

**SUSTAINABLE TAMALMONTE
215 JULIA AVENUE
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December 12, 2011

Marin County Board of Supervisors
3501 Civic Center Drive, Suite 329
San Rafael, CA
Regarding: The Proposed Marin County Development Code Amendments

Dear Marin County Supervisors,

The Sustainable TamAlmonte Executive Committee wishes to make the following comments and recommendations regarding the December 13th Staff Report pertaining to the Proposed Marin County Development Code Amendments:

Regarding Staff Report Page 2, Section 2 - Affordable Housing in OA (Open Area) Zoning Districts:

Comments:

The development code allows for affordable housing in the OA (Open Area) zoning with a Use Permit. Single- family residences are also permitted in the OA zoning. We are opposed to these allowances.

Below is an excerpt from the Marin Countywide Plan regarding Open Space. One especially important sentence is the following; *“The district’s mission is to enhance quality of life in Marin through the acquisition, protection and **responsible stewardship** of ridgelines, baylands, and environmentally sensitive lands targeted for preservation in the Countywide Plan.”*

To allow any development on open space is NOT “**responsible stewardship**” of these lands and denigrates Marin’s great heritage of preserving open space and protecting natural habitats.

Excerpt from the Marin Countywide Plan – Open Space

“Lands in public ownership for open space purposes, such as recreation, and watershed and habitat protection and management, are designated open space. In addition, private lands may be designated open space when subject to deed restrictions or other agreements limiting them to open space and compatible uses.

2.8 Open Space - Background

*Residents of Marin County enjoy a wealth of public open space unparalleled in the nine-county Bay Area. Land preservation has a long history in Marin. Some existing parklands — Muir Woods, Mount Tamalpais, and Samuel P. Taylor — were established in the early 20th century. Point Reyes National Seashore was established in 1962. In 1971, the Marin County Planning Department published a seminal land use planning document, *Can the Last Place Last?*, which set forth a vision for a countywide open space system. Since then, federal, State, and local agencies, in partnership with nongovernmental organizations and Marin’s residents, have met with considerable success in achieving that vision by acquiring or otherwise protecting the hills, ridgelines, wetlands, watershed lands, agricultural lands, and other undeveloped lands that*

generally define the term open space in Marin.”

Recommendations:

- Protect our open space and delete the section(s) in the development code that allows affordable housing to be developed on lands zoned as OA (open area).
- Protect our open space and delete the section(s) in the development code that allows single-family residences to be developed on lands zoned as OA (open area).

Regarding Staff Report Page 3, Section 3 - Mixed Use:

Comment:

The staff report states; “the CWP adopted by the Board in 2007 allows affordable housing above the floor area ratio (FAR) in mixed use districts.” However, the report fails to mention that in the CWP there is an exception to this allowance on mixed-use sites in the Tamalpais Area Community Plan area. Please see the below excerpt from the Marin Countywide Plan:

“CD – 8.7 Establish Commercial/Mixed-Use Land Use Categories and Intensities.

The following criteria shall apply to any mixed-use development: ...

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.**”*

Recommendation:

In order to comply with the Marin Countywide Plan, include the following statement in the development code:

Residential units on mixed-use sites in the Tamalpais Area Community Plan shall not be subject to any FAR exceptions for affordable units due to the area’s highly constrained (week and weekend) traffic conditions, flooding and other hazards. Therefore, on mixed-use sites in the Tamalpais Area Community Plan, the assignment of a zoning maximum of 30 units per acre for affordable housing shall not apply. Instead, on mixed-use sites in the Tamalpais Area Community Plan, the affordable housing zoning maximum shall be limited to the maximum FAR and shall comply with the same restrictions and exceptions as that of market rate housing.

Comment:

The staff report states; “*Revised maps of mixed use zoning districts by community area are included in Attachment 3 to this report. Zoning district have been more clearly labeled, areas of projected flood inundation have been outlined and Priority Development Areas as identified for regional planning purposes have been identified.*”

We have not had a chance to view these revised maps. If, however, the Tam Valley and Almonte commercial lowlands are designated as Priority Development Areas, we wish to make the following comments and recommendations:

The Tam Valley and Almonte commercial lowlands are inappropriate areas for residential development (especially high density multi-family development).

