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July 29, 2022

**SENT VIA EMAIL** (dstaude@cityofmillvalley.org)

Danielle Staude, Project Planner  
City of Mill Valley  
Mill Valley City Hall  
26 Corte Madera Avenue  
Mill Valley, CA 94941

**RE: Public Comments to Mill Valley's Draft Housing Element**

Dear Ms. Staude:

On behalf of Friends of Hauke Park ("FOHP"), this letter provides comments regarding Mill Valley's Draft Housing Element. As set forth more fully below, the City's reliance on 1 Hamilton to meet its Regional Housing Needs Assessment ("RHNA") is arbitrary and lacks evidentiary support. The Draft Housing Element's discussion of 1 Hamilton is also misleading and at times demonstrably erroneous. The City must provide a credible explanation for excluding dozens of City-owned sites that contain similar characteristics as 1 Hamilton.

Government Code section 65583.2 requires a city to inventory land that is suitable for residential development and must further identify sites that can be developed for housing within the planning period. The purpose of this inventory is to show that the City has sufficient housing to meet its RHNA requirements. (Gov. Code, § 65583.2, subd. (a).) Land that is suitable for residential development includes, "Sites zoned for nonresidential use that can be redeveloped for residential use, and for which the housing element includes a program to rezone the site, as necessary, to permit residential use, including sites owned or leased by a city, county, or city and county." (*Id.* subd. (a)(4).)

"If a housing element contains the elements mandated by the statute, it will be found to conform with state law unless it is 'arbitrary, capricious, or entirely lacking in evidentiary support.'" (The California Municipal Law Handbook, § 10.27, quoting *Fonseca v. City of Gilroy* (2007) 148 Cal.App.4th 1174, 1191.) The City's Draft Housing Element has arbitrarily excluded nearly all City-owned sites from the Sites Inventory. Further, the Sites Inventory includes 40 low-income units from a property zoned Open Area, which prohibits residential development. The City's conclusions lack evidentiary support and are the result of an insidious scheme to keep affordable housing out of downtown and select wealthy neighborhoods in Mill Valley.

## **I. THE 1 HAMILTON SITE REQUIRES A GENERAL PLAN AMENDMENT AND REZONING**

### **A. Neither General Plan Designation “Community Facilities” nor Zoning Designation “O-A” Permit Residential Development**

The Draft Housing Element asserts that 1 Hamilton’s zoning allows for residential development. This is inexcusably false and misleading. 1 Hamilton’s General Plan designation is Community Facilities (Land Use Element, p. 25), and its zoning designation is Open Area (“O-A”) (Current Housing Element, p. C-19). Both designations prohibit residential development. The Land Use Element’s Community Facilities description includes, “All City facilities including City golf course, parks, City Hall, Community Center, Public Safety Building, etc.; public schools and private schools.” (Land Use Element, p. 24.) It also states that the residential density range is not applicable. (*Ibid.*) Further, the Draft Housing Element states, “The OA and CF Zoning Districts do not permit residential use on the property.” (Draft Housing Element, p. C-2.) Thus, there is no question that residential uses are prohibited on parcels designated as Community Facilities or zoned as O-A. 1 Hamilton is both.

The City has been consistent in its prohibition of residential development on parcels zoned as O-A. The language in the Current Housing Element shows that the City never intended to include O-A zoned parcels in its publicly-owned inventory. Program Objective 12 states, “By 2018, prepare an inventory of publicly-owned land **that is not already zoned for open space**, including parking lots, and examine the feasibility of their use of housing. Consider modifying the City’s zoning regulations to allow residential uses in the C-F zone subject to the approval of a conditional use permit.” (Current Housing Element, p. II-12 [bold added].)

As a result of these prohibitions, any development proposed on land that is zoned O-A would require a General Plan amendment and rezoning. The Draft Housing Element fails to discuss this requirement for 1 Hamilton and so falsely claims that residential development is allowed on this site. It is not. This misrepresentation is so blatant that one can only surmise that it is intentional by City officials, which is inexcusable.

### **B. The Draft Housing Element Fails to Describe the Process Required to Develop 1 Hamilton**

The City has previously represented the need to amend 1 Hamilton’s land use designation and zoning in order to allow residential development. A staff report from the February 7, 2022, City Council meeting plainly states that both a General Plan

Amendment and Rezoning of the parcel would occur between February through June 2023. (Exhibit A, February 7, 2022, City Council Staff Report re: 1 Hamilton Drive, p. 25, Exhibit B.) However, the Draft Housing Element fails to mention that 1 Hamilton requires both legislative actions in order to be developed. Ignoring this reality, the Draft Housing Element includes 1 Hamilton as part of the Site Inventory that calculates potential units from “existing zoning.” (Draft Housing Element, p. III-4; see also p. III-10 [Table 3.7 indicates 1 Hamilton could accommodate 40 units as currently zoned].)

The City’s Draft Housing Element has inexplicably chosen to whitewash the inescapable fact that 1 Hamilton allows no residential units whatsoever under “existing zoning.” As part of its arbitrary and capricious scheme to manufacture rationale for limiting affordable housing to 1 Hamilton, the City has failed to comply with its duty under state law to identify all suitable properties for housing.

To the extent the Draft Housing Element’s mischaracterization of 1 Hamilton’s “current” zoning is premised on the City’s intention to revise 1 Hamilton’s General Plan land use designation and zoning designation as part of the proposed Land Use Element update, the EIR will need to fully analyze on a project level the proposed housing project. (See CEQA Guidelines, §§ 15378, subd. (a) [a project is the “whole of an action” which may result in direct or indirect physical changes to the environment]; 15126 [EIR’s impact analysis must consider all phases of a project]; *Laurel Heights Improvement Assn. v. Regents of the Univ. of Cal.* (1988) 47 Cal.3d 376 [EIR must analyze “reasonably foreseeable consequence” of a project].) The Draft Housing Element does not indicate that the City intends to comply with this duty, and the City’s past conduct suggests that it may attempt to misuse the concept of “tiering” to evade full public disclosure.

## **II. THE CITY ARBITRARILY RELIES ON THE HOUSING WORKSHOP AND OTHER CRITERIA TO UNLAWFULLY EXCLUDE NUMEROUS CITY-OWNED PARCELS**

As explained above, the City has a duty to prepare an inventory of land that is suitable for residential development in order to show that the City has sufficient housing to meet its RHNA requirements. (Gov. Code, § 65583.2, subd. (a).) The shifting and inconsistent explanation for its planning process in this regard reveals that it is failing to comply with that duty.

Although the City previously stated that the Housing Workshop is a completely separate process from its RHNA analysis, the Draft Housing Element now reveals that the City is relying on that process to identify — or, more accurately, exclude — suitable land for its RHNA requirements. By doing so, the Draft Housing Element arbitrarily narrows

the potential sites where residential housing could be located in violation of its duties under state law.

**A. The City Previously Claimed That the Housing Workshop Findings are a Separate and Distinct Analysis**

The City hired a consultant to prepare an analysis of City-owned parcels that could be developed for affordable housing. After excluding more than 100 sites for various reasons, the analysis concluded that the City should conduct additional analysis on only four different sites. (The Housing Workshop, p. 2.) The Housing Workshop's analysis was patently perfunctory, and public commenters questioned why this separate process was occurring at all in light of the City's Housing Element Update that was being drafted at the same time. (Exhibit B, February 4, 2022, Letter re: Public Comments to February 7, 2022, City Council Meeting, Agenda Item 6 re: 1 Hamilton Drive, pp. 1-3.) Purporting to respond directly to these concerns, Mayor McCauley asserted at the February 7, 2022, Council meeting that the RHNA process is completely separate from the Housing Workshop process. He stated in relevant part:

Another thing, there is a confusion here about the idea of doing an analysis of regional housing needs authority or RHNA sites and the city site analysis that was done so as a part of the HCC hazard advisory committee we went down two paths. One path was can we find surplus land we can sell to raise money to provide the ability to develop land with another party maybe a church or whatever. The second process we had was can the city on its own find a site that we can offer to a developer, a low-income mission driven developer to create a site. **That is completely different than the analysis which is going on to find out where we are going to come up with these 865 units for RHNA which is all generally private property.** They are completely different things, so I just want to make sure that people understand that difference.

(Mill Valley City Council Meeting, February 7, 2022, at 3:03:00<sup>1</sup> [bold added].)

The Draft Housing Element now reveals the Mayor's statements to be false. Public comments were not confused. Rather, it was the Mayor who was either confused or intentionally misrepresented the relationship between the Housing Workshop's analysis and the Housing Element Update. There is no question that the Draft Housing

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<sup>1</sup> The meeting can be accessed at [https://cityofmillvalley.granicus.com/MediaPlayer.php?view\\_id=2&clip\\_id=1694](https://cityofmillvalley.granicus.com/MediaPlayer.php?view_id=2&clip_id=1694).

Element expressly relies on the Housing Workshop's analysis to exclude suitable properties. (Draft Housing Element, pp. III-11, C-2.) As explained more fully below, the Draft Housing Element's reliance on the Housing Workshop's analysis means that the City has not complied with its duties under state law.

**B. The Draft Housing Element Excludes Numerous City-Owned Parcels Without Adequate Explanation or Factual Support**

Although the City claimed that the RHNA process is completely separate from the Housing Workshop process, the City nevertheless based the Draft Housing Element's entire discussion of City-owned properties on the Housing Workshop's analysis. For example, the Housing Workshop analysis determined that 27 of 38 City-owned sites were "not marketable due to zoning," all of which are zoned O-A. (The Housing Workshop, p. 19.) The Draft Housing Element uncritically adopted these parameters, which resulted in the improper exclusion of properties from the Draft Housing Element. (Compare The Housing Workshop, p. 19 with the Draft Housing Element, Sites Inventory List.)

A housing element is required to include land suitable for residential development, including "Sites zoned for nonresidential use that can be redeveloped for residential use, and for which the housing element includes a program to rezone the site, as necessary, to permit residential use, including sites owned or leased by a city, county, or city and county." (Gov. Code, § 65583.2, subd. (a)(4).) Thus, the statute requires the City to include City-owned sites that are currently zoned nonresidential, but could be redeveloped for residential use. The Draft Housing Element follows a similar procedure for Program 21, which rezones 300 East Blithedale from RM3.5 to Downtown Residential, which allows multi-family residential. (Draft Housing Element, p. IV-22.) The parcel is then included under the Sites Inventory for above-moderate housing. (Draft Housing Element, Appendix C [APN 028-233-36].) Thus, the City has included similar programs for some properties, but is completely silent on the omission of others.

Put simply, that properties are "not marketable due to zoning" is both logically and legally irrelevant to whether they are "suitable for residential development" for purposes of the City's RHNA obligations since the definition of "land suitable for residential development" specifically includes properties "[s]ites zoned for nonresidential use that can be . . . rezoned . . . to permit residential use." (Gov. Code, § 65583.2, subd. (a)(4).) The Draft Housing Element fails to provide any explanation for omitting scores of City-owned parcels that could be rezoned for residential use.

This excludes the majority of City-owned sites based on similar arbitrary criteria. First, there are sites already zoned for residential and commercial. The Draft Housing Element states that those City-owned properties zoned residential or commercial, “that are not on the Sites Inventory are due to the parcels being in the right of way or on a highly sloped and forested piece of property in the high fire severity zones.” (Draft Housing Element, p. C-2.) The City fails to provide an explanation of what “being in the right of way” entails and how parcels could physically be in the right of way. Second, the City disregards all religious and public education institutions because “The OA and CF Zoning Districts do not permit residential use on the property.” (Draft Housing Element, p. C-2.) Omitting parcels based on these unsupported criteria results in an overly constricted Site Inventory and artificially limits the City-owned properties that could be developed.

Additionally, the City fails to discuss the other potential development sites identified in the Housing Workshop such as the Boyle Park tennis facilities and a portion of the Mill Valley Municipal Golf Course, which are both zoned O-A and were determined to be potential sites for affordable housing, similar to 1 Hamilton. In fact, the Housing Workshop analysis of Boyle Park states, “From an objective affordable housing development point of view, this is the best of the 4 identified sites.” (The Housing Workshop, p. 9.)

### **III. OTHER FACTORS SHOW THAT THE DRAFT HOUSING ELEMENT IS DEFECTIVE**

The Draft Housing Element ignores several other factors impacting the ability to develop 1 Hamilton. As explained previously, the Draft Housing Element incorrectly assumes that 1 Hamilton could provide 40 units for very low- and low-income housing as zoned. This assumption disregards the obvious conflict with the General Plan and zoning designations, and further fails to consider environmental constraints at the property. The City’s disregard for other parcels, in order to push development at 1 Hamilton, appears to further Mill Valley’s discriminatory housing practices.

#### **A. Baylands Corridor**

Government Code section 65583.2, subdivision (b)(4) requires “[a] general description of any environmental constraints to the development of housing within the jurisdiction[.]” The Draft Housing Element provides, “Those city-owned sites that are zoned residential and commercial that are not on the Sites Inventory are due to the parcels being in the right of way or on a highly sloped and forested piece of property in the high fire severity zones.” (Draft Housing Element, p. C-2.) However, the Draft

Housing Element does not provide an explanation for how environmental constraints may interfere with development at a specific parcel. According to the California Department of Housing and Community Development's ("HCD") Guidance, a local entity must:

Provide in the analysis a general description of any known environmental or other features (e.g., presence of floodplains, protected wetlands, oak tree preserves, very high fire hazard severity zones) that have the potential to impact the development viability of the identified sites. The housing element need only describe those environmental constraints where documentation of such conditions is available to the local government.  
**This analysis must demonstrate that the existence of these features will not preclude development of the sites identified in the planning period at the projected residential densities/capacities.**

(HCD Housing Element Sites Inventory Guidebook, p. 10 [bold added].)

1 Hamilton is adjacent to the County's Baylands Corridor, but the Draft Housing Element completely ignores this fact. This omission is inexcusable given that the City was well aware of this circumstance, and the Housing Workshop determined:

The potential housing site is impacted by its location near the boundaries of the Marin County Baylands Corridor, as described in the County General Plan. This designation identifies uplands adjacent to sensitive wetlands, and requires special biological assessment studies to protect habitat for plants and animals. According to the Marin County General Plan, development sites of between 0.5 and 1 acre require a 30-foot setback from the Baylands boundary.

