, 2013 review of the *Draft Version February 26, 2013 Housing Element Update 2009-2014*, I offer the following summary view for consideration by members of GPAC, Staff and the Mill Valley community.

I've re-read the *1989 Mill Valley General Plan* (a document I'm thoroughly familiar with as a former Planning Commissioner) twice and the *Draft Housing Element* (DHE) some four times – line-by-line. I came to recognize residual language, not immediately apparent, that supports a development model different than that proposed – language that sponsors an urban high-density, mixed-use, transit-oriented development model and not the more balanced, diverse, small town “scattered” model that our DHE embraces. Some of the language, policies and programs are simply out-of-sync with the plan.

This summary view addresses the following subject areas:

- Context
- Purpose / Principal Goals / Community Values
- Assumptions
- Policies and Programs

### **Context**

First, I found the GPAC process well-conceived, well-managed and well-considered – particularly in the challenging context of single-minded outside-agency rhetoric. I recognize that Mill Valley has no choice but to address our Housing Element Update in the context of untested interpretations of state law and regional agency ideological constructs. The GPAC has and will continue to do its best to craft a Housing Element responsive to our vision, community values and specific needs. That said it

is essential that we remind ourselves that we are in large part doing what we're being told to do. We are being told what we should think, what our needs are, how we should meet those needs, and what will happen to us should we fail to comply. Simply stated, Mill Valley's Housing Element is our best version of what is mandated by others, if we are to achieve a certified Housing Element.

Overall the Draft Housing Element is a vast improvement over the failed 2003 Housing Element. The most notable and profound improvement is the move away from an overlay district of large, multi-unit, mixed-use developments concentrated on Miller Avenue to a more typologically-diverse, dispersed or "scattered" planning methodology. This approach is more democratic and less impactful, more incremental and a better fit, and creates a more substantial "buffer" which in turn provides the City greater local control. Of equal significance was appointment of the consultant team – Karen Warner Associates and Metropolitan Planning Group, Inc. They "get it" and have developed a planning model appropriate to Mill Valley and our small town character.

That said, success is measured in terms of achieving certification, which tends to put State and outside agency (ABAG, MTA, HCD) interests first. HCD must be satisfied. Our Planning and Building Department is tasked with both meeting State and regional agency requirements and providing for the specific needs of Mill Valley. Should there be a conflict, who wins?

### **Purpose / Principal Goals/ Community Values**

Because the Housing Element is both an element of the General Plan and a stand-alone document, it is essential that the Housing Element Introduction reaffirm General Plan *purpose, principal goals and community values* – the foundation upon which all goals, policies and programs must be built.

The 1989 General Plan said it well.

Purpose:

*"...to guide the City's inevitable change during the 1990's (substitute 2009-2014) and beyond and, in doing so to protect the community's small town character, scenic beauty and population diversity ."*

Principal Goals:

- *"To protect and enhance the natural beauty and small town character of Mill Valley; and"*
- *"To encourage continued diversity of housing, income levels, and lifestyles in the community."*

Community Values:

*"The framework for the decisions made in this Plan is that both new development and changes in existing property should be consistent with...important community values."*

- *"Preserving the quality and diversity of the community's residential neighborhoods;"*
- *"Maintaining healthy, attractive commercial areas that primarily serve local residents;"*
- *"Maintaining the scenic quality of the bayfront, ridgelines, and hillsides;"*
- *"Preserving and, where feasible, enhancing creeks, marshes, and other natural areas;"*
- *"Protecting people and buildings from earthquakes, landslides, flooding, wildfires, and other natural hazards;"*
- *"Minimizing traffic congestion and encouraging the use of public transit;"*
- *"Accommodating more low- and moderate-income households than is possible under conditions in the private housing market."*

The above continues to resonate with the spirit of our town – *"protect the community's small town character, scenic beauty and population diversity."* One (1) Purpose, two (2) Principal Goals and seven (7) Community Values (80 words).

The current General Plan and Housing Element Introductions lack both a compelling foundational statement of purpose and succinct principal goals. Note the heading “principal goals” as distinct from “all goals.” The proposed thirteen (13) community values (320 words) are more a list of agenda items or goals than community values. I propose that the 1989 language be updated (with restraint) and re-incorporated in the General Plan and Housing Element Introductions.