Due to the unique characteristics of the region, encouraging residential development (especially high density multi-family residential development) in the commercial/ mixed use lowland areas of Tam Valley and Almonte would cause undue harm to the environment and undue hardship to the residents. The basis of our argument is that:

1. The area's infrastructure and public services have already surpassed their capacity and can not tolerate additional strain (E.g. Hwy 1 has a Level of Service (LOS) "F") (E.g. Tam Elementary is over capacity & some students must go elsewhere);
2. The natural hazards (seismic activity, liquefaction, subsidence, flooding, and threat of sea level rise) of the area would increase the risk of bodily harm to future residents and structural damage to future development(s) and escalate construction costs (structural support must go down 80 feet through mud fill to reach bedrock);
3. The close proximity of the high density development to Bothin Marsh and Coyote Creek would place these valuable natural habitats in peril;
4. The traditional semi-rural character of the area would be lost;
5. Encouraging residences near Highway 101 and busy Shoreline/ Hwy 1 will significantly increase the future residents' risk of developing serious illnesses such as cancer, respiratory disease, impaired lung development and cardiac disease (per the California Department of Public Health's Report - "Living Near Busy Roads: What do the health studies tell us?");
6. Placing more residents in the area will only increase green house gases. The area has an extremely low number of jobs (not enough for the existing population), shops, and medical facilities and inadequate public transportation. Therefore, residents will need to drive outside of the area every day to satisfy their daily needs;
7. All local residents' quality of life would be significantly impaired.

Recommendation:

Eliminate Tam Valley and Almonte from your list of priority development areas.

Regarding Staff Report Page 3 Section 4 – Streamlining and Page III – 42 of the Marin County Development Code:

Marin County Development Code PAGE III- 42 states; "***L. Priority processing.*** *The County shall priority process projects developed pursuant to Housing Overlay Designation policies and deed-restricted affordable housing developments that are affordable to very low or low income qualifying households.*"

Comments:

Permitting affordable housing projects ministerially or through a streamlined process

(such as with a master plan exemption) should never be allowed. This would constrain public input on planning decisions. This is in direct opposition to looking out for the best interests of Marin residents, the environment, and future affordable housing residents.

The Marin County planning department has demonstrated a lack of knowledge of individual communities (E.g. Tam Valley & Almonte). Only with local input, did the planning department become aware of crucial information.

Streamlining and a lack of thorough review could lead to: 1) a reduction of building and living standards; and 2) potential detriment to public health & safety and the environment, especially when projects are located in vulnerable areas.

Large, high-density developments (typically pursued by affordable housing developers) present the greatest potential for environmental impacts, risk to public health and safety, and incompatibility with traditional neighborhood character. As such, they should be given greater scrutiny not less.

Recommendation:

Delete the sections in the Marin County Development Code that allow permitting affordable housing projects ministerially or through a streamlined process.

Regarding Staff Report “Alternative Amendments Prepared Since October 11, 2011” Article II – 2. *“Delete the proposed change in the description of the VCR (Village Commercial/Residential) District stating that residential uses shall be accessory to the primary commercial use”:*

Comments:

In the Tam Valley and Almonte commercial mixed-use areas, the importance of neighborhood serving commercial uses far exceeds the importance of residential uses. Indeed, due to the prevalence of hazardous conditions, new residential development should be prohibited in these areas.

Furthermore, the Tam Valley and Almonte Districts currently do not have enough retail and commercial establishments to properly service the local residents. Any products/services or jobs not offered within the two districts force residents to drive outside the area to find such products/services or jobs, thus increasing traffic congestion and green house gases.

Recommendation:

Keep the following sentence in the development code: “Residential uses shall be accessory to the primary commercial uses.”

