

**SUSTAINABLE TAMALMONTE
215 JULIA AVENUE
MILL VALLEY, CA 94941**

November 26, 2011

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

Dear Marin County Board of Supervisors,

Having viewed the Marin County Board of Supervisors' November 15th meeting in person and via video, the Sustainable TamAlmonte Executive Committee wishes to make a few comments regarding the planning staff's presentations during the discussion about the proposed Marin County Development Code Amendments (Title 22).

Tom Lai's Report

Regarding Development on Open Space:

Tom Lai indicated that the development code allows affordable housing to be developed on open space with a use permit. 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.

Marin voters created the Marin County Open Space District in 1972 as the local agency responsible for creating the County's own system of public open space. The district's mission is 'to enhance quality of life in Marin through the acquisition, protection and responsible stewardship of ridgeland, baylands, and environmentally sensitive lands targeted for preservation in the Countywide Plan.'"

Recommendations:

- Protect our open space and delete the section(s) in the development code that allows affordable housing to be developed on lands designated as open space. (Table 2-9 in the Development Code, etc.)
- Protect our open space and delete the section(s) in the development code that allows housing to be developed on open space for employees who perform services at the open space location. Such a deletion would also protect employees. An employer would hold too much power over an employee, if that employer could not only fire that employee but also take away his/her home.

Brain Crawford's Report

Regarding the Tamalpais Community Area Plan:

Brian mentioned that the Tamalpais Community Area Plan (1992) has allowed commercial/mixed use development for many years in the commercial areas of Tam Valley and Almonte. He implied that, therefore, these areas could be targeted for residential development (particularly high-density affordable housing).

Although it is true that the Tamalpais Community Area Plan has allowed mixed-use development in the lowland commercial areas, the density of the commercial/mixed use development in these areas has been greatly constrained. (E.g. The East side of Shoreline only allows a height of 15 feet and there are view requirements at many locations, etc.) In addition, the community has repeatedly expressed the desire for the East side of Shoreline to be restored back to marshland and has opposed proposed development in the commercial areas (East or West of Shoreline) that exceeds the height and other development standard limitations set in the Tamalpais Community Area Plan.

Please note that the last full update of the Tamalpais Community Plan was in 1992. In 1992, the current knowledge about sea level rise and the adverse health risks of living near busy roadways was not available. In addition, 20 years ago, traffic and flooding were noted as problems but were not at the extraordinary levels that they are today. As you know, these are only some of the problems and adverse impacts found in the lowlands of Almonte and Tam Valley.

Therefore, the Almonte and Tam Valley commercial lowlands remain inappropriate areas for residential development.

Regarding difficult choices and trade-offs:

Brian indicated that the BOS will need to make difficult choices and trade-offs in order to meet Marin's affordable housing needs and state requirements. If we heard him correctly, he presented a very limited choice: Choose to provide affordable housing in areas near public transit that are subject to sea level rise and poor air quality and high

traffic LOS, ect. and endanger the future affordable housing residents and the environment ... OR ELSE choose to NOT provide affordable housing.

This is a “Hobson’s Choice” and misleading.

Gov. Code, § 65589.5(d)(2).

MARIN COUNTY NEED NOT PROVIDE ADDITIONAL HOUSING WHERE THE COUNTY FINDS THAT THE PROVISION WOULD HAVE AN ADVERSE IMPACT UPON PUBLIC HEALTH OR SAFETY.

A county is not required to plan for or construct additional housing developments, including low income housing, where it finds that developments “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. As used in this paragraph, a ‘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.” (Gov. Code, § 65589.5(d)(2).)

Marin County assumes or concludes that it must, without exception, provide more housing to meet its regional housing obligation, regardless of the significant adverse impacts this provision would have upon County residents. However, Government Code section 65589.5(d)(2) clearly provides an exception to this obligation.

Therefore, since locating affordable housing near transit hubs that are subject to sea level rise, flooding, poor air quality, and other dangers would have an adverse impact upon the environment and upon public health & safety of the future low and moderate income tenants/owners, the county need not plan for residential development at these sites. Instead, the county can plan for affordable housing at safe sites that are integrated into Marin neighborhoods throughout the entire county.

Recommendation:

Plan for affordable housing that: 1) Meets Marin’s needs (not necessarily State or Federal mandates) without new development; 2) Has density levels that are compatible with Marin neighborhoods and development standards equal to market-rate housing and undergoes thorough environmental impact review; 3) Is integrated with Marin neighborhoods throughout Marin in safe areas, rather than primarily located at segregated and unhealthy transit hubs; 4) Is truly sustainable; and 5) Is fiscally responsible.

Thank you for your kind consideration.

Very truly yours,

THE SUSTAINABLE TAMALMONTE EXECUTIVE COMMITTEE

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