(The Housing Workshop, p. 8.) The Draft Housing Element fails to acknowledge this environmental constraint. Therefore, even if the City were to rezone the parcel, it may not be able to physically accommodate 40 units.

## **B. Omission of Parcels Located West of Camino Alto**

There are nine affordable housing options in or near Mill Valley. All but one of those properties is located east of Camino Alto, and the ninth is located south of Miller Avenue. Thus, not one is located near downtown. The City now apparently intends to continue its historic segregation of affordable housing by arbitrarily constricting the City-owned properties in the Sites Inventory to 1 Hamilton. This decision excludes several

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potential parcels that could be developed west of Camino Alto such as Boyle Park and the Mill Valley Municipal Golf Course.

The City is well aware of this trend. Multiple public comments provided in the Draft Housing Element illustrate the City's determination to keep affordable housing out of the City center, and push it toward the highway. (Draft Housing Element, Survey 2, pp. 42, 60.) This is also shown in the attached PowerPoint slides previously submitted to the City. (Exhibit C.) All of the City's actions suggest an intent by City officials to keep affordable housing out of the City center and other select wealthy neighborhoods west of Camino Alto.

As previously discussed, the Housing Workshop identified four parcels that it recommended for additional analysis, three were discarded by the City. 1 Hamilton is the only parcel the City chose to include in its Site Inventory. The three parcels it chose to exclude are all located west of Camino Alto. The City has failed to provide any explanation for excluding two of the properties identified in the Housing Workshop.

\* \* \*

The City has arbitrarily erected barrier after barrier in order to single out 1 Hamilton for affordable housing — a parcel with land use and zoning designations that prohibit any and all residential use. By doing so, the City has artificially constricted the potential locations that could be used to meet its RHNA requirements and thereby violates the City's duty to identify all land that is suitable for residential development. The result is an inaccurate, misleading and ultimately unlawful Housing Element that also continues the City's history of segregating affordable housing.

Very truly yours,

**SOLURI MESERVE**  
A Law Corporation

By:



Patrick M. Soluri

cc: Kelsey Rogers, City Clerk (cityclerk@cityofmillvalley.org)  
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Attachments:

Exhibit A February 7, 2022, City Council Staff Report re: 1 Hamilton Drive  
Exhibit B February 4, 2022, Letter re: Public Comments to February 7, 2022, City  
Council Meeting, Agenda Item 6 re: 1 Hamilton Drive  
Exhibit C PowerPoint Slides submitted to the City on July 10, 2022

# **EXHIBIT A**



## STAFF REPORT

**TO:** Mayor and City Council

**FROM:** Danielle Staude, Senior Planner

**VIA:** Patrick Kelly, Director of Planning and Building

**SUBJECT** 1 Hamilton Drive: Receive report from staff on recommended next steps to build affordable rental housing on the northern portion of 1 Hamilton Drive (Assessor's Parcel Number 030-250-01) ("the Property"), which includes: 1) the approval of an Exclusive Negotiating Agreement (ENA) between the City of Mill Valley and EAH Housing; 2) allocation of Affordable Housing Trust Funds in support of the ENA; and 3) approval of Community Outreach Plan.

**DATE:** February 7, 2022

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Approved for Forwarding:

  
Alan E. Piombo, Jr., City Manager

1 **Issue:** Approval of next steps to partner with EAH Housing and conduct predevelopment  
2 activities including but not limited to community outreach, site planning and design, and  
3 environmental review to build affordable rental housing on the northern portion of 1 Hamilton  
4 Drive.

5  
6 **Recommendation:** Staff recommends that City Council receive a report from staff, consider  
7 public comments, and adopt Resolution No. 22-\_\_: A Resolution (ATTACHMENT 1)  
8 authorizing the following:  
9

- 10 1) Execution of an Exclusive Negotiating Agreement ("ENA"/ATTACHMENT 2)  
11 between the City of Mill Valley and EAH Housing to allow the City and EAH to  
12 negotiate with respect to the terms and conditions for the potential ground lease or  
13 sale of property and development of affordable rental housing on the Northern portion  
14 of the 1 Hamilton Property; and  
15

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2) Release and allocate Affordable Housing Trust Funds to support predevelopment activities, including but not limited to community outreach, site planning, design, and environmental review; and

3) Approval of the Community Outreach Plan (ATTACHMENT 3).

**Background:** On September 20, 2021 City Council took action to: 1) declare a portion of the property located at 1 Hamilton Drive as “exempt surplus land” as required under the California Surplus Land Act (Government Code 54220 et seq.) pursuant to Government Code Section 54221(f)(1)(A)<sup>1</sup> and 2) authorize the City Manager to negotiate and draft an Exclusive Negotiating Agreement (ENA) with EAH Housing for the purpose of negotiating the terms and conditions for the potential ground lease or sale of property and development of affordable rental housing on the Northern portion of 1 Hamilton Drive, as described herein.

The EAH Housing Team (“EAH Team”) was selected by City Council on September 20, 2021, based on their qualifications and recommendations of the selection committee (City Manager, Planning and Building Director, two members of the Housing Advisory Committee), which interviewed the EAH Team on September 10, 2021. The EAH Team is comprised of the following firms:

- EAH Housing: Development, property management, and resident services
- Van Meter Williams Pollack LLP: Lead design and architect
- Adobe Associates, Inc: Civil Engineer

As noted during the September 20, 2021, Council meeting, the EAH Team has direct experience in guiding successful public/private partnerships to create affordable housing opportunities within Marin County communities as well as the greater Bay Area and California.

**Discussion:** Staff is returning to City Council to report back on negotiations with the EAH Team to build affordable rental housing on the Northern portion of 1 Hamilton Drive. For purposes of this report, the proposed site for affordable housing will be referred to as the “Property,” whereas the larger 1 Hamilton Drive parcel will be referred to as “1 Hamilton.”

Staff and City Council has acknowledged that a team of experts is required to further determine the number of potential homes that can be placed on the Property, balancing the interests of the

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<sup>1</sup> Because the City plans to ground lease (or sell) the Property for the development of a 100% affordable housing project to persons and families of low or moderate income, the proposed lease (or sale) meets the criteria for “exempt surplus land” under Government Code Section 54221(f)(1)(A), including the following provisions: (a) Not less than 80 percent of the area of the parcel will be used for the development of housing; and (b) Not less than 40 percent of the total number of those housing units developed on the parcel shall be affordable to households whose incomes are equal to, or less than, 75 percent of the maximum income of lower income households, and at least half of which shall be affordable to very low-income households; and (c) Dwelling units produced for persons and families of low or moderate income under Government Code Section 37364 shall be restricted by regulatory agreement to remain continually affordable to those persons and families for the longest feasible time, but not less than 30 years, with such regulatory agreement recorded in the office of the county recorder in which the housing development is located.

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community, construction feasibility, and financing opportunities. The ENA will allow City staff to exclusively partner with EAH Housing to focus on site planning and preliminary design, which includes the relocation of existing restrooms, electric charging station, and public parking (with the goal of providing up to a total of 50 spaces).

The EAH Team is deeply experienced and well-capitalized not-for-profit corporation grounded in the belief that attractive, permanently affordable rental housing is the cornerstone to sustainable communities. Founded in Marin County based on the recognition that housing for all is a cornerstone to a fair and just society, the Developer is one of the oldest and most experienced nonprofit housing management and development organizations in the Country. The architectural team also has a deeply established connection to Marin County and has successfully designed multi-family projects in the area.

The ENA provides EAH Housing with a specific time during which the Property is not available to other parties and sets forth a framework for the selected developer's performance during the ENA period. The ENA also sets forth the City's terms to fund a portion of pre-development studies, necessary because non-profit organizations do not have large amounts of funding for this work. The ENA does not grant any rights related to land use entitlements, project approvals, or any other future City action not specified in the ENA.

Staff recommends that Council adopt the attached Resolution (ATTACHMENT 1) authorizing the City Manager to execute an ENA with EAH Housing in substantially the form attached (ATTACHMENT 2). The resolution also allocates Affordable Housing Trust Funds as part of cost sharing negotiations outlined in the ENA for predevelopment activities as well as approving the Draft Community Outreach Plan to allow the City to kick off site planning and design work with the community. Details about the ENA, proposed outreach and budget are discussed below.

**Exclusive Negotiating Agreement (ENA).** The ENA (ATTACHMENT 2) outlines the general scope, cost sharing, and expectations with respect to predevelopment work and negotiations for a final project and disposition of the site.

The ENA does not commit the City to ground lease or sell the Property nor grant the City's approval of the development of the Property, but rather sets the terms under which the parties will negotiate for a final project and disposition and the predevelopment activities that are necessary to move the project forward towards design. The ENA includes performance milestones and expected schedule for the period needed to design the project. The ENA also outlines the City of Mill Valley's commitment to advance the project, including a loan for certain pre-development expenses such as preliminary design, site planning including relocation of public parking and restrooms.

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The following provides a summary of some key points contained in the ENA:

- Term: The ENA sets out a “Negotiation Period,” which shall extend until September 1, 2023. The City has the option to extend the Negotiation period.
- Milestones: The ENA includes a Schedule of Performance (Exhibit B) which establishes milestones with respect to community outreach, design and entitlements, environmental review, and a financing plan.
- City Responsibilities: City agrees to negotiate in good faith with EAH and not to negotiate with respect to the site with any other parties during the term of the ENA. City also agrees to loan the Housing Team up to \$150,000, to be used towards certain predevelopment costs. Assuming the project is approved, the ENA lays out the terms for repayment. The City also agrees take steps with respect to the zoning and entitlements on the site, which will include hiring various consultants to conduct the environmental review for the project.
- EAH Responsibilities: EAH agrees to negotiate in good faith with the City with respect to the disposition of the site, to share any work product that arises from the predevelopment work with the City, to work with the City on community outreach as described in the Community Outreach Plan, and to meet other specified milestones with respect to due diligence and predevelopment work on the site. If the project is approved, EAH agrees to repay the predevelopment loan issued by the City through project financing.

If Council authorizes the City Manager to execute the ENA, staff and the EAH Housing Team will begin negotiating an agreement for the final disposition of the site, as well as conducting due diligence and predevelopment work. In addition, the City will kick off community outreach, which is discussed below. Once CEQA review and approval of project entitlements occurs, it is anticipated that the City would enter into a development agreement and formal ground lease (or sale) with the EAH Housing Team.

**Community Outreach Plan.** City Council has continued to emphasize the importance of outreach and community participation in the design of the project since its initial discussion on June 21, 2021. The EAH Team is looking forward to kicking off the outreach program to gather input from the community on interests and concerns that will help guide the site planning and design process.

Community outreach is divided into three different phases: 1) information gathering, 2) focused outreach on design concepts and 3) confirming design and assembling materials for the planning and entitlement application. Outreach will begin upon adoption of the resolution. Staff and the EAH Housing Team anticipate hosting the first community workshop in mid-March. This workshop is part of the information gathering stage and will focus on gathering community input on preliminary site planning work, such as the relocation of public parking and restrooms and the overall massing for the site. The workshop will also provide an opportunity for the community to ask questions and identify concerns

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The illustration on page 5 summarizes the overall outreach process and timing. See ATTACHMENT 3 containing the Draft Community Outreach Plan for additional details.

#### Proposed Community Outreach Process and Timeline



**Affordable Housing Trust Fund.** At its June 21, 2021, City Council meeting, Council authorized use of the Affordable Housing Trust Fund to assist in preliminary site investigations. Staff is further recommending that City Council authorize use of the Affordable Housing Trust Funds to assist in the cost sharing of predevelopment activities, as outlined in the ENA. The ENA provides that the City will provide up to \$150,000 to EAH as a predevelopment loan to assist with specified predevelopment costs including site analysis and design. Approval of the resolution will also allow City staff to hire consultants to conduct the environmental review of the proposed project.

Staff believes the \$150,000 loan to EAH for predevelopment activities is appropriate, particularly since the EAH team will be providing design and consultant assistance to plan and design off-street public parking in the surrounding area and the relocation of the public restrooms. The EAH team is also contributing substantial staff time and organizational resources to provide preliminary conceptual designs to support the planning application for Planning Commission and City Council review and approval.

**Environmental Review:** Site planning and preliminary design will help inform the environmental review required for the eventual housing development. The level of environmental review will be determined once the scope of the project is determined.

The resolution before Council is not subject to the California Environmental Quality Act ("CEQA") because the approval of an ENA and the other activities authorized by the resolution are excluded from the definition of a "project" by section 21065 of the Public Resources Code and section 15378(b) of the State CEQA Guidelines. A "project" is an "activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect change in the environment." The proposed actions direct staff to execute an ENA that establishes the contractual agreement to commence negotiations regarding disposition of a portion of 1 Hamilton Drive, as well as initiating preliminary site analysis and design work that will further define an affordable housing development that would constitute a "project" under CEQA. The proposed actions are therefore considered an administrative activity of government which does not result in direct or indirect physical change to the environment. No commitment to any project is being made at this time.

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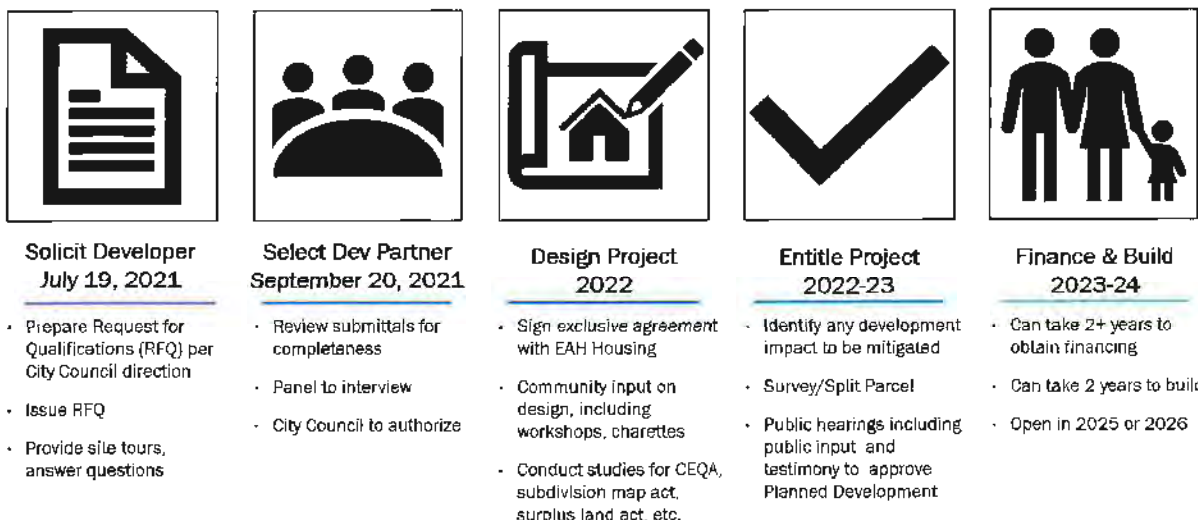
Notwithstanding that there is no “project” for purposes of CEQA, as discussed above, the City’s actions are also covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. CEQA Guidelines § 15061(b)(3). There is no evidence that the City’s agreement to negotiate with a potential affordable housing development partner or undertake predevelopment activities or community outreach will have any direct or indirect effect on the environment, since the City is not committing itself to any final project now and may still decide not to move forward with a project on the site.

