

MEMORANDUM

DATE: July 15, 2013

TO: Planning Commission

FROM: Mike Moore, Planning and Building Director

Danielle Staude, Senior Planner

SUBJECT: Public Hearings on the Draft MV2040 General Plan, Draft 2009-2014 Housing

Element and Draft MV2040 General Plan Environmental Impact Report (DEIR)

NOTE: This staff report will be the only report produced for the 4 scheduled Planning Commission hearings on the General Plan, Housing Element and DEIR. Any additional information or follow-up requested by the Planning Commission will be provided by subsequent memorandum, as necessary.

Recommendation:

Conduct public hearings on the Draft MV2040 General Plan, Draft 2009-2014 Housing Element and Draft MV2040 General Plan Environmental Impact Report (DEIR) according the following schedule:

Hearing Date & Time	Topics	Location
Monday, July 22, 2013: 7:00 pm	Introduction and overview of the Draft EIR and MV2040 General Plan; MV2040 (Community Vitality, Natural Environment, Climate Action and Noise Elements)	Mill Valley City Hall Council Chambers 26 Corte Madera Avenue Mill Valley, CA All of the scheduled public hearings can be viewed online at: http://www.cityofmillvalley.org/Inde x.aspx?page=1167
Wednesday, July 24, 2013: 7:00 pm	Draft EIR; MV2040 (Mobility, Hazards and Public Safety Elements); and follow-up as needed	
Thursday, July 25, 2013: 7:00 pm	Draft EIR; MV2040 (Land Use and 2009-2014 Housing Element); and follow-up as needed	
Monday, July 29, 2013: 7:00 pm	Draft EIR; and follow-up as needed	

Public Hearing Structure:

The Planning Commission has scheduled four nights of public hearings on the General Plan and the General Plan DEIR in July. The agenda for each meeting (July 22, 24, 25 and 29) will follow the same basic structure:

- A brief introduction by staff;
- a hearing to take comments on the General Plan Draft Environmental Impact Report (DEIR);
- Planning Commission review of and public comment on specific elements of the draft plan. Staff would recommend that the Planning Commission follow the review procedure used by the General Plan Advisory Committee (GPAC) to go page-by-page through each element to allow each Commissioner the opportunity to identify any particular issue or possible amendment that may need further discussion by the entire Commission.
- Any follow-up that may be necessary to respond to any comments or issues that may be brought to the Commission's attention relative to the items on a given agenda.

On Monday, July 29, the Planning Commission will have an opportunity to make its own comments on the DEIR (following any public comment) and to wrap up any comments or recommendations on the draft plan, including the Housing Element. Any written comments received by staff during the course of the four public hearing dates will be forwarded to the Commission as they come, or will be at your places on the dais prior to the meeting. All of the meetings will be webcast live. Minutes of each meeting will be prepared, but they will not be available for action until after all of the hearings are completed.

Although not listed above, the schedule includes an additional public hearing on **Monday**, **August 26**, **2013**. This is the Planning Commission's second regular meeting of August and will include on the agenda a public hearing and an action item for the Commission to make its final recommendations to the City Council on the Environmental Impact Report (the public comment period will close at 5:00 PM on that date), and the Draft MV2040 General Plan, including the 2009-2014 Housing Element. Staff will provide separate notification of the public hearing and action prior to that meeting.

MV2040 Draft Environmental Impact Report (DEIR):

The Draft EIR for the MV2040 General Plan is a "Program EIR". Section 15168 of the CEQA Guidelines defines a "Program EIR" as "an EIR which may be prepared on a series of actions that can be characterized as one large project and are related either geographically, are logical parts in the chain of contemplated actions or in connection with issuance of . . . plans." A program EIR focuses on "broad policy alternatives and program-wide mitigation measures . . . that apply to the program as whole" (in this case, the update of the General Plan and Housing Element). In addition, the program EIR can identify those probable environmental effects that can be identified, but allows the lead agency to defer more specific environmental analysis to later, site-specific projects or program implementation. This is a key consideration when determining the adequacy of the DEIR. CEQA does not require a program level EIR to speculatively attempt to identify and address every potential environmental impact that may result from the implementation of the plan. Instead, the Program EIR provides a basis from which subsequent, project-specific environmental review may be evaluated, but does not eliminate or minimize the necessity for that environmental review. Each subsequent project or

program implementation that is consistent with the General Plan and subject to CEQA will be reviewed and assessed based on its particular characteristics and site-specific details.

