

SUSTAINABLE TAMALMONTE
215 JULIA AVENUE
MILL VALLEY, CA 94941

September 15, 2012

Marin County Supervisor Kathrin Sears
3501 Civic Center Drive, Suite 308
San Rafael, CA 94903

Re: 2012 Draft Marin County Housing Element - Tam Junction Affordable
Housing Opportunity Sites

Dear Supervisor Sears,

In our previous letter, dated September 12, 2012, we demonstrated that due to the area's multiple constraints and hazards, encouraging new residential development at the Tam Junction Affordable Housing Opportunity Sites would increase the risk of undue harm to the environment and undue hardship, illness &/or injury to the residents.

We now wish to bring to your attention: 1) How the Tam Junction Affordable Housing Opportunity Sites are in conflict with CD-8.7 of the Marin Countywide Plan; and 2) How the unequal treatment given affordable housing (streamlining, exemptions, and incentives) will exacerbate the aforementioned risks present at the Tam Junction sites.

The Tam Junction Affordable Housing Opportunity Sites Are In Conflict With The Marin Countywide Plan CD-8.7

The Marin Countywide Plan states the following:

“CD-8.7 Establish Commercial/Mixed Use Land Categories and Intensities
5. For projects consisting of low income and very low income affordable units, the FAR may be exceeded to accommodate additional units for those affordable categories. For projects consisting of moderate income housing, the FAR may only be exceeded in areas with acceptable traffic levels of service — but not to an amount sufficient to cause an LOS standard to be exceeded.

6. Residential units on mixed-use sites in the Tamalpais Area Community Plan area shall be restricted to 100 residential units, excluding units with valid building permits issued prior to the date of adoption of the Countywide Plan update. The 100 unit cap includes any applicable density bonus and such units are not subject to the FAR exceptions listed in #5 above due to the area's highly constrained (week and weekend) traffic conditions, flooding, and other hazards.”

Per the above excerpt from the Countywide Plan, new residential units in the commercial mixed-use areas of the Tamalpais Area Community Plan are to be restricted to 100 units. We do not believe that this cap is restrictive enough

because the commercial mixed-use areas are not appropriate for any new residential housing. Yet, the Tam Junction Affordable Housing Opportunity Sites listed in the 2012 DRAFT Housing Element Sites Inventory have a potential build-out of even more new residential units than the 100 unit cap.

We understand that one of the reasons the previous Housing Element was not accepted by the California State Department of Housing & Community Development was because some of its designated Affordable Housing Opportunity Sites did not accommodate a minimum of 30 residential units per acre. The listed Tam Junction Affordable Housing Opportunity Sites comprise 11.40 acres. If developers are allowed to build 30 units per acre on these sites, then the potential build-out is 342 units (11.40 acres multiplied by 30 units per acre).

Furthermore, the potential additional build-out allowed through state density bonuses must be taken into account. According to the Marin County Development Code - Chapter 22.24 - Affordable Housing Incentives, developers may opt to apply for the County Density Bonus or the State Density Bonus, in which case densities can be increased above the zoned maximum, or other incentives and concessions can be granted. Although, the Countywide Plan states; “...*the 100 unit cap includes any applicable density bonus*”, our research indicates that State Density Bonuses supersede county law. An email from Planner Stacy Laumann stated; “*The allowances set forth by the State density bonus law are prescribed by the state legislature. If a project meets certain affordability criteria and requests a bonus, it must be granted, with very few exceptions...CWP Section CD-8.7 caps residential units on mixed-use sites at 100, which includes any density bonus granted. State density bonus law would prevail over CWP policies in the event that an applicant requested a waiver of the FAR in order to accommodate the density bonus on the site. Waivers, incentives or concessions to development standards may also be requested and are not contemplated by CD-8.7.*” The State Density Bonus reaches a maximum density bonus of 35% when a project provides either 11% Very Low income units, 20% Low income units, or 40% Moderate income units. An affordable housing development could easily reach these percentages.

Thus, if developers seek State Density Bonuses with the maximum of a 35% increase in units, then the potential residential build-out of the Tam Junction Affordable Housing Opportunity Sites could be increased to 461 units (342 units plus 35% of 342 units). This far exceeds the Countywide Plan 100 new residential unit cap for the Tam Plan commercial-mixed use areas.

The Exemptions, Streamlining and Incentives Given Affordable Housing Will Exacerbate The Dangers Present At The Tam Junction Sites

As previously demonstrated, the highly constrained Almonte and Tam Valley lowlands are inappropriate for any new residential housing. To target these

areas with affordable housing, which through streamlining, exemptions and incentives have few if any limitations, defies logic.

Development standards, requirements & limitations and permit procedures exist for public health & safety, protection of the environment & wildlife, community values and for preservation of a high quality of life. Yet, numerous County regulations (some already approved & some being evaluated) give exceptions to affordable housing in regard to streamlining permit review, development standards (set backs, height limitation, parking requirements, etc.), density levels, acceptable vehicular levels of service, requirements for infrastructure & public services, water & sewer requisites, development limitations based on hazardous & environmental conditions, and mitigation of adverse impacts, etc. Allowing affordable housing these exceptions places these developments, their tenants, and the surrounding community at greater risk of harm. To then encourage the resulting lower quality developments to be built in the highly constrained Almonte and Tam Valley lowlands is irresponsible.

Of equivalent concern to the County's unequal, unjust and unsafe treatment of affordable housing, are the state laws that give exemptions, incentives, & streamlining to affordable housing and other particular developments that meet certain criteria. It is imperative that County Planning take into account how state laws, especially those that supersede County laws, can affect County initiatives.

We have already demonstrated how the State Density Bonus Law can skew county planning. In addition, "*Senate Bill 375 adjusts the California Environmental Quality Act - CEQA (with streamlining or exemption of CEQA) for projects that are consistent with either an approved Sustainable Community Strategy (SCS) or an approved Alternative Planning Strategy (APS).*" (Excerpt from SB 375 Fact Sheet by Transform) Developers seeking permits at the Tam Junction Affordable Housing Opportunity Sites may qualify for SB-375's CEQA streamlining and exemptions. If this occurs, and subsequently a development is built in hazardous Tam Junction without ever having undergone environmental review, deleterious consequences could result.

Rather than targeting the Almonte and Tam Valley lowlands with new high-density housing, County Planning should be directing housing development away from these areas. Once again, we urge you to remove the Tam Junction Affordable Housing Opportunity Sites from the 2012 DRAFT Marin County Housing Element.

Very truly yours,

SUSTAINABLE TAMALMONTE EXECUTIVE COMMITTEE

Sharon Rushton, Ann Spake, Gene Spake, Lynn Reid, Adrian Gordon,
Sandy Glading, Camille Johnson