

ROBERT SILVESTRI

73 Surrey Avenue
Mill Valley, CA 94941
(415) 381-4629
rjsmv@comcast.net

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General Plan Advisory Committee
City of Mill Valley
26 Corte Madera Avenue
Mill Valley, CA 94941

Dear GPAC Members:

Having only received all the documentation that you're reviewing, two days ago, I haven't been able to give it an in-depth reading. But I would like to make some comments based on what I have reviewed.

I'm gratified to see that the process has considered a new method of analyzing potential housing sites for the Housing Element, and indicated the need for a wider variety of housing types. This is a step in the right direction because under the present system, which is mostly driven by how ABAG views housing need, we're not solving the real problem: providing affordable housing choices for those most in need and the demographics that we'll need to serve in coming years. Using a more flexible and inclusive site analysis method also more directly relates to the unique types of development opportunities that actually exist in our city.

That said, I ask you to please consider the following:

Housing Trust and In-Lieu Fees:

I think the Housing Element and General Plan proposals need to better address concept of creating a housing trust. I'm generally supportive but its success or failure is all in the details of execution.

Specifically, (a) how will it be managed and by whom, (b) is it financially feasible and sustainable without ongoing public subsidy, (c) will its operating costs be reasonable enough to not consume too large of a portion of its available funding (leaving too little for actual programs), and (d) what will the public process and public oversight be to ensure that programs created work well and allocations of funds are monies well spent?

These are reasonable questions to ask because, historically, it has been very difficult to operate such a trust on the small revenues it would receive and still provide significant public benefits to justify its existence and cost. To have such an entity in name but that in fact only adds another layer of development costs and fees to the process would be counterproductive.

I mention this in part because studies by the Urban Land Institute have found that in-lieu fees have had no discernible positive impact on the creation of affordable housing. The benefit of charging in-lieu fees is presently a theory seeking validation.

Finally, to succeed, I think a housing trust needs to operate like any other nonprofit entity, both from the standpoint of having separate governance by a board of directors that does not have any conflicts of interest, and from the standpoint of working to ensure its own financial sustainability through the use of all the normal types of fundraising activities that are available to it (and not be solely dependent upon fees it charges landowners or developers). This should include ongoing public fundraising and application for grants and donations from foundations, corporations and private donors, as is customary with any nonprofit.

Residential In-Lieu Fees:

The proposal to charge a new property “tax” in the guise of a residential “in-lieu” fee should not be considered. Calling taxes “fees” in order to avoid a public vote or accountability is simply unacceptable. And a “fee” for affordable housing levied against residential construction is clearly a “tax” because a homeowner really has no “choice” in the matter (i.e. he cannot really build affordable housing “in-lieu” of paying the fee). This kind of subterfuge by local government against its own unwitting taxpayers has really gotten out of hand in California, and I think should be avoided. I for one would advocate for a legal challenge to this “fee.”

Housing Site Criteria:

It’s reasonable to have the criteria used by the consultant included in the creation of a “site” list. However, development opportunities are not just a matter of knowing where development might occur and how much it will cost (the fees). And I would argue that private developers are better able to assess “opportunity” than any list created by the city. As I had detailed in the Alternative Analysis of Miller Avenue, in 2007 (see <http://www.friendsofmillvalley.org/files/MillerAvenuePlanAnalysisv10.pdf>), development looks at other factors in making investment decisions. For example, it’s clear to me as a former developer, that the site list included in the GPAC material (which was based of somewhat academic methods) has misinterpreted the potential of a number of existing sites along Miller Avenue.

I continue to suggest that there are other types of criteria the city could offer to assist the development community in making investment decisions. These would fall under the heading of “public policy.” In other words, what does the community want and under what circumstances.

Public Policy Criteria:

The GPAC study partially indicates Mill Valley’s public policy goals by describing the various types of housing (i.e. co-housing, live/work, micro-units, etc.) that are needed. And perhaps a nexus could be suggested whereby a developer sees some benefits by trying to create these types. But what should also be stated are the more qualitative criteria that might make a proposed development suitable. As I’ve said before, in addition to the criteria already used, these would include properties that are:

- **Economically obsolete** (there is no longer any rental demand for that type of structure: i.e. a warehouse building in an office / retail area).
- **Functionally obsolete** (the structure is so far out of code compliance and lacks so many amenities and features that no “good” tenant will rent it).

- **Hazardous** (a building that is somehow a public danger due to toxic materials, etc.).
- **Unsafe** (a structure is in danger of collapse or damage to adjacent structures, or is otherwise a public safety problem).