As the Draft MV2040 General Plan does not call for any changes in existing land use and development patterns or calls for major capital improvements (new roadways, service expansions, etc.) the likely environmental impacts at the program level are less than significant and more importantly, the policy and program recommendations in the General Plan actually serve as mitigations for any potential impacts that may be identified.

The Draft EIR evaluates whether the proposed project may potentially result in one or more significant environmental effects. The topics listed below were analyzed in the EIR.

- Aesthetics, Light, and Glare
- Air Quality/Greenhouse Gas Emissions
- Biological Resources
- Cultural Resources
- Geology, Soils, and Seismicity
- Hazards and Hazardous Materials

- Hydrology and Water Quality
- Land Use
- Noise
- Public Services/Recreation/Utilities
- Transportation

The DEIR does identify the following significant unavoidable impacts that will have to be addressed through the City Council's adoption of a "Statement of Overriding Considerations:

- Exposure of Persons to Excessive Noise: Development and land use activities contemplated by the City of Mill Valley 2040 General Plan may expose residential land uses to excessive exterior noise as a result of additional vehicle trips on local roadways. Although the General Plan contains policies requiring new residential uses to comply with California Building Standards Code requirements for interior noise attenuation, there is no feasible mitigation to reduce exterior noise levels at new residential development sites along major roadways to "normally acceptable" levels due to existing noise levels; therefore, the residual significance of this impact is significant and unavoidable.
- Permanent Increase in Ambient Noise Levels: Development and land use activities
 contemplated by the City of Mill Valley 2040 General Plan may expose residential land
 uses adjacent to major roadways to a permanent increase in ambient noise levels as a
 result of additional vehicle trips on local roadways. Although the General Plan contains
 policies requiring new residential uses to comply with California Building Standards
 Code requirements for noise attenuation, it would not fully reduce the impact to a level of
 less than significant.

A Statement of Overriding Considerations provides the legal basis under CEQA to adopt the MV2040 General Plan and 2009-2014 Housing Element even with the existence of significant and unavoidable impacts.

Draft MV2040 General Plan:

In 1971, the State of California amended its Government Code to make General Plans mandatory for every city and county in the state and further, and more significantly, required all local land use approvals to be consistent with the jurisdiction's General Plan. In 1990, the California

Supreme Court firmly established the General Plan as the pre-eminent statement of local planning policy governing future growth and development, calling it "the constitution for all future development." On-going changes in state law and successive interpretations by the courts continue to add to the scope and responsibilities of the General Plan. However, in its purest form, the General Plan is the link between the expressed values and vision of the community and the resulting public process and decision-making that affect the physical, social, environmental and economic character of the community.

There are four reasons why it is important to have a current General Plan:

- <u>Community Vision</u> The General Plan preparation and adoption process offers the
 opportunity to bring the community together to express its collective values and shape a
 common vision for the future and dealing with future conditions. A strong and clear
 vision built on broad-based participation and consensus will guide long-term decisionmaking and build community.
- <u>Public Policy Coordination</u> The General Plan is where all of a community's major policy initiatives are identified, assessed and expressed in a comprehensive and consistent form. As such, the General Plan process allows for a community discussion about policy goals and objectives, which can then lead to the identification of implementation programs, timing and priorities. The internal consistency requirement of the General Plan helps insure that there is coordination among the various elements of the plan.
- <u>Budget and Capital Investment Coordination</u> An up-to-date General Plan can be used to strategically identify budget and capital investment priorities based on realizing the vision of the plan and its implementation priorities.
- <u>Legal Basis for Implementation</u> State statutes and established case law require that local government decisions affecting a community's growth and development must be consistent with the General Plan. Although this requirement is most commonly expressed through the City's review of and action in matters regarding land use, the same legal standard of consistency with the General Plan can also apply to adopting new regulations and fees or undertaking new program or service initiatives that affect the entire community.