CEQA review requirements must and will be completed before any commitment to a housing development occurs and appropriate environmental review pursuant to CEQA will be completed and considered by the City Council at such time.

**Fiscal Impact:** There is no impact to the City’s General Fund. The City intends to authorize Affordable Housing Trust Funds as part of executing the ENA and work on predevelopment activities.

**Next Steps:** Should City Council adopt the proposed resolution; staff will work to execute the ENA. Once the ENA is signed by both parties, staff and the Housing Team will begin site planning and design and kick off the community engagement process. Assuming the project proceeds forward, CEQA review would occur, and Council would later consider project entitlements based on Planning Commission’s recommendations, along with separate agreements with EAH for development and disposition (ground lease or sale) to construct the housing.

**Overview of Next Steps**





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**Attachments:**

1. Resolution No. 22-\_\_\_: Authorizing execution of an Exclusive Negotiating Agreement with EHA Housing, authorizing the allocation of Affordable Housing Trust Funds and approval of the Community Outreach Plan
2. Exclusive Negotiating Agreement
3. Community Outreach Plan

**Online Materials and Resources:**

- Project website: <https://ca-millvalley.civicplus.com/931/Hamilton-Drive>



48       **SECTION 7.** EAH Housing was selected based on a City Council's review of the  
49 selection committee's (City Manager, Planning and Building Director, and two members of the  
50 Housing Advisory Committee, who are City Council and Planning Commission liaisons) review  
51 of their qualifications and responses to interview questions held on September 10, 2021.  
52

53       **SECTION 8.** The City is interested in entering into an Exclusive Negotiating Agreement  
54 ("ENA", attached hereto as ATTACHMENT 2) to establish the mutually acceptable terms and  
55 conditions to guide the process of negotiations for the potential ground lease or sale and  
56 development of affordable housing on the Property consistent with Government Code Section  
57 37364.  
58

59       **SECTION 9.** The ENA does not commit the City to ground lease or sell the Property nor  
60 grant approval of any project or development of the Property, but rather allows the City to  
61 partner with a Housing Team to work with the community to plan and design for the above-  
62 referenced housing.  
63

64       **SECTION 10.** The Mill Valley Municipal Code Section 20.80.070(B) establishes the  
65 Affordable Housing Trust Fund and on March 16, 2020, City Council approved the Affordable  
66 Administrative Guidelines for Housing Trust Fund, whereby the City Council may authorize the  
67 use of Trust Fund monies by way of resolution. The City Council desires to authorize the use of  
68 Affordable Housing Trust Fund moneys for predevelopment costs for the Property including but  
69 not limited to the provision of a predevelopment loan to EAH pursuant to the ENA, as well as  
70 environmental review of the proposed project.  
71

72       **SECTION 11.** The City Council desires to engage in a robust community outreach  
73 process with respect to the potential development of the Property.  
74

75       **SECTION 12.** City Council held a public hearing on February 7, 2022, and considered  
76 the information presented by staff as well as public testimony.  
77

78       **SECTION 13.** The City Council hereby takes the following actions:  
79

- 80       A. Finds that the above recitals are true and correct and are incorporated into this  
81 Resolution.  
82
- 83       B. Authorizes the City Manager to execute an ENA between the City of Mill Valley  
84 and EAH Housing in substantially the form attached, with any minor clerical or  
85 clarifying changes requested by the City Manager and approved by the City  
86 Attorney.  
87
- 88       C. Approves the Community Outreach Plan (ATTACHMENT 3) and authorizes staff  
89 to move forward with a robust program of community outreach to engage citizens  
90 and interested stakeholders. Changes to the Community Outreach Plan schedule  
91 that only impact dates and do not result in a less robust outreach and public  
92 engagement may be approved by the City Manager.  
93

94 D. Authorizes and approves the use of Affordable Housing Trust Fund monies for  
95 the purposes of funding budgetary terms set forth in the ENA and other  
96 predevelopment expenses related to the proposed housing development as  
97 approved by the City Manager.  
98

99 E. That the staff and officers of the City are hereby authorized, jointly and severally,  
100 to take any other such actions as they deem necessary or proper to implement this  
101 Resolution.  
102

103 **SECTION I4.** The City Clerk shall certify as to the adoption of this resolution.  
104

105 **PASSED AND ADOPTED** at a regular meeting of the City Council of the City of Mill  
106 Valley on the 7<sup>th</sup> day of February 2022, by the following vote:  
107

108 **AYES:**

109 **NOES:**

110 **ABSENT:**

111 **ABSTAIN:**  
112

113  
114 \_\_\_\_\_  
John McCauley, Mayor

115 ATTEST:  
116

117 \_\_\_\_\_  
118 Kelsey Rogers, City Clerk / Management Analyst III

## **EXCLUSIVE NEGOTIATION AGREEMENT**

THIS EXCLUSIVE NEGOTIATION AGREEMENT is dated as of \_\_\_\_\_, 2022 (“**Effective Date**”), and is entered into by and between the CITY OF MILL VALLEY, a municipal corporation (“**City**”), and EAH INC., a California nonprofit public benefit corporation (“**Developer**”)(collectively, the “**Parties**”).

### **RECITALS**

- A. The City owns certain property located 1 Hamilton Drive (Assessor's Parcel 030-250-01).
- B. The City desires that a portion of the parcel located at 1 Hamilton Drive---such portion is generally the northern portion of the current parcel more specifically depicted on Exhibit “A”, attached hereto (the “**Site**”)---be developed as a 100 percent affordable housing development.
- C. The City Council of the City of Mill Valley (“**City Council**”) authorized and directed staff to issue a request for qualifications (“**RFQ**”), for an affordable housing project on the Site consisting of 100 percent of the units restricted for rental to very low and low income households at affordable rent on June 21, 2021.
- D. on July 19, 2021 the City of Mill Valley released the RFQ and notified all California Housing Finance Agency certified developers that have notified the California Department of Housing and Community Development of their interest in purchasing or leasing surplus local land for affordable housing development in Marin County or any county in California, and other public entities with possible jurisdiction over the Property. in response to the RFQ EAH Housing submitted qualifications to the City in a timely manner and whereby EAH Housing proposes to ground lease or purchase the Property from the City and develop the Property with 100% affordable rental housing pursuant to Government Code Section 37364.
- E. As noted in the Developer's statement of qualifications, the EAH Team is deeply experienced and well-capitalized not-for-profit corporation grounded in the belief that attractive, permanently affordable rental housing is the cornerstone to sustainable communities. Founded in Marin County based on the recognition that housing for all is a cornerstone to a fair and just society, the Developer is one of the oldest and most experienced nonprofit housing management and development organizations in the Country,
- F. A selection committee consisting of the City Manager, Planning and Building Director, two members of the Housing Advisory Committee (City Council and Planning Commission liaisons) reviewed statement of qualifications submitted in response to the RFQ and conducted interviews on September 10, 2021
- G. On September 20, 2021, the City Council declared the Site “exempt surplus property” pursuant to Government Code Sections 54221(b) and 54221(f)(1)(A) by way of Resolution CC21-51.
- H. On September 20, 2021, the City Council selected the Developer and directed staff to negotiate an Exclusive Negotiation Agreement (this “**Agreement**”) with Developer for the Site based on the Developers qualifications and the selection committee recommendations, as documented in the September 20, 2021 Staff Report, by way of Resolution CC21-52 .

## **ATTACHMENT #2**

I. The Parties intend to cause the Site to be developed under California Government Code Section 37364, which requires that dwelling units be restricted by regulatory agreement to remain continually affordable to low and moderate income households for the longest feasible time, but not less than 30 years, and that such regulatory agreement shall be recorded in the office of the county recorder in which the housing development is located; such regulatory agreement shall not be subordinated to any deed of trust.

J. City desires to increase the availability of affordable housing within the City by causing the development of the Site with approximately 40 units of rental housing that is 100 hundred percent affordable ("**Project**").

K. City and Developer desire to negotiate exclusively with each other regarding the potential terms and conditions of a disposition and development agreement ("DDA") between City and Developer for Developer to acquire and develop the Project on the Site, in accordance with the terms and conditions of this Agreement..

1. Negotiation of DDA. During the Negotiation Period (defined in Section 3 herein) and subject to the terms and conditions of this Agreement, both City staff and Developer shall negotiate the potential terms, conditions, covenants, restrictions and agreements of a DDA for the Site and Project. City agrees not to solicit any other proposals from or negotiate with any other person regarding development of the Site during the Negotiation Period. During the Negotiation Period, Developer shall complete all of the actions described in the "**Schedule of Performance**" attached to this Agreement as Exhibit "B." within the time period specified for each such action in the Schedule of Performance. Nothing in this Agreement shall be interpreted or construed to be a representation or agreement by either City or Developer that a mutually acceptable DDA will be produced from negotiations under this Agreement. Nothing in this Agreement shall impose any obligation on either Party to agree to or approve a definitive DDA in the future. Nothing in this Agreement shall be interpreted or construed to be a guaranty, warranty or representation that any proposed DDA that may be negotiated by City staff and Developer will be approved by the City Council of the City.

2. Developer Acknowledgments. Developer acknowledges and agrees that: (a) under this Agreement, City is not committing itself or agreeing to enter into a DDA or undertake any exchange, sale, lease or other transfer of real property, any disposition of any real property interests to Developer, approve the Project or any land use entitlements or undertake any other acts or activities; (b) no provision of this Agreement shall be deemed to be an offer by City, nor an acceptance by City of any offer or proposal from Developer, for City to convey any estate or interest in the Site to Developer or for City to provide any financial or other assistance to Developer for development of the Project or the Site; (c) Developer has not acquired, nor will acquire, by virtue of the terms of this Agreement, any legal or equitable interest in real or personal property from City; (d) further efforts by either Party to perform due diligence, arrange or obtain financing, or carry out other acts in contemplation of the possible acquisition, transfer or development of the Site or the Project shall not be deemed evidence of intent by either Party to be bound by any terms, conditions, covenants, restrictions or agreements relating to acquisition, transfer or development of the Site or the Project. Developer acknowledges and agrees that City's consideration of the Project and DDA is subject to the sole and absolute discretion of the City Council after conducting environmental review and any and all legally required public hearings, public meetings, notices, factual findings and other determinations and procedures required by law.

3. Negotiation Period.

3.1 Duration. The “**Negotiation Period**” shall begin on the Effective Date and shall expire at 5:00 p.m. Pacific Time on September 1, 2023, unless extended pursuant to Section 4 or earlier terminated pursuant to Section 3.2.

3.2 Termination. This Agreement shall terminate upon the earliest to occur of the following events: (a) the expiration of the Negotiation Period; or (b) the occurrence of an Event of Default by Developer under Section 13.1 of this Agreement, unless such breach is expressly waived in writing by the City; or (c) entry into a DDA by both City and Developer.

4. Extension of Negotiation Period. The City Manager shall have the right to extend the Negotiation Period three times for a period of ninety (90) days each (for an aggregate total of two hundred and seventy (270) days) provided that each such extension is in writing, and provided, further, that Developer is not in default of its obligations under this Agreement and has completed all of the actions described in the “**Schedule of Performance**” which are required to have be performed by Developer as of such date.

5. Possible DDA Provisions.

5.1 DDA Essential Terms and Conditions. The DDA may include provisions addressing all of the following described subjects:

5.1.1 Site Control. The Site may be purchased or leased from City by Developer, or Developer's permitted assignee.

5.1.2 DDA Schedule of Performance. A schedule of performance, attached to the DDA, may set forth deadlines for various actions of Developer.

5.1.3 Scope of Development. The Project is proposed by Developer to include approximately 40 affordable housing units serving households at or below 60% of Area Median Income (AMI) with a minimum parking ratio of 1:1, a plan for replacement and relocation of a minimum of 34 public parking stalls, and a plan for replacing the public restroom if the site area is needed for affordable housing development.

5.1.4 Financing Plan. In connection with the negotiations, the Developer shall submit a plan for financing the construction and operation of the Project to the City for review and approval. Such financing plan shall, at a minimum, include an obligation of Developer to apply for federal tax credits, and such other financing as is necessary in Developer's reasonable discretion to finance the development and operation of the Project, and all such tax credits must be awarded, and tax credit equity committed and available, and all other financing committed, closed and available as conditions to the close of escrow for the sale or lease.

5.1.5 City Financial Assistance. City shall provide up to \$150,000 in the form of a predevelopment loan during the Negotiation Period (the “Predevelopment Loan”) to pay for reasonable documented costs incurred by Developer in completing the tasks required of Developer under this ENA provided the costs are reasonably described in advance in a written budget to be provided by the Developer and approved by the City Manager in writing (“Eligible Expenses”).

Such Predevelopment Loan will bear 0% interest, be evidenced by a promissory note acceptable to City (the “Note”) and will be secured by assignment by the Developer to the City of any work product relating to the Project that have been paid for in

whole or in part using the proceeds of the Predevelopment Loan (the "Work Product"), and the collateral assignment documents and written consents from contractors/architects/engineers and others necessary to effectuate such collateral assignment and assignment to City (upon failure to timely repay the loan) must be acceptable to the City Manager and City Attorney. The Predevelopment Loan shall become due upon the termination of this ENA, or the expiration of this ENA without a DDA being approved and signed; however, the City's sole recourse shall be limited to the Work Product. The City will disburse Predevelopment Loan proceeds to pay for Eligible Expenses on a reimbursement basis, quarterly, and as a condition to the County's disbursement obligation, Borrower will submit a disbursement request package ("Disbursement Request"). Each Disbursement Request shall include any applicable invoice or other documentation indicating the cost to be paid and showing the cost constitutes an Eligible Expense of the Project, dated less than thirty (30) days prior to the date of the Disbursement Request, unless submittal of an older invoice has been approved by the City. It is anticipated that the DDA will provide that the Predevelopment Loan will convert from a predevelopment loan to a below market, 55 year, residual receipts construction/permanent loan secured by the Site (but subordinate to deeds of trust securing any other secured financing necessary for the Project) upon the closing of the Developer's acquisition of the Site pursuant to the terms and conditions of the DDA.