## Assumptions

Interpretations of untested state laws and quasi-governmental agency planning policy are propped-up by a number of assumptions, many of which linger in DHE language residual from the one-size-fits-all regional planning model. Assumptions shape and color the lens through which we view and evaluate proposed goals, policies and programs, so it is critically important that we question those assumptions:

- *Growth is inevitable – we must build – we must build to achieve sustainability.* This is ill-conceived at every level. Growth is not inevitable. Growth, positive and negative, varies geographically over time. New construction is not the answer. Yes, some new construction is a practical necessity, but building to sustainability is a contradiction of terms. Mill Valley has been and is a sustainable community. Over-development and character-changing development offer the greatest threat to our sustainable state.
- *Sustainability = Urbanization of Suburbs.* This is another version of the above – the belief that small towns have to accept urban prototypical, character-changing development. Build “transit-oriented and mixed-use development” regardless of community character, scale or capacity. There are other more appropriate development models.
- *Build-out should not limit new development.* Development advocates recognize that development sites are finite - “*Mill Valley is built-out*”, but do not except the fact that development is finite. Higher-density redevelopment and the use of publicly-owned land are proposed to achieve growth beyond “build-out”, an unsustainable approach by any measure. Development capacity is finite.
- *Streamlining is good.* Development advocates would remove regulatory processes and constraints (“barriers”) – any housing, anywhere, at any cost. Streamlining is *bad* – it effectively eliminates the public process in favor of as-of-right or ministerial action – “rubber stamp” planning.
- *CEQA is a burden.* The Categorical Exemption and Negative Declaration have been used to trump negative impacts of high-density development. Planning Staff are able to make findings that no un-mitigatable negative impacts exist, regardless of the facts and public or Planning Commission opinion to the contrary. Determinations are often subjective. Negative impacts should not get a free pass.
- *High-density development trumps small town character.* Small town character and neighborhood fit are cast aside in favor of growth and development, contradicting the General Plan, Zoning Ordinance and Design Guidelines, and ignoring established and codified community values.
- “...so that residents can reside in the housing of their choice.” Some seem to believe that everyone should be able to live wherever they want regardless of economic means. That’s just not a real world socio-economic model.

- *“Fair share”* – I understand this concept to mean that each community should provide its fair share of “workforce housing” based on projected employment growth. I also understand that the Department of Finance has documented employment growth in Marin as flat for the past 10-15 years and projects job growth to remain all but flat to 2025. Marin has unemployment and under-employment, so one could argue that a reasonable level of employment growth, should that occur, would be absorbed by existing residents. ABAG/MTC/HCD projections of “fair share” don’t square with real data developed by the Department of Finance.

*“Housing Element law requires the documentation of projections and quantification of Mill Valley’s existing and projected housing needs for all income levels. These projected needs must include Mill Valley’s share of the regional housing need. This “fair share” allocation concept is also known as the Regional Housing Needs Allocation (RHNA). It is a state-mandated process that determines the amount of future housing growth each city and county must plan for in their housing elements.”*

**Reference: III. Housing Needs Summary / B. Future Housing Needs - Page III-6**

- *Workforce housing* – People in Marin commute, but we propose to socially-engineer that the “workforce” reside where they work? People tend to stay in their homes (attachment to schools, etc.) and change employment. Households frequently are composed of two wage-earners. How many two-wage-earner couples work in the same neighborhood? How many households move everytime a wage-earner changes their place of employment?
- *Change is good.* This is another free pass for negative impacts. Convince oneself that change is good rather than challenge the efficacy of change.
- *Demographic trends.* Demographic conclusions seem to be manipulated to support the agenda. For example, refer to the following statements: *“There has been a significant increase of over 200 new families in Mill Valley, of which 80 percent are families with children...”*

**Reference: I. Introduction / A. Mill Valley Community Context – Page I-1**

*“This (real cost of housing) has resulted in the moving out of young families, longtime residents...”*