State law and the collective body of court decisions over the years clearly establish the basic components of a General Plan and how these components are to be interwoven to create a "long-term", "comprehensive", "integrated, internally consistent and compatible statement" of goals and policies that reflect local conditions and circumstances. The law requires that a General Plan address seven subject areas, known in the law and by practice, as "elements", and that each element establish goals, policies and implementation programs and time frames for the subject matter in each element. The mandatory elements are:

- land use
- circulation
- housing
- open space
- conservation
- noise

safety

The law and the state's "General Plan Guidelines" (created and periodically updated by the Governor's Office of Planning and Research to assist localities in preparing a General Plan) includes specific requirements for each element as to the level of detail and analysis that must be addressed in the plan.

Mill Valley's last General Plan was adopted in 1989. In January of 2012, the City Council authorized a comprehensive update of the 1989 Mill Valley General Plan that has become known as Mill Valley (MV) 2040 for the 2040 horizon year of the new draft plan. Over the past 18 months, a public process that included the creation of a General Plan Advisory Committee and three Working Groups (Community Vitality – including an Arts and Culture Sub-Committee – Natural Environment and Land Use and Mobility) and numerous public meetings and presentations, has resulted in the Draft MV2040 General Plan.

The Draft Plan begins with a brief "Introduction", and includes the following "Elements":

- Land Use
- Mobility
- Community Vitality (including Arts and Culture)
- Natural Environment
- Climate Action
- Hazards and Public Safety
- Noise
- General Plan Administration
- Housing (Addressed separately, below)

Each Element follows the same basic format:

- "Purpose" that describes the basic legal requirements and context for the Element.
- "Existing Conditions" that provides a summary of important data, maps and other information that creates the foundation for the subsequent goals, policies and programs.
- "Trends to Watch" is a summary of what's happening in the community, in the region and in the world that could affect Mill Valley into the future.
- "Goals, Policies and Programs" that provide the guidance and direction to effectively
 manage the forces of change consistent with community values. The goals, policies and
 programs in this draft of the General Plan reflect the final recommendations of the
 General Plan Advisory Committee.

The "General Plan Administration" Element is somewhat different than the other Elements in that it describes the process of getting to a new draft General Plan and some basic guidance on how to manage the Plan into the future so that it remains vital and dynamic.

To assist in the review of the Plan, the following summarizes some of the content highlights of each Element.

Land Use

- Much of the "Existing Conditions" text, including the descriptions of the major residential and commercial areas of the City, comes directly from the 1989 General Plan with some updates to reflect current circumstances.
- The plan includes a Land Use Map, which is a requirement of state law, but the City has been without one for many years. The new Land Use Map is based upon the City's existing zoning districts and the new "Land Use Designations" (pages 17 and 18) are described and defined. The descriptions of the commercial designations anticipates the work that the Planning Commission has already done to redefine the City's commercial zoning districts.
- Land Use goals, policies and programs include the "Downtown" and other commercial area recommendations from the Community Vitality Working Group; residential policies and programs (from the 1989 General Plan); Historic Preservation goals, policies and programs; and policies and programs related to annexation and provision of City services (also from the 1989 General Plan)

Mobility

• The plan looks at existing and future (2035) traffic conditions and recommends new policies that revise the City's 1989 Level of Service standards. The "future" traffic analysis and discussion of Level of Service standards (pages 34-39) that lead to the new LOS program recommendations came after the GPAC had completed its review of the Mobility goals, policies and programs because of the timing of the future traffic analysis.

Community Vitality

As noted in the Land Use summary, the goals, policies and programs related to
Downtown and the other major commercial areas was moved from Community Vitality.
The Element focuses on general economic vitality, healthy community and arts and
culture. The work of the Arts and Culture Sub-Committee of the Community Vitality
Working Group is reflected in this section.