5.1.6 Developer Compliance with Laws. Developer shall comply with the requirements of all applicable City ordinances, resolutions, regulations or other laws or approvals in all aspects (planning, design, construction, noise limits, management, and occupancy) of developing and operating the Project on the Site.

6. License to Enter Site. City authorizes Developer, its contractors, agents and employees to enter the Site during normal business hours for the purpose of performing tests, surveys and inspections, and obtaining data necessary or appropriate to negotiate the DDA or perform investigations related to the Project; provided, however, Developer shall deliver written notice (which may be delivered via electronic mail to \_\_\_\_\_) seventy-two (72) hours prior to City of any such entry and written evidence of Developer's satisfaction of all insurance requirements of this Agreement prior to entering the Site. Developer shall promptly deliver copies of all written inspection results, tests and reports to the City.

7. Costs and Expenses. Except as set forth in Section 5.1.5 and Section 9 hereof, all fees or expenses of engineers, architects, financial consultants, legal, planning or other consultants or contractors, retained by Developer for any study, analysis, evaluation, report, schedule, estimate, environmental review, planning or design activities, drawings, specifications or other activity or matter relating to the Site or the Project or negotiation or documentation of a future DDA that may be undertaken by Developer during the Negotiation Period, pursuant to or in reliance upon this Agreement or in Developer's discretion, regarding any matter relating to this Agreement, a future DDA, the Site or the Project, shall be the sole responsibility of and undertaken at the sole cost and expense of Developer and no such activity or matter shall be deemed to be undertaken for the benefit of, at the expense of or in reliance upon City. Developer shall also pay all fees, charges and costs, make all deposits and provide all bonds or other security associated with the submission to and processing by the City of any and all applications and other documents and information to be submitted to the City by Developer pursuant to this Agreement or otherwise associated with the Project or the Site.

8. No City Approval. Nothing in this Agreement, nor any comments provided by City staff, nor any failure of City staff to provide comments to any submittal under or pursuant to this Agreement shall: (1) modify or replace any land use entitlement process of either the City applicable to the Project, (2) limit the police power land use jurisdiction of either the City relative



to the Project, (3) constitute an approval of all or any portion of the Project by the City pursuant to the police power land use jurisdiction of either the City or (4) constitute any approval of all or any portion of a future DDA with Developer by the City.

9. CEQA Compliance. The Developer acknowledges that all applicable requirements of the California Environmental Quality Act ("CEQA") must be met in order to execute and deliver the DDA and approve project entitlements allowing development of the Site and that this may require reports or analyses for CEQA purposes. In this regard, the City shall, at the City's cost and expense, undertake an Initial Study of the proposed Project pursuant to Section 15063 of CEQA or other appropriate documentation in order to determine the appropriate environmental documents and procedures that may be necessary to comply with CEQA as to the consideration and potential approval of the DDA by the City Council. The Developer hereby agrees to provide all assistance to the City necessary for it to carry out its obligations under CEQA. The Developer will fully cooperate with the City in the preparation of such analyses and reports.

10. City Due Diligence. City reserves the right to reasonably obtain further information, data and commitments to ascertain the ability and capacity of Developer to purchase, lease, develop and operate the Site or the Project. Developer acknowledges that Developer may be requested to make certain financial disclosures to City, City staff, legal counsel or other consultants, as part of the financial due diligence investigations of City relating to the potential sale of the Site and development of the Project on the Site by Developer and that any such disclosures may become public records. City shall maintain the confidentiality of financial information of Developer to the extent allowed by law, as determined by the City Attorney for the City.

11. Developer Indemnity. Developer shall indemnify, defend and hold harmless City, and the elected and appointed officials, officers, agents and employees of City (individually or collectively, an "**Indemnified Party**") against any and all losses arising out of any claim, liability, loss, damage, demand or cause of action, or any action or other proceeding, whether meritorious or not, arising through Developer, Developer's contractors or employees that relates to or arises out of: (i) property damage or bodily injury or death of any person in connection with this Agreement; (ii) entry upon the Site by Developer, its contractors or employees; (iii) any inspection of the Site by Developer, its contractors or employees; or (iv) the preparation of any report or plans commissioned by Developer; provided, however, that no Indemnified Party shall be entitled to indemnification under this Section 10 for matter caused by such Indemnified Party's gross negligence or willful misconduct or for any matter arising solely from the discovery of any pre-existing condition upon the Site. In the event any action or proceeding is brought against an Indemnified Party by reason of a claim arising out of any loss for which Developer is obligated to indemnify, defend or hold harmless the Indemnified Party, and upon written notice from such Indemnified Party, Developer shall, at Developer's sole expense, answer and otherwise defend such action or proceeding. The provisions of this Section 11 shall survive the expiration or termination of this Agreement.

12. Developer Insurance.

12.1 Types of Insurance. Without in any way limiting Developer's indemnification obligations under this Agreement, subject to the other provisions of this Section 12 and subject to approval by City of the insurers and policy forms, Developer shall obtain and maintain, at Developer's expense, the following insurance throughout the Negotiation Period and shall cause City to be an additional insured thereunder:

12.1.1 Liability Insurance. “**Liability Insurance**” means and refers to commercial general liability insurance against claims for bodily injury, personal injury, death, or property damage occurring upon, in, or about the Site or adjoining streets or passageways, at least as broad as Insurance Services Office Occurrence Form CG0001, with a minimum liability limit of Two Million Dollars (\$2,000,000) for any one occurrence and which may be provided through a combination of primary and excess or umbrella insurance policies. If commercial general liability insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the Site or the general aggregate limit shall be twice the required minimum liability limit for any one occurrence.

12.2 Nature of Insurance. All Liability Insurance and Automobile Liability Insurance policies this Agreement requires shall be issued by carriers that: (a) are listed in the then current “Best’s Key Rating Guide—Property/Casualty—United States & Canada” publication (or its equivalent, if such publication ceases to be published) with a minimum financial strength rating of “A-” and a minimum financial size category of “VII”; and (b) are authorized to do business in the State of California by the State of California Department of Insurance. Developer may provide any insurance under a “blanket” or “umbrella” insurance policy, provided that: (i) such policy or a certificate of such policy shall specify the amount(s) of the total insurance allocated to the Site, which amount(s) shall equal or exceed the amount(s) required by this Agreement; and (ii) such policy otherwise complies with the insurance requirements in this Agreement.

13. Restrictions Against Change in Ownership, Management or Control of Developer; Assignment of Agreement.

13.1 Developer Assignment. City and Developer acknowledge and agree that City is entering into this Agreement with Developer on the basis of the particular experience, financial capacity, skills and capabilities of Developer. This Agreement is personal to Developer and is not assignable without the prior written consent of City, which may be given, withheld or conditioned in City’s sole and absolute discretion. Consent to assignment shall be in writing and may be executed by the City Manager.

13.2 Assignment to Project Partnership. Notwithstanding the foregoing, Developer may assign this Agreement, without City’s consent, to a limited partnership in which Developer or a limited liability in which Developer is the sole member acts as the sole and managing general partner of such limited partnership, subject to all of the following conditions: (i) Developer provides the City with at least ten (10) days prior written notice of such proposed assignment, (ii) such limited partnership’s sole purpose is development, ownership and operation of the Project on the Site; (iii) such limited partnership expressly assumes all of the obligations of Developer under this Agreement in a written assumption agreement delivered to and reasonably satisfactory to City; and (iv) Developer shall have delivered the LP-1 and partnership agreement to the City. Notwithstanding any assignment of this Agreement, Developer, shall, at all times, be responsible and obligated directly to City for performance of Developer’s obligations under this Agreement.

13.3 Definitions. For the purposes of this Agreement, the term “**Affiliate**” means any person, directly or indirectly, controlling or controlled by or under common control with Developer, whether by direct or indirect ownership of equity interests, by contract, or otherwise.

14. Developer Events of Default and City Remedies.

14.1 Developer Events of Default. The occurrence of any of the following shall constitute an "Event of Default" on the part of Developer under this Agreement:

14.1.1 Schedule of Performance. Failure of Developer to meet a performance milestone by the applicable date contained in the Schedule of Performance, if such failure is not cured within thirty (30) days after written notice of such failure.

14.1.2 Misrepresentation. Any material breach of any representation or warranty made by Developer in this Agreement that is not cured within thirty (30) days after written notice from City to Developer of such breach.

14.1.3 Unauthorized Assignment. Any assignment or attempted assignment by Developer in violation of Section 12.

14.1.4 Insurance. Failure of Developer to procure or maintain any of the insurance coverage required by this Agreement resulting in a lapse in required insurance coverage.

14.2 City Remedies. If there is an Event of a Default by Developer, City may, in City's sole and absolute discretion, terminate this Agreement by delivering written notice of termination to Developer. Upon any such termination, neither Party shall have any further rights or obligations to the other under this Agreement, except obligations that expressly survive termination of this Agreement.

15. Developer Representations and Warranties. Developer represents, warrants and covenants to and for the benefit of City, as of the Effective Date and at all times during the Negotiation Period, as follows:

15.1 Valid Existence; Good Standing; Joint Venture Relationships. Developer is a nonprofit public benefit corporation duly organized and validly existing under the laws of the State of California. Developer has all requisite power and authority to own its property and conduct its business as presently conducted. Developer has made all filings and is in good standing in the jurisdiction of the State of California.

15.2 Authority. Developer has all requisite power and authority to enter into and perform this Agreement.

15.3 No Limitation on Ability to Perform. Neither Developer's articles of incorporation nor any other organizational document regarding Developer in any way prohibits, limits or otherwise affects the right or power of Developer to enter into or perform this Agreement. Developer is not a party to or bound by any contract, agreement, indenture, trust agreement, note, obligation or other instrument that could prohibit, limit or otherwise affect Developer's entry into or performance of this Agreement. To the best of Developer's knowledge, no consent, authorization or approval of, or other action by, and no notice to or filing with, any governmental authority, regulatory body or any other person or entity is required for the due execution, delivery or performance by Developer of this Agreement or any of the terms or covenants contained in this Agreement. There is no pending or threatened suit or proceeding or undischarged judgment affecting Developer before any court, governmental agency, or arbitrator that might materially adversely affect the enforceability of this Agreement, the ability of Developer to perform the transactions contemplated by this Agreement or the business, operations, assets or condition of Developer.

15.4 Valid Execution. The execution and delivery of this Agreement by Developer have been duly and validly authorized by all necessary action of Developer and others. This Agreement will be a legal, valid and binding obligation of Developer, enforceable against Developer in accordance with its terms. Developer has provided to City a written resolution of Developer's Board of Directors authorizing Developer's entry into and performance of this Agreement.

16. Notices. A notice or communication under this Agreement by either Party to the other shall be sufficiently given or delivered, if in writing and delivered by messenger, overnight air courier or registered or certified first class mail with return receipt requested (for U.S. mailings) to the appropriate Party at its address as follows:

In the case of a notice or communication to City:

City Manager's Office  
City of Mill Valley  
26 Corte Madera Avenue  
Mill Valley, CA 94941  
Attn: Alan Piombo

With a copy to:

Richards, Watson & Gershon  
One Sansome Street, Suite 2850  
San Francisco, CA 94104  
Attn: Inder Khalsa

And in the case of a notice or communication sent to Developer:

EAH, Inc.  
22 Pelican Way  
San Rafael, CA 94901  
Attn: Bianca L. Neumann, Director Business Development

With a copy to:

Bocarsly Emden Cowan Esmail & Arndt LLP  
633 West 5th Street, 64th Floor  
Los Angeles, CA 90071  
Attn: Nicole Deddens

Any mailing address may be changed at any time by giving written notice of such change in the manner provided above at least ten (10) days prior to the effective date of the change. All notices under this Agreement shall be deemed given, received, made or communicated on the date personal receipt actually occurs or, if mailed, on the delivery date or attempted delivery date shown on the return receipt.

#### 17. General Provisions.

17.1 Amendments. This Agreement may be amended or modified only by a written instrument signed by both City and Developer.

17.2 Severability. If any provision of this Agreement, or its application to any person or circumstance, is held invalid by any court, the invalidity or inapplicability of such provision shall not affect any other provision of this Agreement or the application of such provision to any other person or circumstance, and the remaining portions of this Agreement shall continue in full force and effect, unless enforcement of this Agreement as so modified by and in response to such invalidation would be unreasonable or grossly inequitable under all of the circumstances or would frustrate the fundamental purposes of this Agreement. Without limiting the foregoing, in the event that any applicable federal or state law prevents or precludes compliance with any material term of this Agreement, the Parties shall promptly modify, amend or suspend this Agreement, or any portion of this Agreement, to the extent necessary to comply with such provisions in a manner which preserves to the greatest extent possible the benefits to each of the Parties to this Agreement. However, if such amendment, modification or suspension would deprive City or Developer of the substantial benefits derived from this Agreement or make performance unreasonably difficult or expensive, then the affected Party may terminate this Agreement upon thirty (30) days written notice to the other Party. In the event of such termination, neither Party shall have any further rights or obligations under this Agreement except as otherwise provided herein.

17.3 Non-Waiver. No waiver made by either Party with respect to the performance, or manner or time of performance, or any obligation of the other Party or any condition to its own obligation under this Agreement will be considered a waiver with respect to the particular obligation of the other Party or condition to its own obligation beyond those expressly waived, to the extent of such waiver, or a waiver in any respect in regard to any other rights of the Party making the waiver or any other obligations of the other Party.

17.4 Non-Liability. No member, official, agent or employee of City will be personally liable to Developer, or any successor in interest (if and to the extent permitted under this Agreement), in an event of default by City or for any amount that may become due to Developer or successor or on any obligations under the terms of this Agreement. No director, officer, agent or employee of Developer will be personally liable to City in an event of default by Developer or for any amount that may become due to City or on any obligations under the terms of this Agreement.