**Reference: I. Introduction / A. Mill Valley Community Context - Page I-2**

Which is true? The first statement. Another example: *“Mill Valley faces a severe shortage of housing affordable to the local workforce, resulting in the vast majority of persons who work in the community commuting in from outside the city.”*

**Reference: II. Housing Plan/ Housing Affordability / Programs 13. Single-Family Housing Impact fee – Page II-15**

The vast majority? I noted that most GPAC members commute and questioned why it’s acceptable for us to commute, but not “workforce people.” They should live where they work because housing policy says so? I challenge the assertion. It strikes me as another myth to prop-up high-density development. Again, we seem to be repeating what we’ve been told.

## **Policies and Programs**

My review of the DHE has identified several “policies” that conflict with either the GPAC’s directions to Staff, or with many in the community’s strongly held opinions. Collectively these policies weaken local control, support distorted assumptions and undermine Mill Valley’s small town character. The policies seem to promote the regional agenda, but fail to adequately serve and protect the interests of Mill Valley.

- *Micro-apartment unit “projects.”*  
 The GPAC was explicit in supporting the consideration of micro-apartments as a possible unit type to occur in limited numbers as part of a blend of unit types, but not micro-apartment “projects.” This is an important distinction. The GPAC did not support the aggregation of micro-apartments in a project, nor as a means of satisfying inclusionary affordable housing requirements. I would not support counting micro-apartments as ½ units for density calculations.  
**Reference: II. Housing Plan / Housing Supply and Diversity / Programs 7. Micro-Apartment Units – Page II-9**
- *Publicly-owned land for affordable housing.*  
 I’m not sure where GPAC consensus fell on this issue, but the use of publicly-owned land for development, air-rights or the transfer of development rights is an end run on “built-out.” The policy recognizes that development sites are finite, but fails to acknowledge that development capacity is also finite. This policy engineers growth where capacity doesn’t exist. *“As a predominately built-out city, Mill Valley has few remaining vacant properties suitable for residential development. This shortage of vacant developable land necessitates the use of alternative mechanisms for providing sites for housing.”*  
**Reference: II. Housing Plan / Housing Supply and Diversity / Programs 10. Publicly-Owned Land for Affordable Housing – Page II-11**

Necessitates? Why?
- *Extending affordable in-lieu requirements to single-family homes.*  
 The proposed in-lieu fee, described as an impact fee, is equivalent to a tax – an illegal tax because homeowners have no choice. They would have to pay the in-lieu fee.  
**Reference: II. Housing Plan / Housing Affordability / Programs 12. Inclusionary Housing Regulations – Page II-14 and 13. Single-Family Housing Impact Fee – Page II-15**
- *Incentives and Affordable Housing Development Assistance.*  
 Incentives should not apply to market-rate developments with inclusionary units. They benefit the developer, but not the community – and create gifted entitlements with greater negative impacts.  
**Reference: II. Housing Plan / Housing Affordability / Programs 15. Affordable Housing Development Assistance – Page II-16**
- *Remove governmental constraints – “flexibility”, “streamline”, “expedited treatment.”*  
*“Policy 4.4 Development Review – Explore continued improvements to the entitlement process to streamline and coordinate the processing of development permits, design review and environmental clearance. Provide for priority and expedited treatment in planning processing for affordable housing.”*  
**Reference: II. Housing Plan / Remove Government Constraints / Policies – Page II-18**

This is code for a more ministerial (administrative) approvals process and a lesser public process. This is a policy to promote outside-agency agendas and mandates, an example of outside agencies writing the script and eliminating local control.
- *Parking standards - “maximum parking requirements rather than traditional minimum requirements.”*  
 The GPAC was clear that this policy made no sense whatsoever. A “maximum parking requirement” is tantamount to no parking requirement. The approach may have merit in dense urban environments, but not in the context of Mill Valley. This is an unrealistic anti-car / pro-bicycle and transit ploy to eliminate parking as a zoning constraint to high-density development. It ignores parking needs and negative impacts should those needs not be met. Minimum parking requirements must be maintained given that neither existing nor planned public transit meets our mobility needs.  
**Reference: Housing Plan / Remove Government Constraints / Programs 20. Update Parking Standards – Page II-19**