Natural Environment

- The "Existing Conditions" section of this Element takes the "Open Space" narrative from the 1989 General Plan and updates and expands its review of the natural features and communities that create the natural context that is such an essential element of Mill Valley's character.
- In order to keep the focus of this Element on the natural environment, the hazards and climate change topics that were addressed by the work of the Natural Environment Working Group have become their own separate Elements and are summarized, in turn, below.

Climate Action

• The "Existing Conditions" section of this Element comes from the City's draft Climate Action Plan that was prepared back in 2009.

- The goals, policies and programs are those related to reducing the community's carbon footprint, climate adaptation and zero waste recommendations from the Natural Environment Working Group and the General Plan Advisory Committee.
- Appendix "D" provides a detailed analysis of how all of the General Plan's climate action related goals, policies and programs (those identified by the leaf symbol) work together to reduce Greenhouse Gas Emissions to the levels set forth by the City's local reduction standards and California's AB 32 standards.
- This Element along with the other related climate action related goals, policies and programs satisfy the requirement for a local climate action plan.

Hazards and Public Safety

- The "Existing Conditions" section of this Element is based on information provided by the City's Fire and Police Departments.
- The goals, policies and programs are those related to community hazard resilience from the Natural Environment Working Group and the General Plan Advisory Committee.
- The Police and Public Safety recommended goals, policies and programs are new to this document, but in response to direction from the General Plan Advisory Committee.

Noise

- This Element is new to the GPAC, but is based on the requirements of state law.
- The "Existing Conditions" analysis shows that most noise in the community is related to traffic on major arterials and Highway 101, as well as occasional and temporary noise and vibration from construction.
- Projections of future noise conditions in the City are insignificant and can be addressed through Building Code standards and development review conditions.

General Plan Administration

- Includes procedures for annual and 5-year reviews of the General Plan, as wells as the process for amending the plan
- Memorializes the public process and milestones in the creation of the MV2040 General Plan.

Appendices

More technical information has been moved to Appendices "A" through "H". They include a variety of information, such as the evaluation of efforts to reduce Greenhouse Gases (GHG) and a "Glossary" of common General Plan and planning terminology. Additional "Traffic" and "Noise" data each have their own Appendix. The certified Final Environmental Impact Report will also be added as an Appendix. The "Implementation Plan" is still being developed and will be presented during the City Council hearings for their review and approval. The "Implementation Plan" will identify all of the programs in the adopted General Plan, the City department or community group responsible for implementation, potential sources of funding, whether the program has a "high", "medium" or "low" priority and whether implementation will be "short", "medium" or "long" term. A final "Implementation Plan" will be adopted by the City

Council as part of the adoption of the General Plan and will be the basis for the subsequent annual reviews of the General Plan.

Draft 2009-2014 Housing Element:

The Housing Element is one of the mandatory elements of the General Plan. It is also the element with the most state requirements attached to it and the only element of the General Plan that calls for "certification" by a state agency: the Department of Housing and Community Development (HCD). One of the most prominent and contentious provisions of state Housing Element law is the requirement to plan for the Regional Housing Needs Allocation, or RHNA. This is a given city or county's share of anticipated regional housing growth for a specific 5-year cycle. It is not just affordable housing, but housing for all income levels, including moderate and market rate housing. For the current cycle, Mill Valley's RHNA is 292 units. It is also important to note that this is not a requirement to build, but only to insure that there are sufficient sites with appropriate zoning within the planning area (the Mill Valley city limits) for not only the RHNA total, but for the number of units in each income category ("Very Low" to "Above Moderate") that comprise the total RHNA.

Since Mill Valley has not updated its Housing Element since 2003, the Draft 2009-2014 Housing Element addresses the City's RHNA and other related housing policies and programs for the current 5-year cycle (2009-2014). A new cycle will begin in 2014 for the 2014-2022 period. State Senate Bill 375, which created the requirement for regional agencies to produce a "Sustainable Communities Strategy" (known in the San Francisco Bay Area as "Plan Bay Area"), also changed the Housing Element cycle from 5 years to 8 years. The RHNA process for the next cycle has just concluded and Mill Valley's RHNA for 2014-2022 is 192 units. The 2014-2022 Housing Element update process will begin in early 2014.