17.5 Successors and Assigns; Third Party Beneficiary. This Agreement shall inure to the benefit of and bind the respective successors and assigns of City and Developer, subject to the limitations on assignment by Developer set forth in Section 12. This Agreement is for the exclusive benefit of the Parties to this Agreement and not for the benefit of any other person and shall not be deemed to have conferred any rights, express or implied, upon any other person.

17.6 Governing Law. City and Developer acknowledge and agree that this Agreement was negotiated, entered into and is to be fully performed in the City. City and Developer agree that this Agreement shall be governed by, interpreted under, and construed and enforced in accordance with the substantive and procedural laws of the State of California, without application of conflicts or choice of laws principles.

17.7 Compliance with Law. Developer acknowledges that any future DDA, if approved by City governing body, will require Developer (among other things) to carry out the development of the Project on the Site in conformity with all applicable laws, including all applicable building, planning and zoning laws, environmental laws, safety laws and federal and state labor and wage laws.

18. Interpretation of Agreement. No inference in favor of or against any Party shall be drawn from the fact that such Party has drafted any part of this Agreement. The Parties have both participated substantially in the negotiation, drafting, and revision of this Agreement, with advice from legal and other counsel and advisers of their own selection. A word, term or phrase defined in the singular in this Agreement may be used in the plural, and vice versa, all in accordance with ordinary principles of English grammar, which shall govern all language in this Agreement. The words "include" and "including" in this Agreement shall be construed to be followed by the words: "without limitation." Each collective noun in this Agreement shall be interpreted as if followed by the words "(or any part of it)," except where the context clearly requires otherwise. Every reference to any document, including this Agreement, refers to such document, as modified from time to time (excepting any modification that violates this Agreement), and includes all exhibits, schedules, addenda and riders to such document. The word "or" in this Agreement includes the word "and." Every reference to a law, statute, regulation, order, form or similar governmental requirement refers to each such requirement as amended, modified, renumbered, superseded or succeeded, from time to time. Headings at the beginning of each section or sub-section of this Agreement are solely for the convenience of reference of City and Developer and are not a part of this Agreement. Whenever required by the context of this Agreement, the singular shall include the plural and the masculine shall include the feminine and vice versa. Unless otherwise indicated, all references to sections are to this Agreement. All exhibits referred to in this Agreement are attached to this Agreement, unless otherwise specified.

18.1 Entire Agreement. This Agreement (including the attachments and exhibits) contains all of the representations of and the entire agreement between the Parties with respect to the subject matter of this Agreement. Any prior correspondence, memoranda, agreements, warranties or representations relating to such subject matter are superseded in total by this Agreement. No prior drafts of this Agreement or changes from those drafts to the signed version of this Agreement shall be introduced as evidence in any litigation or other dispute resolution proceeding by either Party or any other person and no court or other body shall consider those drafts in interpreting this Agreement.

#### 18.2 Time for Performance.

18.2.1 Expiration. All performance, expiration or termination dates (including cure dates) in this Agreement (including the attached Schedule of Performance) expire at 5:00 p.m., Pacific Time, on the specified date.

18.2.2 Weekends and Holidays. A date that falls on a Saturday, Sunday or City holiday is deemed extended to the next day on which the City is open for performance of general City functions with regular City personnel.

18.2.3 Days for Performance. All periods for performance specified in this Agreement in terms of days shall be calendar days, and not business days, unless otherwise expressly provided in this Agreement.

18.2.4 Time of the Essence. Time is of the essence with respect to each provision of this Agreement.

18.3 Counterparts. This Agreement may be signed in multiple counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

18.4 Survival. Notwithstanding anything to the contrary in this Agreement, each indemnity obligation under this Agreement shall survive expiration or termination of this Agreement. Further all other obligations under this Agreement that arise and were not satisfied before expiration or termination of this Agreement shall survive any expiration or termination of this Agreement.

18.5 Non-Discrimination. Developer covenants by and for itself and its successors or assigns, and all persons claiming under or through it, and this Agreement is made and accepted upon and subject to the following conditions:

18.5.1 Standards. That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (l) of subdivision (p) of Section 12955, and Section 12955.2 of the Government code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Site nor shall Developer, itself, himself or herself, or any person claiming under or through it, him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, subtenants, sublessees, or vendees in the Site.

18.6 Relationship of the Parties. The subject of this Agreement is a private development with neither Party acting as the agent of the other Party in any respect. None of the provisions in this Agreement shall be deemed to render City a partner in Developer's business, or joint venturer or member in any joint enterprise with Developer.

IN WITNESS WHEREOF, City and Developer have signed and entered into this Agreement as of the Effective Date by and through the signatures of their respective authorized representative(s), as follow:

**CITY:**

CITY OF MILL VALLEY,  
a municipal corporation

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Inder Khalsa, City Attorney

**DEVELOPER:**

EAH, INC.,  
a California nonprofit public benefit corporation

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

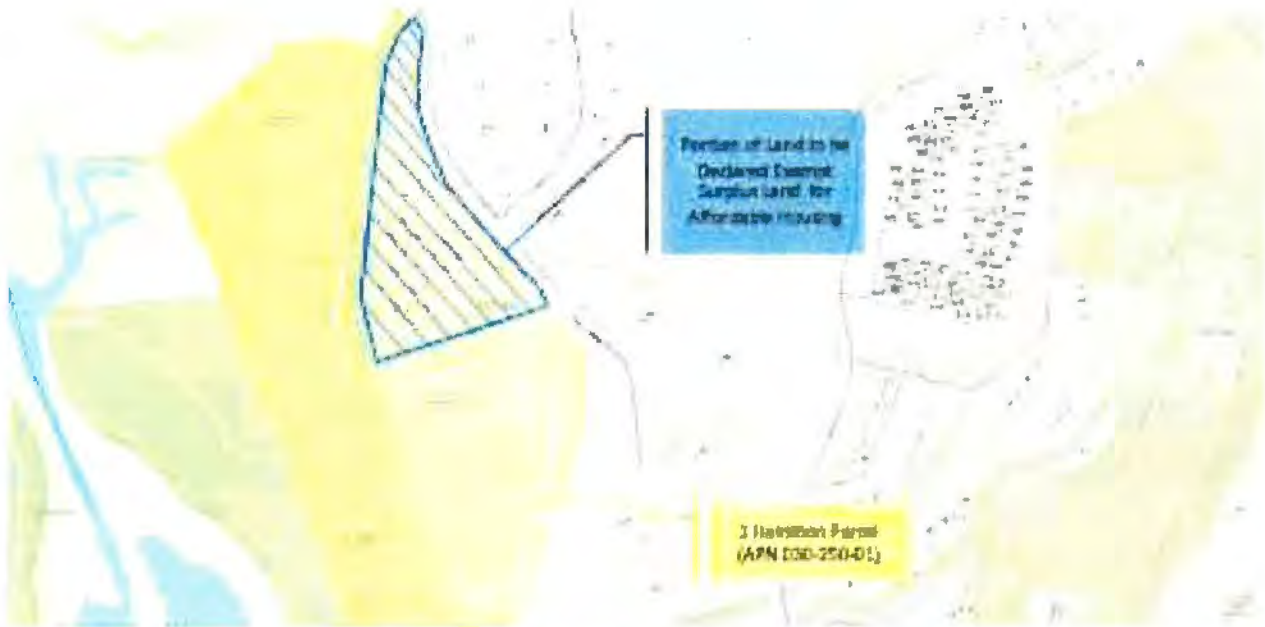


**EXHIBIT "A"**  
**TO**  
**EXCLUSIVE NEGOTIATION AGREEMENT**

Description of the Site

[Attached behind this cover page]

**1 Hamilton Road, Mill Valley**  
**Assessor's Parcel 030-250-01**  
**Approximate Site Area of Affordable Housing Parcel**



**EXHIBIT "B"**  
**TO**  
**EXCLUSIVE NEGOTIATION AGREEMENT**

Schedule of Performance

[Attached behind this cover page]

**Schedule of Performance**

**Re: 1 Hamilton Road, Mill Valley**

**Scope: Exclusive Negotiation Agreement period (February 2022 to March 2023\*)**

**Exclusive Negotiation Agreement**

Executed Agreement	Feb. 2022
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**Community Outreach**

Community Outreach Plan	Feb. 2022
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Outreach to Community Groups: Small Targeted Discussions to Identify Community needs	Feb. 2022 to Sept. 2022
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Community Meeting 1: Introduction to team and project concept	Feb. 2022
---	-----------

Community Meeting 2: Interactive Input	April 2022
--	------------

Community Meeting 3: Report out, project changes, and integrations of community input	June 2022
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Community Meeting 4: Pre-Submittal Design	Sept. 2022
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**Design, Rezoning, and Entitlements**

Initial Site Plan and Fit Studies	Dec. 2021 to Feb. 2022
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Schematic Design	Feb. 2022 to July 2022
------------------	------------------------

Pre-Entitlement Package	Sept. 2022
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Entitlement Submittal	Feb. 2023
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General Plan Amendment for Rezoning	Feb –June 2023
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**\*Environmental**

Environmental Phase 1	Feb. 2022
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Geotechnical Reports	March 2022
----------------------	------------

Environmental Phase 2 (if required)	April 2022
-------------------------------------	------------

CEQA and NEPA Approval	Jan. 2023 to Aug. 2023
------------------------	------------------------

## Finance

City Predevelopment Loan  
(*approved with ENA*)

Feb. 2022

Financing Concept

March 2022

Financing Plan

June 2022

## Land Dispossession Agreement

March 2023

\* Above assumes a mitigated negative declaration. Should a full EIR be required entitlement process could take up to 24 months. Schedule for Initial Study will be determined in coordination with the selected environmental consultant; overall project schedule will be determined upon completion of an initial study.

# Community Outreach & Engagement Plan

Updated: January 14, 2022

## Overview

EAH and Van Meters William Pollack (the development team) recognize that community participation is a critical component of the planning process. Providing the opportunity for public input encourages citizens to be invested in the future of their community. The public outreach and engagement plan describes how community members, project partners and stakeholders will be engaged throughout the planning and design process. The outreach and engagement plan serves as a guide for community involvement and is subject to change based on input received.

## Approach

### PHASE 1: Information Gathering

Identify key stakeholders and document neighborhood and community interests and concerns regarding the development of the 1 Hamilton site. This first phase usually consists of one community meeting to kick off the project, followed by small informal focus group meetings with community stakeholders.

The purpose of this phase is to assess the areas of community interest, and shape outreach materials accordingly.

### PHASE 2: The Focused Community Outreach

Engage community residents and stakeholders to participate in design discussions, which include input and feedback on design concepts to refine the site plan and architectural details.

The goal of this phase is to obtain consensus on a preferred site plan and schematic design concept which will be submitted to the City for review and approval.

### PHASE 3: Entitlement Package Submittal and Support

Provide on-going support to assist in the development review and approval process. Attend public hearings and document community support for the project.

### PHASE 4: Ongoing Community Outreach

EAH Housing staff will continue to reach out to our neighbors long after project approval, from site development, construction, and through full occupancy. We pride ourselves on being an active and supportive partner in the communities where we develop and manage affordable housing. We consider our community outreach program as the first step in a long-term relationship between EAH and our neighbors.

## ATTACHMENT #3

## **Communication Methods**

Our methods for communication are adaptive and flexible to reach the broadest segment of the population. Utilizing both analog and digital platforms, the development team will find the means to inform and engage the community in the development process. Dependent on Covid guidelines and community preference, some or all these methods can be utilized.

### Analog

**Direct Mail:** will be sent to residents within a defined catchment. Information will include upcoming community meetings and opportunities to provide input on the proposed development and information on general project updates.

**Door to Door:** information on the development and events can be delivered on doorsteps. Our development team can visit local businesses, community centers, and churches to provide information on the future development.

**Local Newspapers:** ads can be placed in local newspapers to inform the community about upcoming meetings and provide general information on the future project and general development updates.

**Community Events:** the development team can attend local community events, such as street fairs, to engage and inform the community about the future project.

**Small Focus Groups:** the development team will meet with small local targeted groups, such as the immediate neighbors Friends of Hauke Park, Sustainable Mill Valley, etc. to discuss specific concerns or questions regarding the future development.

**In-Person Community Meetings:** the development team will have community meetings to publicly discuss the development process and the specific elements of the future development project.

### Digital

**Direct Email:** will be sent to those that sign up for our email list. Information shared will include upcoming community meetings, opportunities to provide input on the proposed development (examples: surveys or planning meetings), and general project updates.

**Project Website:** will provide general information on the proposed development, including a site map, affordability information, project team and contacts, upcoming events, general development timeline, frequently asked questions, and the ability to sign-up for project updates.

**Online Community Groups:** information can be shared via local online community forums such as Nextdoor and/or local Facebook groups.

**Online Community Meetings:** the development team can have community meetings using an online platform to publicly discuss the development process and the specific elements of the future development project.

## **Planned Community Meetings**

The meetings below are the general guide to the types of community meetings we will have and the projected timeline. Additional meetings can be added. More specifically, community meetings 2 & 3 can be an iterative process with multiple rounds of community input and reporting.

At all community meetings, there will be assigned note-takers to capture community comments. Questions and answers will be shared via the development webpage.

### **Community Meeting 1: Project and Team Introduction**

**When:** March 2022

**Location:** Mill Valley Community Center (or online\*)

**Goal:** Lay out existing site conditions and opportunities, introduce the project and project team, and collect community questions and concerns.

**Format:** Formal presentation followed by an open house with stations addressing specific topics

#### **Description:**

The project team will give a short formal presentation introducing themselves, the project, and the format for the open house. At each topic station, there will be a subject matter expert and a note-taker. Individuals will be encouraged to visit stations, ask questions and give feedback on the various topics discussed below.

**Information Stations.** Break out rooms, or informational stations, will be used to collect input and answer questions on the following:

1. Affordable Housing Overview- What is affordable housing, rents, incomes, and how households qualify for affordable housing.
2. Development timeline and process.
3. Replacement of current uses- parking and bathroom relocations options.
4. Conceptual Design- views, massing, and site plan overview.
5. EAH property management and services.
6. Other topics areas, as needed.

\*If online breakout rooms will be used in place of stations.