...or proposals that:

- Include desirable "green" building techniques and materials or other desirable technology and safety innovations.
- Provide a desirable public amenity (a path or lane, a public space, a shelter, parking, etc.).
- Improve public access and safety (pedestrian, vehicular, etc.).

The Development "Potential" Conundrum:

An issue that really needs to be addressed is that in Mill Valley, 90% of the properties that are development "opportunities" are owned by individuals or small owners, and sometimes corporate owners, who are not development minded. No amount of incentives will turn these risk-adverse owners, who are primarily interested in collecting rents and building long term equity, to become developers who take on risk and debt. This is an issue that should be deliberated.

Parking Requirements:

Throughout the report, there are discussions of waiving or reducing parking requirements, for a variety of reasons. Though one might reasonably argue that low income and very low income micro-units may need less parking or that parking should be provided for other types of vehicles, Mill Valley does not presently have a parking surplus. In fact, parking is becoming an increasingly difficult issue. For example, the Safeway parking lot is now completely full during peak hours. I have had the experience of not being able to park there on a number of occasions. And on Miller Avenue, we've already granted parking reductions to developers, which has exhausted any excess that might have existed. Finally, commercial parking overflow is already coming into our lower Miller Avenue neighborhoods.

With this in mind, I would ask that granting of any kind of parking waivers or reductions be very carefully considered and only used in the those instances that result in maximum public benefits FOR EVERYONE, not just the developers or to meet ABAG housing quotas.

Streamlining:

"Streamlining" is a concept that planners and consultants love to throw around but in reality it's always about a tradeoff between adequate public process and costs to developers. In point of fact the concept of streamlining is mostly smoke and mirrors. There is no magic bullet here. Adequate public process is of paramount importance. Contrary to recent outcries by the Chamber of Commerce, the public process in Mill Valley is not in any way overly onerous when compared to any other Bay Area community. In addition, one of the purposes of having clearly stated public policy, as described above, is to help developers know with certainty, what they can do to achieve approvals so streamlining is largely unnecessary.

Creating a Legal Nexus with MEA:

Item 31 states that one of the goals is to “Support efforts of the Marin Energy Authority to maximize residential subscription rates for green energy plans.” I find the inclusion of this to be totally unacceptable.

Mill Valley has a long history of having officials with personal conflicts of interest advocating for MEA, and this appears to be part of that legacy. MEA is a separate entity that is competing in an open, free market with other current utility providers (PG&E) and potentially other future energy providers. By law, any property owner has the right to choose to participate or opt out. For the City to take a policy position on this matter, to effectively lobby or “sell” or coerce property owners on behalf of MEA, or otherwise attempt to discourage or compromise an individual’s right to choose without undue influence, is completely unacceptable. I must demand that this provision be removed entirely, as I believe it violates state law. In addition, MEA is not providing “greener” energy than anyone else (they are representing that they do buy purchasing paper certificates) and their prices are higher than PG&E’s comparable green energy program.

The Safeway Shopping Center Site:

The current site list includes the Safeway parking lot area. I ask that this site be removed from that list. The parking lot is much needed as is, as I’ve noted above. There is no excess capacity or space for development. Further, this is a very significant corner located at the beginning of the Miller Avenue “Gateway” room. To assume that high density, multi-story development could occur on this site, the way it has in Novato at the Millworks, for example, would be completely out of character with the small town character of Mill Valley and ruin the entire feeling of the Gateway.

The city’s historic tendency to consistently view lower Miller Avenue (which is my immediate neighborhood) as a “dumping ground” for every hair-brained, high density development scheme has got to stop. We have been fighting one bad proposal after another for almost 20 years and it’s very unfair and inequitable. If large open areas are to be a criteria for making a site a target for high density development, then every large (one acre or more) parcel in the canyons should be considered and put on the list for “streamlined” processing and potential rezoning to high density infill multi-family, if a reasonable low income development proposal is presented to the city. **Based on the logic of the GPAC method, there is no defensible argument to not offer that kind of “incentive” to develop canyon properties.**

Whether we like it or not, putting a site on a map and saying it has “potential” is the first step on the road to entitlements that owners and developers begin to assume are halfway to being granted. How many times do we have to go through this before we learn? e.g. Richardson, Von der Werth, etc. Furthermore, a corporate user like Safeway will have no regard for our town’s character or traffic impacts if the potential for entitlement can fatten their bottom line. Having this site on a list is a very bad idea and one that I assure you our neighborhood will fight will all its determination. It violates all the tenets of the General Plan’s requirement to preserve Mill Valley’s character and quality of life. For these reasons, I ask you to please remove that site from your list of sites that qualify for consideration.

Thank you for your time.

Bob Silvestri