There is an oft-mentioned perception in the community that the RHNA process is a product of the Association of Bay Area Governments (ABAG) and ABAG has "no teeth" to enforce whether a community complies with RHNA allocation in its Housing Element. That perception is not correct. Housing Element requirements, including each jurisdiction's obligations to comply with RHNA, are found in state law (Article 10.6 of the California Government Code). Failure to comply with Housing Element law can eliminate a city or county from consideration for certain types of state and federal grants. It is also becoming an important determinant for funding for transportation grants as federal and state agencies have begun to link transportation improvements to land use planning. Failure to comply can also expose the City to lawsuits that can not only result in putting a local Housing Element process under judicial scrutiny, but also make the local jurisdiction responsible for all legal fees and could even result in a city being prevented from issuing any building permits until the Housing Element issues are resolved.

The Draft 2009-2014 Housing Element has been produced as a separate document, even though it is one of the mandatory elements of the General Plan. It has a very different format than the rest of the General Plan in response to the specific requirements of state law. Chapter 2 of the Housing Element – the "Housing Plan" – contains all of the goal, policy and program recommendations and was the focus of review by the Land Use and Mobility Working Group and the General Plan Advisory Committee. Chapters 3 and 4 – the "Housing Needs Summary" and "Housing Resources", respectively – describe the particular housing-related circumstances of Mill Valley (based on U.S. Census, State Department of Finance and local data and research) that provide the foundation for the recommendations in Chapter 2. Appendices A through D go

into greater detail about needs and constraints. Appendix C provides the details of the site analysis that is critical to meeting our RHNA.

The Department of Housing and Community Development completed its first review of the Draft 2009-2014 Housing Element in April. Their initial review comment letter is attached (**Attachment 1**), as is the staff memo to the General Plan Advisory Committee summarizing and addressing those comments (**Attachment 2**). The June 21, 2013 Draft, which responds to HCD's initial comment letter and reflects the last review and revisions by the General Plan Advisory Committee, has been resubmitted to HCD for subsequent review. We expect a response letter from HCD within the next few weeks.

Summary and Next Steps:

These documents reflect an extensive and broad-based community effort to provide a comprehensive vision and policy guide for the next 25 years that is consistent with community values and Mill Valley's small-town character. Some Commissioners will be very familiar with some parts of the General Plan because of your involvement with either one of the Working Groups or the General Plan Advisory Committee. The public hearing schedule will provide the community and the Planning Commission with an opportunity for a thorough consideration of each of the documents subject to review before making a formal recommendation to the City Council at the end of August to certify the EIR and adopt the MV2040 General Plan and 2009-2014 Housing Element.

Attachments:

- 1. April 29, 2013 Comment Letter on the Draft 2009-2014 Housing Element from HCD
- 2. May 2, 2013 Response Memo to HCD Comment Letter

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT DIVISION OF HOUSING POLICY DEVELOPMENT

1800 Third Street, Suite 430 P. O. Box 952053 Sacramento, CA 94252-2053 (916) 323-3177 / FAX (916) 327-2643 www.hcd.ca.gov



April 29, 2013

Mike Moore Planning and Building Director City of Mill Valley 26 Corte Madera Avenue Mill Valley, California 94941

Dear Mr. Moore

RE: Review of the City of Mill Valley's 4th Cycle (2009-2014) Draft Housing Element

Thank you for submitting Mill Valley's draft housing element received for review on February 28, 2013 with revisions received on April 18, 2013. Pursuant to Government Code Section 65585(b), the Department is reporting the results of its review. A telephone conversation on April 2, 2013 with you, Ms. Danielle Staude, Senior Planner, and the City's consultants, Ms. Karen Warner and Mr. Geoff Bradley, facilitated the review. In addition, the Department considered comments from the Mill Valley Affordable Housing Committee pursuant to Government Code Section 65585(c).