### **Focus Group Input: Small group meetings**

**When:** Between kick off and Workshop 2

**Location:** Varies

**Goal:** Address specific concerns associated with site design and layout. Talk to direct neighbors and take suggestions for further view impact evaluations.

**Format:** Varies. May include online surveys or meetings on-site with the project team to discuss neighborhood concerns, led by the Architect, VMWP.

#### **Description:**

Information gathering to discuss the site layout, including affordable housing opportunities, concerns about view impacts, replacement parking, and circulation, and park restroom. The project team will document expressed concerns and take requests into design considerations.



### **Community Meeting 2: Initial Concepts**

**When:** April 2022

**Location:** Mill Valley Community Center (or online\*)

**Goal:** Present initial concept and collect community feedback

**Format:** A formal presentation followed by a design charrette.

#### **Description:**

The development team will present 2-3 concepts for site layout. For each of the concepts, the tradeoff will be presented regarding the number of homes created, parking, and massing. The team will also provide an initial overall replacement plan illustrating options for replacement parking and circulation and relocation of the park restroom. The community will then be asked to participate in a design charrette providing feedback on elements and suggestions for improvements.

The development team will collect all community comments and integrate, where feasible, into the next iteration of the design concept.

\*If online breakout rooms will be used for virtual design charrette, with survey questions for design elements.

### **Community Meeting 3: Project Concept Update**

**When:** June 2022

**Location:** Mill Valley Community Center (or online)

**Goal:** Layout the feedback received at the previous meeting and how those suggestions have been integrated into the updated project concepts to establish consensus for the project design concept.

**Format:** Formal presentation and question and answer session followed by an open house with stations addressing specific elements of the development.

#### **Description:**

The development team will present the consensus or preferred option with small sub-options for the development as well as for surrounding potential public improvements to parking and circulation and park restroom. Time will be taken to lay out how the design was arrived at based on the community input from the previous design charrette. Once the formal presentation is completed, community members will be given the opportunity to ask questions in an open forum.

After the open forum, community members will be invited to explore stations addressing specific elements of the project's development to ask questions, provide feedback, and provide solutions. Examples of stations that may be included are parking and traffic, site plan, and/or architectural design (style or optional styles) for the development.

\*If online, breakout rooms will be used in place of stations.

#### **Community Meeting 4: Pre-Submittal Design**

**When:** September 2022

**Location:** Mill Valley Community Center (or online)

**Goal:** Provide a final opportunity for community comment and prior to preparing entitlement package

**Format:** Formal presentation and open form question and answer session.

#### **Description:**

The development team will present the refined design, which is intended for submittal for design review and the zoning and general plan amendment process. It provides the community an opportunity to see the submitted proposal before the design review and provide final comments to the development team.

#### **Ongoing Small Group Meetings**

**When:** February to September 2022

**Location:** Various

**Goal:** Address specific concerns in small group settings to build consensus and support.

**Format:** Small group meetings in person or via an online platform.

#### **Description:**

The development team will continue to work with local organizations to inform and engage them in the development process for the future development at 1 Hamilton Drive.

# **EXHIBIT B**



tel: 916.455.7300 • fax: 916.244.7300  
510 8th Street • Sacramento, CA 95814

February 4, 2022

**SENT VIA EMAIL** (cityclerk@cityofmillvalley.org)

Kelsey Rogers, City Clerk  
City of Mill Valley  
Mill Valley City Hall  
26 Corte Madera Avenue  
Mill Valley, CA 94941

**RE: Public Comments to February 7, 2022 City Council Meeting,  
Agenda Item 6 re: 1 Hamilton Drive**

Dear Ms. Rogers:

This letter transmits additional comments regarding Agenda Item 6, a proposed Exclusive Negotiating Agreement (“ENA”) with a developer for residential development at 1 Hamilton Drive (“Project”). Our prior letter, dated February 2, 2022, raised concerns that the City’s approval of the ENA commits the City as a practical matter to the Project without first conducting CEQA review in violation of CEQA. (*Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116, 132 (*Save Tara*)). Our further review of surrounding circumstances reinforces this concern.

We reviewed the City’s staff report for Item 6, Housing Element Update, which revealed additional troubling information about the City’s commitment to the Project. Specifically, a comment letter by the Mill Valley Affordable Housing Committee (“MVAHC”) states, “1 Hamilton shows up on the counts but not on the map. However, we are very encouraged that it ***clearly shows up as a cast-in-stone commitment*** in this chart.” (Item 5 staff report, Attachment 3, p. 2, emphasis added.) While it is unclear what chart is described, MVAHC’s understanding that the City’s commitment is “cast-in-stone” cannot be ignored. These facts bring the present situation even closer to that addressed in *Save Tara*:

Circumstances surrounding City’s approval of the agreements confirm City’s commitment to the 1343 Laurel project. In aid of Laurel Place’s HUD grant application, the city manager told the federal agency City “has approved the sale of the property” and “will commit” up to \$1 million in financial aid. Once the grant was awarded, City’s mayor announced it “will

be used” for Laurel Place’s project, and the City newsletter stated that, using the grant, City and Laurel Place “will redevelop the property.” City officials told residents who opposed the project that while “variations” on the proposal would be entertained, City “must continue on a path that fulfills this obligation” to redevelop the property for senior housing. Similarly, at the May 3, 2004, city council meeting, City’s housing manager stated that while there were “options to consider” regarding project design, options for other uses of the property (as a park, library, or cultural center) had already been ruled out.

(*Id.* at 141–142.)

MVAHC’s understanding of the City’s “cast-in-iron” commitment to the Project is unfortunately reinforced by our ongoing inquiry into the City’s claimed analysis of alternative project sites. The City has repeatedly asserted that it analyzed 75 different City-owned parcels. FOHP members were skeptical because they received information suggesting that the City was trying to limit new affordable housing to the less affluent side of town, east of Camino Alto, where all of the existing affordable housing is located. This prompted us to submit a Public Records Act (“PRA”) request to the City, explaining, “FOHP is concerned about the process and criteria utilized by the City of Mill Valley (‘City’) to seemingly decide upon the 1 Hamilton Drive site, adjacent to Hauke Park, as the City’s preferred location for the Project.”

We have now reviewed 2,068 pages produced by the City in response to our PRA request. Far from dispelling our concerns about an improper analysis for selecting viable sites, the documents produced to date support our concerns. While the City claims that it analyzed in detail 71 different City-owned sites, the City’s records only identify 11 such sites. (See Exhibit 1, memo from Danielle Straude from Janet “Re: Analysis of Tax-Exempt Sites for Affordable Housing Development” dated February 10, 2021 (“Site Analysis Memo”), pp. 7, 18.) The City’s document production does not even identify the remaining 64 sites, much provide detailed analysis of their suitability.

We note the Site Analysis Memo identifies an additional 37 sites “for potential sale.” (Exhibit 1, Site Analysis Memo, p. 19.) The City has never clarified, however, whether these additional 37 sites “for sale” are included in the 75 sites purported analyzed for development. Even if they are included, the total of 48 sites (11 sites for development and 37 sites for sale) falls well short of the claimed 75 sites that were analyzed. In this scenario, 27 sites remain completely undisclosed.

Kelsey Rogers, City Clerk  
City of Mill Valley  
February 4, 2022  
Page 3 of 3

The City's failure to document its analysis of 64 (or 27) of the 75 claimed potential housing sites is consistent with FOHP's concern that 1 Hamilton Drive has been selected for impermissible reasons.

In light of these troublesome developments, the City needs to stop the "bureaucratic and financial momentum" inexorably leading to an unlawful commitment to 1 Hamilton Drive in violation of CEQA. (*Id.* at 130.) Nothing requires the City to rush ahead with the Project at this time in this manner. Indeed, the City is now performing a comprehensive site analysis as part of the Housing Element update as described in the Item 5 staff report. The only legitimate path forward, which would comply with applicable law and restore public confidence in the City's decision-making process, is for the City to follow the process identified for its Housing Element Update.

Very truly yours,

**SOLURI MESERVE**  
A Law Corporation

By:



Patrick M. Soluri

PMS/mre

Attachment: Exhibit 1, February 10, 2021 Site Analysis Memo

cc: John McCauley, Mayor ([jmccauley@cityofmillvalley.org](mailto:jmccauley@cityofmillvalley.org))  
Jim Wickham, Vice Mayor ([jwickham@cityofmillvalley.org](mailto:jwickham@cityofmillvalley.org))  
Urban Carmel, Councilmember ([ucarmel@cityofmillvalley.org](mailto:ucarmel@cityofmillvalley.org))  
Sashi McEntee, Councilmember ([smcentee@cityofmillvalley.org](mailto:smcentee@cityofmillvalley.org))  
Stephen Burke, Councilmember (c/o [cityclerk@cityofmillvalley.org](mailto:cityclerk@cityofmillvalley.org))  
G. Inder Khalsa, City Attorney ([gkhalsa@rwglaw.com](mailto:gkhalsa@rwglaw.com))

# **EXHIBIT 1**

**To:** Danielle Straude, Senior Planner, City of Mill Valley  
**From:** Janet Smith-Heimer, The Housing Workshop  
**Re:** Analysis of Tax-Exempt Sites for Affordable Housing Development  
**Date:** 2-10-21

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## Introduction and Summary of Findings

This memo summarizes an initial analysis of a list of approximately 75 parcels of land owned by the City of Mill Valley, for the purposes of identifying a short list of parcels suitable for potential affordable housing development. In addition, the analysis for this memo included a review of all other identifiable property tax-exempt parcels located within City limits (e.g., owned by Marin Open Space, Marin Municipal Water District, several religious organizations, etc.). The source for identifying tax-exempt parcels, the County Assessor's database, lists all land parcels in Mill Valley by identifying number, size, owner, and tax-exempt or taxable status.

The analysis of publicly-owned/tax-exempt land parcels was commissioned by the City of Mill Valley, and prepared under the guidance of City staff and the Housing Advisory Committee. Following discussion of this initial analysis, The Housing Workshop will conduct an in-depth financial analysis of potential housing projects on two of the best-suited sites to demonstrate feasibility and facilitate potential next steps by the City.

### ***Purpose of the Analysis***

This initial study phase was conducted with two objectives: to identify City-owned or other tax-exempt parcels that could be developed into affordable housing, and to identify any parcels that could potentially be monetized (e.g., sold or leased) by the City to private parties to raise local funds that could help subsidize affordable housing projects. The review of City-owned properties aligns well with policy initiatives promoted by housing policy experts as well as the State of California, to leverage publicly-owned land assets to address the current housing crisis. This memorandum does not outline or analyze housing affordability issues in Mill Valley; several key resources to further explore those issues are referenced in Appendix A of this memorandum.

Leveraging publicly-owned land assets by making them available, typically at reduced or no cost to a non-profit affordable housing developer, is a direct method of subsidizing and creating this type of development, which otherwise faces major challenges in acquiring developable land and



raising sufficient funding to build new units. In other words, eliminating the time and cost of acquiring land (because it is contributed by a city or public agency to a project), immediately reduces the need for funding by 20 to 40% of total project cost, depending on the cost of that land. This concept, sometimes called “land write-down,” was used very successfully throughout California for decades through local redevelopment agencies tasked with funding new affordable housing projects. Nearby examples of this concept can be found in San Rafael and other Marin locations.

### ***Summary of Findings***

As detailed in the following memorandum, the initial analysis concluded the following:

- Among the numerous City-owned parcels, just 4 sites were identified for further analysis, including:
  1. Public Safety Building/Hauke Field Parking Lot
  2. Boyle Park Tennis Courts
  3. Portion of Edgewood (aka Mill Valley Reservoir)
  4. Portion of Mill Valley Golf Course along Linda Vista Drive
- The factors affecting this conclusion – parcel size, degree of slope, recreation/open space designations, and environmental constraints – render many of the subject parcels infeasible for multifamily affordable housing development.
- A review of other non-City owned, tax-exempt parcels indicates that there are likely no short-term opportunities to partner with property owners.
- There are limited opportunities to monetize City-owned parcels, due to likely infeasibility of creating retail single family lots matching zoning requirements for parcel size. Three parcels that may yield up to 10 lots in total were identified as potentially saleable, but require further analysis to determine their marketability and value. It should also be noted that raising funds for potential use as subsidy in future projects does not directly resolve the lack of available project development sites.

Next steps in the study process will include preparing a financial analysis for 2 of the 4 sites identified as having near-term development potential for affordable housing. If these sites “pencil,” The Housing Workshop will recommend a series of future actions to undertake City-sponsored affordable housing development on those sites.

## Affordable Housing Development Challenges in Mill Valley

There are several key development constraints facing Mill Valley's publicly-owned parcels, all of which were converted into criteria to apply to the list of parcels for the analysis. These are summarized below.

### ***Current Zoning Designations***

Mill Valley owns numerous tracts of land used for active recreation (e.g., ballfields, tennis courts) along with extensive networks of trails, gardens, public parks, and designated open space areas with heritage trees. These recreation/open space lands are treasured by residents, and are considered important parts of Mill Valley's quality of life.

The community valuing of recreation/open space, and the balancing of potential development versus conservation for recreation/open space, have long been codified in the City's General Plan land use and zoning designations. The balancing of competing goals, such as development versus recreation/open space, is a tension that occurs in every city in the Bay Area. This current analysis does not seek to alter these land use designations; the work conducted every 8 years to prepare the City's Housing Element Update is meant to address those larger policy questions.

**Criteria Used in Analysis.** With a few exceptions as described later in this memorandum, the City-owned sites analysis considered a current zoning designation of Open Space as a given, thereby not permitting any new multifamily housing development. The few exceptions described later in this memorandum represent potential building sites located within larger open space areas, sited to be on frontage roads so as to not disturb recreation/open space enjoyment.

### ***Parcel Size and Development Density***

In Mill Valley, even though the City owns parcels of various sizes throughout the city, these assets are not easily identifiable on the ground. Mill Valley, with its desirable location, climate, and lifestyle, has long been “built-out,” meaning no obvious tracts of undeveloped land await development. The downtown layout, primarily in a historic village pattern, further limits development opportunities on publicly-owned parcels.<sup>1</sup>

A review of Mill Valley’s zoning designations indicates that the City’s most dense category of residential development caps out at 29 dwelling units per acre, with these opportunities generally located in the downtown center. This density typically translates into a 3-story multifamily building with surface parking.