- *CEQA exemptions for infill projects.*  
This policy is a free pass for infill projects – environmental impacts are to be dismissed or ignored in direct contradiction to the spirit and intent of our General Plan, Zoning Ordinance and Design Guidelines. This is bad policy.  
**Reference: Housing Plan / Remove Government Constraints / Programs 23. CEQA Exemptions for Infill Projects – Page II-21**
- *Prioritization of Sustainable Housing Projects.*  
*“Transit-oriented and mixed-use developments are two of these key principles, focusing on the provision of housing in relative proximity to transit and amenities, therefore reducing the need for cars owned by residents.”*  
**Reference: II. Housing Plan / Sustainability and Energy Efficiency / Programs – Page II-26**  
  
Someone has decided that the only form of sustainable development is high-density, mixed-use and transit-oriented. That someone doesn’t understand the concept of sustainability. This dumbed-down, development-biased and unsupportable premise common to ABAG, MTA, OneBayArea and the threat of legal reprisals for non-conformance is influencing local planning departments and some city councils. There is no reason why, in a small town like Mill Valley, this development model should be granted special standing. High-density, transit-oriented development is an urban concept dependent on urban densities and urban populations, heavy transit ridership in established corridors (e.g. CalTrain), and brown-field development sites suitable for re-development. It is not a sustainable small town development model.
- *Community education and outreach.*  
This sounds fine, but must be balanced. Both sides of an issue must be heard. In the recent past, I feel that the City has employed “education and outreach” more to shape opinion in particular directions than to listen to the will of the community as expressed by its citizens  
**Reference: II. Housing Plan / Community and Governmental Collaboration / Programs 34. Community Education and Outreach – Page II-30**
- *“The City will establish a Housing Committee...”*  
*“Responsibilities include...Suggested policies and actions to keep Mill Valley on track towards its goals...Work with the Planning Department...Coordinate with interested and affected groups, including non-profit organizations and other government agencies.”* Throughout the DHE, the phrase “will consider” was widely used when introducing proposed policy, but here the phrase “the City will establish” was used. I strongly object to this policy proposal. Such a “Committee” would be a further step to weaken the public process. It would institutionalize a special-interest with a very specific, biased agenda. It would create another non-elected, policy-making body working with “the Planning Department...including non-profit organizations (Marin Community Foundation) and other government agencies (ABAG, MTA, SCS).”  
This would amount to an abdication of responsibility on the part of our Planning Commission and City Council. It would effectively empower outside-agencies to have a direct hand in shaping Mill Valley policy. This policy must be eliminated.  
**Reference: II. Housing Plan / Community and Governmental Collaboration / Programs 36. Mill Valley Housing Committee – Page II-31**

In conclusion, while the Draft Housing Element as currently drafted is a vast improvement over the prior 2003 Housing Element, political and jurisdictional agendas continue to distort and influence the discussion. There are a number of proposed policies in the DHE that evidence acceptance of questionable assumptions and replayed regional planning spin which are not in Mill Valley’s best

interests, nor do they consistently reflect the intent of the GPAC. The GPAC, Consultants and Staff framed a planning approach to fit Mill Valley – “scattered” rather than high-density, mixed-use overlay, but policies and programs remain designed to support the later. Most of those policies and programs have been handed down, i.e. have been prescribed/spoon-fed by regional planners and dutifully recorded. Some proposed policies and programs are simply out-of-sync with the planning approach. They support another model, one that we have moved away from.

The GPAC, the Planning and Building Department, City Manager, Planning Commission and the City Council must be vigilant and must review and evaluate proposed policies and programs in terms of Mill Valley’s small town character, community values and needs *first*, and outside-agendas a distant second.

*“The price of a good community is eternal vigilance. You get the master plan and you think it’s done. But it isn’t done. It’s a living document. The community is changing every day and somebody has to be paying attention all the time.”*  
Terrell J. Minger, Robert Redford Institute for Resource Management

*“Small towns preserve their heart and their health when residents care enough to make it happen.”*  
Author Unknown

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