The draft element addresses many statutory requirements; however, revisions will be necessary to comply with State housing element law (Article 10.6 of the Government Code). In particular, the element must include a complete sites inventory and analysis. The enclosed Appendix describes these and other revisions needed to comply with State housing element law.

We are committed to assisting Mill Valley in addressing all statutory requirements of housing element law. If you have any questions or need additional technical assistance, please contact Melinda Coy, of our staff, at (916) 445-5307.

Sincerely,

Glen A. Campora 《 Assistant Deputy Director

Enclosure

APPENDIX CITY OF MILL VALLEY

The following changes would bring Mill Valley'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 the Department's website at www.hcd.ca.gov/hpd. Among other resources, the Housing Element section contains the Department's latest technical assistance tool, Building Blocks for Effective Housing Elements (Building Blocks), available at www.hcd.ca.gov/hpd/housing element2/index.php and includes the Government Code addressing State housing element law and other resources.

A. Housing Needs, Resources, and Constraints

1. Include an inventory of land suitable for residential development, including vacant sites and sites having the potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites (Section 65583(a)(3)). The inventory of land suitable for residential development shall be used to identify sites that can be developed for housing within the planning period (Section 65583.2).

The City of Mill Valley has a regional housing need allocation (RHNA) of 292 housing units, of which 128 are for lower-income households. To address this need the element relies on constructed or approved units, vacant and non-vacant sites in nonresidential zones. To demonstrate the adequacy of these sites and strategies to accommodate the City's RHNA, the element must include complete analyses as follows:

Second Unit Production: The element utilizes the construction of second units to both reduce the RHNA for the current planning period and to calculate the unaccommodated need from the previous planning period pursuant to Government Code Section 65584.09 (AB 1233). The element credits 71 new second units built since 2007 and 30 new second units built in the previous planning period. To estimate affordability, the analysis relies on a study of second unit affordability conducted for the unincorporated Marin County but does not relate these assumptions to the market conditions of Mill Valley. To credit these units, the analysis must describe actual rents for new second units within the City. This is particularly important as market rents for one-bedroom units do not appear affordable to extremely low-income and very low-income households as assumed in the element (pages A-32 and A-36).

<u>Suitability of Small Sites</u>: Many of the high density sites listed in Appendix "C" are small (less than a half-acre). As the City is relying on small sites to accommodate its regional housing need for lower-income households, the element must include an analysis demonstrating these sites can realistically accommodate new residential development, particularly new multifamily rental development and housing affordable to lower-income households. While it may be possible to build housing on small parcels, the nature and conditions necessary to construct the units often render the provision of affordable housing infeasible. For example, assisted housing developments utilizing State or federal financial resources typically include 50-80 units. The analysis should consider development trends, market conditions, and regulatory or other incentives or

standards to encourage additional residential and mixed-use development on these sites. The analysis could also describe existing and/or proposed policies or incentives the City will offer to facilitate small lot development, such as lot consolidation, and include an evaluation of the financial feasibility of development for lower-income households on smaller sites, given necessary economies of scale.

Realistic Capacity: A significant number of sites identified to meet the RHNA are in commercial zones. As stated on Page B-8, "the City's Zoning Code currently provides for residential units and mixed use projects as conditionally permitted uses within the primary commercial zones (C-G, C-N, and P-A) subject to Planning Commission review and approval. Densities for multifamily residential uses in commercial districts are not specified in zoning code, and are determined by the Planning Commission at the time an application is submitted." While the element includes Program 19 to revise the zoning code to codify densities in the commercial zones, it is critical that the densities and capacities assumed in the element are able to be achieved in the interim period. In order to ensure the housing element identifies sufficient sites to accommodate the RHNA, the element should demonstrate how the City will maintain the assumed capacities and densities throughout the planning period given the current discretionary process required for multifamily housing in these commercial areas.