For 100% affordable housing projects (including housing for very low, low, and moderate income households), the California Density Bonus Law (found in California Government Code Sections 65915 – 65918) provides developers with a substantial “density bonus” of an 80% increase in density. For Mill Valley’s current most dense residential zone category, this would yield projects with a density of 52 units per acre (1.8 X 29).

Almost all affordable rental housing developers seek yield and scale in their projects (in terms of number of units), due to the complexities and cost involved in creating these projects. In Mill Valley, this combination of relatively low maximum allowable density and typical parcel size mean that even with a density bonus, almost all professional organizations will not be able to expend the time and resources necessary to develop on very small parcels.<sup>2</sup> In addition, even post-development, most affordable housing projects require an on-site property manager living in one of the units, which is generally not sustainable in terms of operating costs in projects with less than 40 units, although exceptions to this rule of thumb can be found for slightly smaller projects if management is shared by the same owner with another small project nearby. The result of these scale and yield considerations means that parcels likely to attract a qualified affordable rental housing developer would need to be at least 0.75 acres (which would yield 39

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<sup>1</sup> It should be noted that downtown Mill Valley has numerous examples of privately-owned parcels that are currently underutilized (e.g., aging one-story commercial structures and/or underutilized parking lots). While these parcels were not analyzed directly in this memorandum, they should be reconsidered as potential housing or mixed-use sites during the City’s upcoming Housing Element update process, because downtown infill locations typically create very desirable locations with services for multifamily projects. These kinds of projects also serve to activate streets, bring new shoppers, and contribute to a vibrant village center.

<sup>2</sup> Some for-profit developers of market-rate housing are able to develop on small parcels, due to the typical high profit margins available in a higher-value area such as Mill Valley. Yield and scale affect these two housing segments differently.

units per acre if zoned for 29 units and the maximum density bonus were applied).

**Criteria Used in Analysis:** Due to the resulting infeasibility of affordable housing development on small parcels, City-owned parcels less than 0.75 acres are considered not developable for this purpose. However, separately, some of these smaller sites may have monetary value to raise funds for a project located elsewhere, and are assessed in this memorandum for that purpose.

### ***Degree of Slope***

Due to topography, location near sensitive wetlands, areas which experience flooding, and other environmental factors, Mill Valley sites require a fine-grained assessment to determine physical development feasibility. This analysis focuses on two key physical factors: slope and floodplain/floodway status.

Steep slopes adversely affect affordable multifamily development in several ways, all of which combine to increase project costs without an ability to obtain compensation through commonly-used funding sources. Costs rise in steep slope situations because of extra site grading, design challenges, accessibility challenges for people with disabilities, and seismic safety structural mitigations. In addition, often steep slopes face erosion and other constraining soil conditions, all of which also add to project costs. Most affordable housing developers will seek other opportunities elsewhere that do not pose these increased cost risks.<sup>3</sup>

**Criteria Used in Analysis:** Sites with an average slope greater than 10% were considered infeasible for affordable housing project development. However, there are a few exceptions noted later in this memorandum, where site visits indicated that flatter building pads may exist among large parcels with otherwise average steeper slopes.

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<sup>3</sup> It should be noted that these slope-related factors do not necessarily constrain high value new construction townhouse or single-family homes in the same way; these types of buildings can often maximize views and/or incorporate other creative design features on steeply-sloped lots, adding value to offset increased costs.

### ***Floodplain/Floodway Status***

Some portions of Mill Valley’s flatter, more developed sections are affected by several waterways which can reach impactful flood stages currently defined by the Federal Emergency Management Agency (FEMA) as having a 1% chance of flooding each year (formerly called “100 year floodplain”). In simple terms, these areas require annual flood insurance premiums, which add to the operating costs in affordable projects. In some subzones of these areas, FEMA recommends architectural and engineering methods to reduce flood damage; while these may add to construction costs, they can sometimes be incorporated without creating project infeasibility (such as raising the dwelling areas above flood levels with parking on the ground floor).

In other floodplain areas, based on waterway hydrology and topography analyses, FEMA designates certain portions as Floodways, which means any building placed on the site needs to be designed so that its structure does not demonstrably impede receding water flow in the event of a flood. In simple terms, this requirement is in place to ensure that floodwaters can flow, unimpeded by structure, causing more damage elsewhere. Building housing structures in floodways is therefore quite difficult to infeasible, and sites in FEMA-designated floodways are not recommended for further consideration by the City of Mill Valley.

**Criteria Used in Analysis:** Parcels with a FEMA floodplain designation of “AE” or “AO” are considered as possible for development (albeit not ideal), while parcels designated as Floodway are considered not feasible for affordable housing development.

The results of applying the above criteria to the City-owned and other tax-exempt parcels are described in the following section with supporting tables included as Appendices B through D.

## Potential City-Owned Affordable Housing Development Sites

The approximately 75 City-owned parcels were evaluated based on criteria outlined above, including a minimum size of at least 0.75 acres and an average slope of 10% or less.

A summary of the resulting “short list” of potentially developable affordable housing sites is shown below. Each of these sites was also visited in-person by The Housing Workshop and evaluated further per other potential site or regulatory constraints, as described below.

**Table 1: City-Owned Sites with Potential Feasibility for Multifamily Affordable Rental Housing**

Site #	Site Location	APN	Acres	Avg Slope (%)	Zoning	Flood-plain (a)	Flood-way	# of Units (b)	Notes
1	1 Hamilton Public Safety Building parking lot serving Hauke Field	030-250-01	0.75	10.0%	Open Area (O-A)	No	No	22-39 units	Site size estimated (part of larger parcel). Needs design study to confirm suitable building pad with sufficient distance from Bayland Corridor boundary. Parcel would require subdivision and rezoning.
2	Portion of Boyle Park Tennis courts and part of field behind it	029-212-24, possibly part of another parcel	0.80	< 10%	Open Area (O-A)	No	No	23-41 units	Site size estimated (portion of Boyle park inc. 5 tennis courts and field/parking lot at end of East Drive)
3	Edgewood (MV Reservoir)	046-070-02, 046-061-52	4.37	24.6%	Open Area (O-A)/Single Family (RS)	No	No	29-52 units	Site size and location estimated (part of larger parcel). Review of 1967 grant deed shows covenant to keep as a park. This parcel is relatively large and has some slope areas, so a portion could be removed from covenant w MMWD agreement. Yield estimate assumes 1 buildable acre within larger sloped site.
4	Portion of Mill Valley Golf Course along Vista Linda Drive	029-131-07	45.68	16.5%	Open Area (O-A)	AO	No	22-39 units	Site would be portion along Vista Linda Drive/ edge of golf course. Yield assumes a .75 acre parcel could be identified. May require relocation/redesign of nearby golf hole. Yield may be reduced depending on parcel shape and golf course safety requirements.

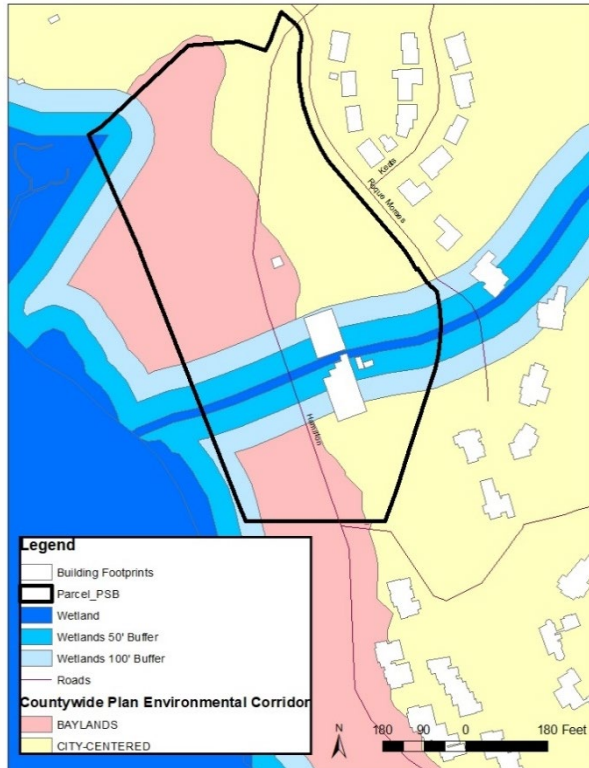
**Notes:**

a) AE and AO indicate location in FEMA floodplain. AE indicates FEMA has established baseline flood elevation, but a project could be designed to accommodate.

AO indicates shallow sheet flooding without known baseline, but could be established and designed for. Both types would also require flood insurance.

b) Low end of range assumes zoning for 29 units/acre. High end assumes application of state density bonus law (80% bonus for 100% affordable projects), which would yield 52 units/ acre.

**Site 1: Public Safety Building/Hauke Field Parking Lot**

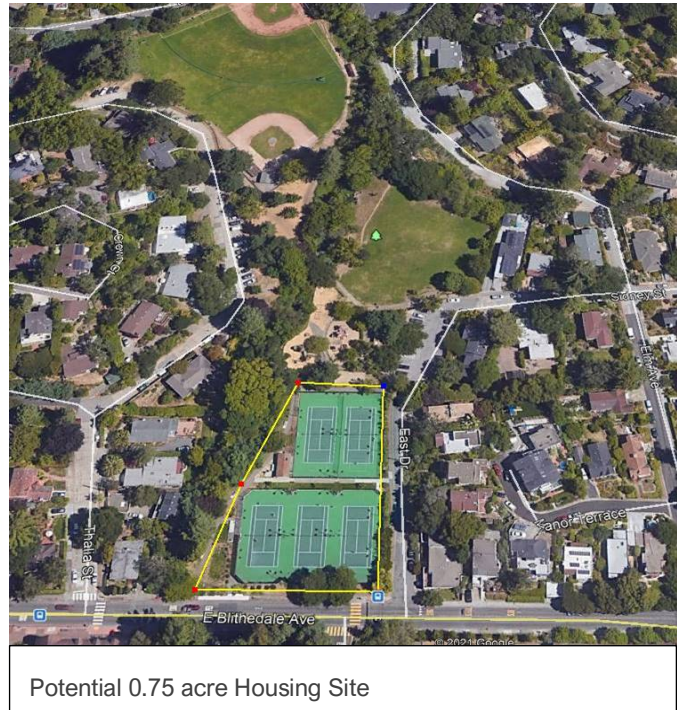
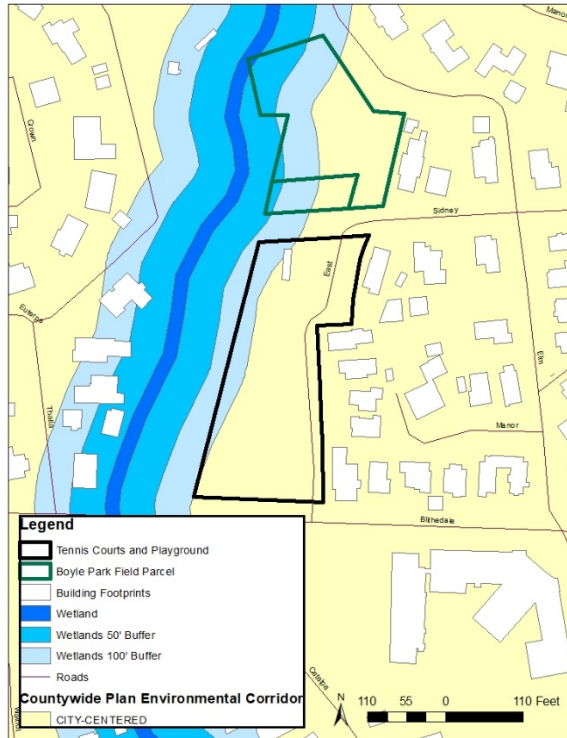


Potential 0.75 acre Housing Site

This potential housing site lies adjacent to the City’s Public Safety Building complex, on its northern side. This area currently provides parking and restrooms for recreation fields located nearby. The potential housing site is impacted by its location near the boundaries of the Marin County Baylands Corridor, as described in the County General Plan. This designation identifies uplands adjacent to sensitive wetlands, and requires special biological assessment studies to protect habitat for plants and animals. According to the Marin County General Plan, development sites of between 0.5 and 1 acre require a 30-foot setback from the Baylands boundary. Until further biological and survey studies can be conducted, it is assumed the identified housing site could provide 0.75 acres for development, creating sufficient scale to develop a physically feasible project. Current restrooms and parking area for Hauke Field may need to be relocated elsewhere on the PSB site.



**Site 2: Portion of Boyle Park**

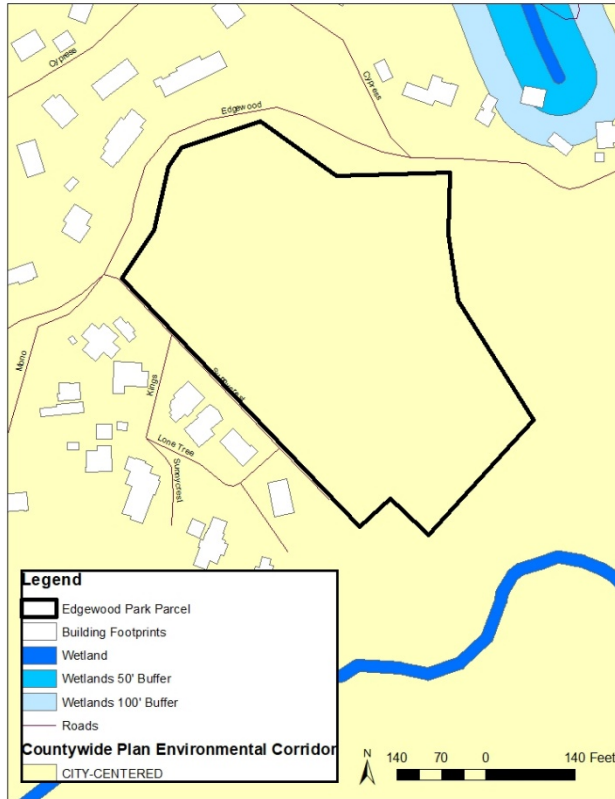


This site would be subdivided and developed in the portion of Boyle Park containing 5 tennis courts, along E. Blithedale Avenue. While reducing recreational facilities for Mill Valley's residents is less than ideal, this site is included in this memorandum because it would create a sufficiently-sized and shaped parcel in a pleasant residential neighborhood without prohibitive environmental constraints (e.g., floodplain, sensitive habitat, etc.). From an objective affordable housing development point of view, this is the best of the 4 identified sites. As described in this memorandum, identifying sites with sufficient size and yield, that also do not create extraordinary cost challenges, means that other tradeoffs would need to be made to leverage public lands.