The Sustainable TamAlmonte Executive Committee wishes to make the following comments and recommendations regarding other proposed development code amendments:

Regarding the Marin County Development Code - Page II-9 Agricultural District Development Standards; Page II-18 Residential District Development Standards; Page II-32 Commercial/Industrial District Development Standards, and Page II-33 and II-34 - 22.14.050 – Minimum Lot Size “-B” Combining District:

The above referenced sections of the Marin County Development Code all contain the following paragraph:

*“The maximum residential density for proposed subdivisions for that portion or portions of properties with sensitive habitat or within the Ridge and Upland Greenbelt or the Baylands Corridor, and properties that lack public water or sewer systems, shall be calculated at the lowest end of the density range as established by the governing Countywide Plan Land Use Designation, **except for projects that provide significant public benefits, as determined by the Review Authority, and lots proposed for affordable housing.** This restriction does not apply to lots governed by the Countywide Plan’s PD-AERA (Planned Designation – Agricultural and Environmental Reserve Area) land use designation and to lots in the Baylands Corridor that are two acres or less in size that were legally created prior to January 1, 2007.”*

Comments:

Affordable housing should **NOT** be exempt from complying with the restriction of maximum residential density for properties that have sensitive habitat or within the Ridge and Upland Greenbelt or the Baylands Corridor and properties that lack public water or sewer systems in accordance with Countywide policies and programs (Policy CD-1.3, Programs CD-1.c, CD5.e, CD6.a, DES-4.e)

To exempt any housing from such constraints is completely irresponsible and to exempt affordable housing is even more so. Such an exemption would hurt sensitive habitats, rather than protect them as the above policies and programs were meant to do. Furthermore, the exemption would constitute environmental injustice as it would exacerbate the disparities between high-income households and low to moderate income households, especially if the properties lacked public water and /or sewer systems.

Recommendation:

Eliminate the following phrase from the above referenced development code sections: **“except for projects that provide significant public benefits, as determined by the Review Authority, and lots proposed for affordable housing.”**

Regarding Marin County Development Code Page II-41 – Interior Design and Page III-41 F. On-site Affordable Housing Included with Non-residential Development :

Marin County Development Code Page II-41 – Interior Design states; **“D. Interior design.** *The applicant may have the option of reducing the interior amenity level and the square footage of affordable housing below that of large market- rate units...*”

Marin County Development Code PAGE III-41 – F. On-site Affordable Housing Included with Non-residential Development states; *“As an inducement to the development of on-site affordable housing in non-residential development, the County may grant a reduction in the site*

development standards of this Development Code or architectural design requirements which exceed the minimum building standards approved by the State Building Standards Commission in compliance with State law (Health and Safety Code Sections 18901 et seq.), including, but not limited to setback, coverage, and/or parking requirements.”

Marin County Development Code - Page III-95 22.32.150 – Residential Uses in Commercial/Mixed Use Areas states; “Development standards. The combined residential and commercial floor area ratio shall not exceed the floor area ratio that is established in the Countywide Plan land use designation. The floor area ratio limit does not apply to affordable housing projects.”

Comment:

It has long been proven that different is NOT equal. Exceptions are being made for affordable housing in regard to development standards, density levels, the size of residences, amenity levels, acceptable vehicular levels of service, requirements for infrastructure & public services, water & sewer requisites, development limitations based on hazardous conditions, and mitigation of adverse impacts, etc. These exceptions are a boon to developers but pave the way for low to moderate income households to live in substandard conditions. It constitutes environmental injustice as it exacerbates the disparities between high-income households and low to moderate income households. Furthermore, high-density development has greater environmental impacts and is incompatible with the vast majority of Marin neighborhoods.

All such exceptions should be stopped. Development of affordable residential units should be treated like any other development. Density levels, development standards & other development requirements exist for public health & safety, protection of the environment & wildlife, community values and for preservation of a high quality of life.

Recommendation:

Treat affordable housing like market-rate housing. Eliminate all exceptions or exemptions for affordable housing in the Marin County Development Code.

Thank you for your kind consideration.

Very truly yours,

THE SUSTAINABLE TAMALMONTE EXECUTIVE COMMITTEE

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