Please be aware pursuant to Government Code Section 65863, local governments must ensure the inventory of sites or any site programs accommodate the regional housing need throughout the planning period of the element. In addition, no local government action shall reduce, require or permit the reduction of the residential density for any parcel, or allow development of any parcel, at a lower residential density than identified in the site inventory or program unless the local government makes written findings. The required findings must demonstrate the reduction is consistent with the adopted general plan, including the housing element, and the remaining sites identified in the housing element are adequate to accommodate the jurisdiction's share of the regional housing need.

B. Housing Programs

1. Identify adequate sites which will be made available through appropriate zoning and development standards and with public services and facilities needed to facilitate and encourage the development of a variety of types of housing for all income levels, including rental housing, factory-built housing, mobilehomes, and emergency shelters and transitional housing. Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall provide for sufficient sites with zoning that permits owner-occupied and rental multifamily residential use by right, including density and development standards that could accommodate and facilitate the feasibility of housing for very low- and low-income households (Section 65583(c)(1)).

As noted in Finding A1, the element does not include a complete sites analysis and, therefore, the adequacy of sites and zoning was 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:

<u>Small Sites/Lot Consolidation</u>: The element relies on the potential of small sites to be consolidated to accommodate the City's share of the RHNA, particularly for lower-income households. As a result, the element must include specific programs to facilitate lot consolidation and development of housing on small sites.

Mixed-Use Development: As the City is relying on underutilized sites and the potential for mixed-use development to accommodate its RHNA for lower-income households, the element must include specific program actions to promote redevelopment of underutilized sites and lot consolidation including financial assistance, regulatory concessions or incentives to encourage and facilitate additional or more intense residential development on non-vacant and underutilized sites. Examples of incentives include: 1) organizing special marketing events geared towards the development community; 2) posting the sites inventory on the local government's webpage; 3) identifying and targeting specific financial resources; and 4) reducing appropriate development standards.



MEMORANDUM

DATE: May 1, 2013

TO: General Plan Advisory Committee (GPAC)

City Council

Planning Commission Jim McCann, City Manager

FROM: Mike Moore, Planning and Building Director

SUBJECT: Initial Comment Letter from the State Department of Housing and Community

Development on the 2009-2014 Draft Mill Valley Housing Element

On February 26, 2013, following public review of the Housing Needs Assessment, Site Capacity Analysis and the draft Housing Element goals, policies and programs by the Land Use and Mobility Working Group and the GPAC, the 2009-2014 Draft Mill Valley Housing Element was submitted to the Department of Housing and Community Development (HCD) for its initial review. As required by state law, HCD has 60 days to review and comment on the draft. The results of HCD's initial review are contained in the attached letter (**Attachment 1**). Prior to the issuance of the letter, our Housing Element consultants, Metropolitan Planning Group (Geoff Bradley and Karen Hong) and Karen Warner and Associates (Karen Warner) and I participated in a conference call with HCD staff to discuss preliminary comments and responses. A number of minor, primarily clarifying amendments to the narrative of the Housing Element were discussed, in addition to the more substantive comments contained in the official HCD response. Overall, the revisions to the Draft Housing Element recommended by HCD are not significant, and proceeding with the suggested revisions should put the Housing Element in a position to be "certified" in a subsequent HCD review.

The minor text revisions that were discussed via the conference call with HCD are listed in **Attachment2** and will be made in the next revision of the Draft. More about the revision process, below. The comments in the HCD letter of April 29, 2013 focus on three topics:

• Second Units: Having a more specific methodology to track the rent levels and affordability of residential second units in Mill Valley. Because the Housing Element identifies second units in Mill Valley as a significant source of affordable rental units, particularly for lower income renters, the City needs to establish a means to track second unit rents to confirm the premise that these units do, in fact, help meet the City's affordable housing requirements. The Draft Housing Element uses data from a Marin countywide survey to support the City's conclusions about second units; however, in the

future, HCD wants to see more specific local data. In the interim, HCD will accept the data from a recent Sausalito second unit rent survey (used by our consultants in their work on the recently certified Sausalito Housing Element) since the rental market is very similar. The survey results are slightly different from the countywide survey data, but still substantiate Mill Valley's position that the majority of second unit rentals are serving lower income residents. In the current Draft Housing Element, the distribution of second units is 50% very low income, 20% low income and 30% moderate. Using the data from Sausalito (in the interim until the City can develop and complete its own survey), the breakdown is 28% very low, 57% low and 15% moderate. The change in distribution to reflect the Sausalito data does not affect Mill Valley's ability to meet its 2009-2014 RHNA obligations.

- **Site Capacity:** The Draft Housing Element recommends programs to utilize the capacity for "mixed use" development in existing commercially zoned areas. To effectively utilize that identified capacity, the Draft Housing Element recommends various amendments to the City's commercial development standards in the Zoning Ordinance. HCD supports the City's policy and programs to utilize existing commercially zoned sites for additional residential development (Program 6, page II-7 of the Draft Housing Element); however, they are concerned that the site capacity identified in the Housing Element may be diminished in the interim period between the adoption of the Housing Element and the adoption of subsequent amendments to the Zoning Ordinance. We believe that a response to that comment already exists through the proposed Land Use Map and Land Use Designations in the Land Use Element of the General Plan. The 1989 Mill Valley General Plan does not include a Land Use Map, nor does it establish density ranges for any land use categories. Having a Land Use Map and residential density ranges are standard state requirements of a General Plan. In addition, the City's Zoning Ordinance currently leaves the establishment of the residential density of a residential or mixed use project in a commercial zone to the Planning Commission on a project-by-project basis. The Draft MV2040 General Plan establishes a residential density range (17 to 29 units per acre, based on existing RM zoning standards) in the three identified commercial land use designations: Downtown, Neighborhood and General. The adoption of those designations and their respective density ranges as part of the adoption of the General Plan should be sufficient to guide any subsequent development of proposed mixed use projects until the Zoning Ordinance development standards can be made consistent with the General Plan and should adequately address the HCD comment.
- Site Consolidation: Because most of the sites identified in the Draft Housing Element Site Capacity Analysis (Appendix C) are small and would generate a commensurately small number of units, HCD would like to see a program added to the Draft Housing Element that would facilitate the potential consolidation of sites to increase opportunities to generate more affordable housing. This does not mean increasing the already existing residential densities that are the basis of the existing capacity analysis. The basis of this comment is simply that a larger site (e.g., the combination of two adjoining sites to produce one development project) could create the potential for greater affordability that could not be accomplished on a single site basis. Since this is a new topic area that is not currently addressed in the Draft Housing Element, staff and our consultants do not have any specific recommendations at this point. However, one immediate response could be to create an additional site capacity map (similar to the maps already in Appendix C) that

shows consolidation opportunities where already identified sites that are adjoining are highlighted. We would also want to address this issue in subsequent revisions to development standards and proposed multi-family residential guidelines to insure that consolidation of sites does not result in developments that are out of scale with the immediate neighborhood or Mill Valley, generally.

Next Steps:

Overall, the GPAC and the community should be pleased with the results of the Draft Housing Element and the limited scope of HCD's initial comments. In addition to any other comments that may come from the GPAC's review of the Draft Housing Element at its May 2 meeting, as well as the review and discussion of HCD's comments, staff would recommend the following next steps:

- 1. Staff has proposed one additional GPAC meeting on Thursday, May 30. This will provide sufficient time for staff and our consultants to revise the Draft Housing Element based on the discussion and direction from the May 2nd meeting. On May 30th, we would present the GPAC with a revised Draft Housing Element to review one more time only in those areas where changes were directed.
- 2. Following the May 30th GPAC meeting, we would re-submit the revised Draft Housing Element to HCD for a follow-up review. These are typically done within 30 days. Assuming that our revisions will be responsive to HCD's April 29 comment letter and we receive no further requests for revisions, the revised Draft Housing Element would then be ready to go to public hearings at the Planning Commission along with the Draft General Plan.