As shown in the map on the left, although not in a floodplain or floodway, the tennis courts are located near sensitive wetlands, and would need to be designed carefully to allow for the medium blue 50 foot buffer. The lost tennis courts could potentially be relocated elsewhere in this part of Mill Valley or designed to be placed on the roof of the new housing project with separate public access provided.



## Site 3: Edgewood (aka Mill Valley Reservoir)

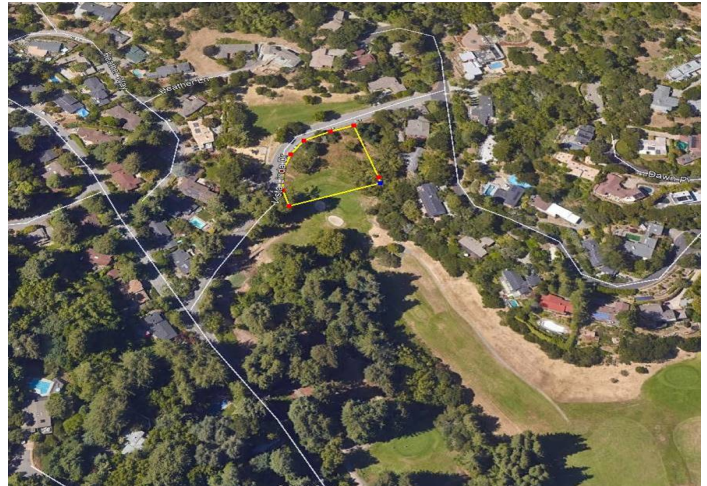
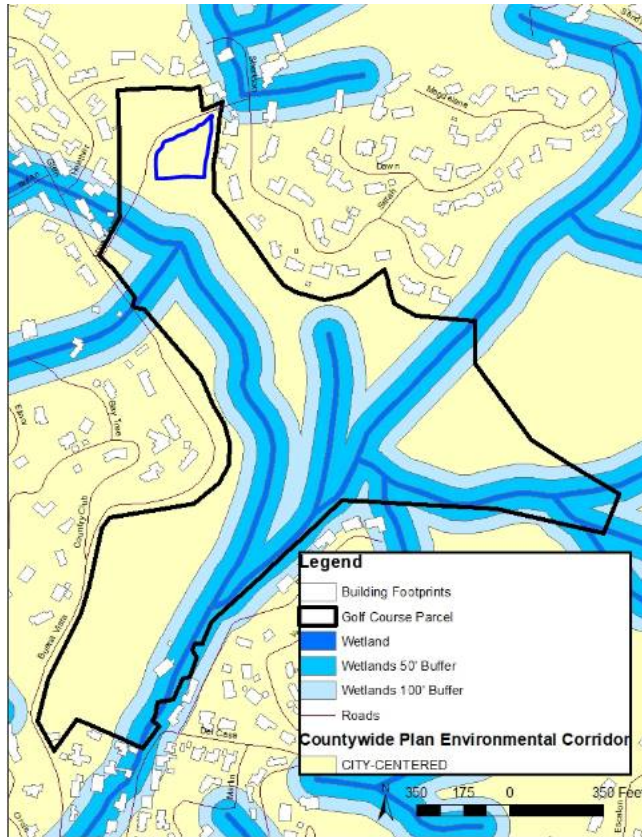


Potential 1 acre Housing Site

The Edgewood parcel contains over 4 acres, with portions containing steep slopes. The site is used as an informal open space area but has not been improved as a public park. Based on topographic map review, it is estimated that a 1-acre or more buildable portion with a feasible slope could be identified. Another development constraint is that this site was deeded by the Marin Municipal Water District to the City in 1967, with a covenant in the recorded deed that the site be maintained by the City and used as a park. However, since this site has not been improved as a park and given the age (50+ years) and nature of the grand deed, it may be possible to amend the deed to remove this covenant for a portion of the site through agreement with the MMWD.

The strategy outlined above has the additional benefit of creating a buildable parcel of 1 acre or more, allowing for a higher unit yield than the other tightly-fitted 0.75 acre sites which limit unit yield with no room to spare. In addition, it may be possible to improve other portions of this site as a park, providing new benefits to the surrounding community in exchange for supporting the 1 acre portion for use as affordable housing.

**Site 4: Portion of Mill Valley Municipal Golf Course**



Potential 0.75 acre Housing Site

The Mill Valley Municipal Golf Course was purchased by the City from a private owner in the 1930s and has been operated by the City since that time. It has reportedly suffered operating losses in recent years. However, any change in use status of the golf course as a whole will require a more lengthy discussion than the scope of this memorandum, and cannot be addressed here. Thus, as the City considers the future of the 45 acre, 9-hole course, for this memorandum a portion of its greenway buffering along Linda Vista was identified that may be suitable for multifamily affordable housing development in the near term.

It should be noted that the potential housing development site shown above, is across the street along Linda Vista Drive from a recently-proposed public parcel currently used as a playing field, which engendered substantial community resistance to any development. In addition, further design of a potential building site as shown above may impact the adjacent golf hole; research indicated that 9-hole courses typically require 20 to 48 acres of land, so at 45 acres, the Mill Valley course may well be reconfigurable in this section to accommodate the housing site.

### ***City-Owned Sites Considered as Infeasible For Development***

Appendix B provides a summary of six additional City-owned sites which were of sufficient size to consider, but have other constraints making them infeasible for near-term multifamily rental housing at affordable levels. These constraints are outlined below.

**City Hall/Fire House Parking Lots.** The first set of 3 lots are the parking lots and open space surrounding City Hall, including the entry parking area between City Hall and the Mill Valley Market, the back parking lot behind City Hall, and the open space on the far side of the historic fire house adjacent to City Hall. As noted in Appendix B, these parcels are either too small and/or in the case of the back parking lot, designated a Floodway. The table notes that either of the “side” parcels could be developed as a small number (2 to 3) moderate income ownership townhouses, with the most practical site on the open space adjacent to the fire house. This product type does not require an on-site property manager and thus can be developed at a smaller unit yield. These are often more challenging to finance, since many of the commonly-used funding sources such as Low Income Housing Tax Credits do not apply; however, with City-contributed land, there are ways to arrange for this type of housing. In the even the fire house itself were no longer needed, that historic structure could also likely be rehabilitated and converted to possibly 2 more townhouses.

**Historic Depot Plaza.** This 0.77 acre site is the paved, improved Plaza along with a long, linear parking lot bordering the Plaza area adjacent to and behind the historic Depot in downtown Mill Valley. Although the site is large enough to yield a feasible affordable housing project, it functions as a vital public gathering place, along with much-needed parking for downtown merchants. As such, it would require extensive further study such as a downtown parking study, and likely an urban redesign plan, to replace any public gathering plaza lost to development.

**Public Parking Lot Behind D’Angelos.** The parking lot behind D’Angelos, accessed from Throckmorton in downtown Mill Valley, has an infeasible configuration due to its linear alley-style parking abutting other buildings. This shape renders the site infeasible for housing of any type.

**Community Center Parking Lot.** The parking lot adjacent to the Mill Valley Community Center, a portion of which currently contains solar panels, is located partially within or near the Baylands Corridor boundary, meaning that only approximately a 0.5 acre potential development site could be identified. This site size is infeasible for affordable rental housing, as described previously. In addition, the soils on this property are reportedly experiencing substantial subsidence; thus, further soil and biological assessments would need to be conducted to determine if any portion



could be suitable for development. It is likely that a best-case scenario would yield a small developable parcel, which could be used to construct moderate income ownership townhouses.

**Public Parking Lot at 411 Miller Avenue.** The City-owned parking lot at 411 Miller Avenue offers a good rectangular set of parcels, albeit at an insufficient size for affordable multifamily residential development (smaller than the 0.75 acre threshold). In addition, a substantial portion of the site is located in a FEMA-designated Floodway, rendering new development infeasible. However, due to recent flood improvements in the area, there may be the possibility of requesting a change to the FEMA designation (which may also benefit other parcels that are privately-owned along Miller and adjacent locations such as Sloat Nursery. This would require relatively expensive hydrology studies to demonstrate to FEMA that the current situation has been improved and the Floodway finding in the area no longer applies. This process, including the necessary studies, may be fundable by state or local grants. The City should consult with the Flood Control District to ascertain next steps. If the Floodway designation could be removed, the City-owned portion, with approximately 0.54 acres, would become suitable for moderate income ownership townhouses, which do not require an on-site property manager.

## Other City-Owned Parcels

Appendix C shows a summary of dozens of other city-owned parcels deemed infeasible for near-term affordable housing development for one or more of the following reasons:

- Average slopes greater than 10%, with site visits confirming steep slopes throughout parcel
- Small site size below 0.75 acres, limiting yield
- Other prohibitive environmental conditions (see Appendix C)

### ***Potential to Monetize City-Owned Parcels***

Among these infeasible-for-development parcels, there were several that may have potential value if offered for sale as a single family lot, as noted in Appendix C. The criteria used to identify salable lots were size and zoning; the parcel must be at least 6,000 square feet (the minimum single family lot size for new construction in Mill Valley) and zoned as some form of residential use. The zoning factor was applied because it is unlikely for retail lot purchasers to undertake a zoning change, especially when most of these parcels are zoned as highly-treasured Open Space.

The value of parcels potentially marketable for single family use involved analyzing sales of single family retail lots in Mill Valley that have occurred over the past 3 years (see Appendix D). As shown, the sales ranged widely, depending on slope (and cost of grading), location, size, and marketing assertions about “approved plans.”<sup>4</sup> Because the 3 City-owned parcels identified as sufficient in size and zoning to create marketable lots shown in Appendix C are all zoned to require a minimum lot size of 1.5 acres per unit, a total of 10 potential retail lots could be identified on these 3 parcels, with a maximum retail lot value after broker commission and other selling costs was conservatively estimated at up to \$1,000,000 per lot.

This analysis yields a potential total value of up to \$10,000,000, but will very likely decline when more detailed site assessments are conducted to ascertain availability of utilities, identification of building sites amongst the very steep slopes, and other factors impacting marketability and value.

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<sup>4</sup> “Approved plans” described in listing descriptions were not confirmed with the City, and are assumed to contribute only minor additions to value.

## Other Tax-Exempt Parcels with Affordable Housing Development Potential

In addition to the direct potential to develop affordable housing on City-Owned parcels, Mill Valley contains numerous parcels owned by other tax-exempt agencies, non-profits, and religious organizations. These parcels were reviewed for size and slope, along with known likelihood of interest in providing land for development.

The following criteria were used to exclude tax-exempt parcels from further consideration:

- Parcels owned by Marin Open Space
- Parcels owned by Marin Municipal Water District
- Parcels owned by public school districts (which may have potential development sites, but should be considered first by the school district)

Remaining non-City owned tax-exempt parcels, described below, are owned by utilities (AT&T) and religious organizations. These parcels may have some longer-term potential for collaboration with the City of Mill Valley for affordable housing development.

### ***Mt. Tamalpais United Methodist Church (410 Sycamore Avenue)***

The church provides worship services along with childcare and other community services in a



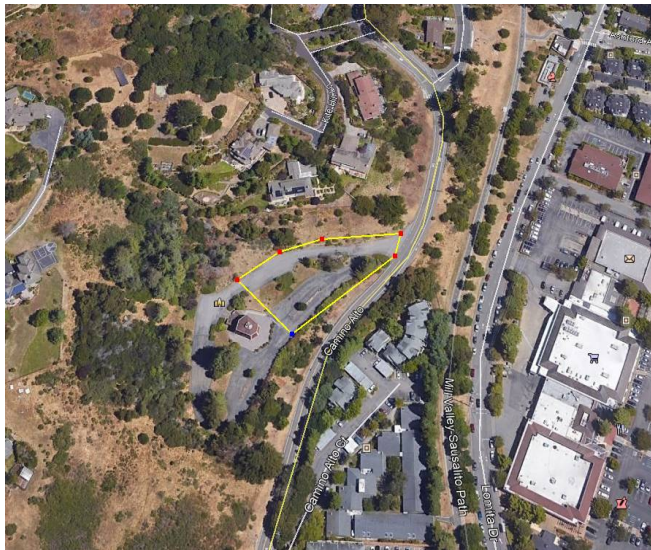
complex of buildings on a relatively large site. While the complex could possibly be envisioned in a reconfigured layout that could incorporate an affordable housing project (a possible 0.75 acre site is outlined in yellow), it is a challenging process, particularly given several environmental constraints including location near the sewage treatment plant making the site potentially unsuitable for

new housing development. In addition, other buildings currently on the site would likely need to be demolished but the functions in them could be incorporated into a housing project (e.g.,

ground floor childcare facility and/or meeting rooms). The leadership of this church may be interested in partnering with the City for housing but does not have near-term plans to undertake such an initiative.

***First Church of Christ, Scientist, Mill Valley (279 Camino Alto)***

This church sits atop a knoll with substantial land devoted to parking, open space, and



circulation. The building itself, pictured here, is relatively small but with sweeping vistas in keeping with a spiritual center. The site could be potentially reconfigured to place a 0.75 acre housing site on it that would be located beyond the requisite wetland buffer, as shown in yellow outline here. However, this would require new access driveways and reconfigured parking lots. It is not known if the leadership of this institution would be interested in collaborating with the City of Mill Valley.

***AT&T Building (300 E. Blithedale)***

This site contains an historic Tudor-style 3-story commercial building on a 0.48 acre parcel, which in the past has housed both telephone operations and small commercial tenants. Its current occupancy and use are not known, although it is still owned by AT&T. The building size and condition for potential rehabilitation into affordable housing are not known. Adjacent to the building is another parcel owned by AT&T configured as a parking lot to serve the building; however most of the parking lot lies in a floodway, constraining future development. If the City wished to collaborate on the building site, it or a development partner would need to most likely purchase the site from AT&T at market rates, thereby losing the benefit of leveraging publicly-owned property as a direct subsidy to a project.

## Appendix A: List of Plans and Other Resources

Marin Countywide Plan 2007 (County General Plan)

<https://www.marincounty.org/depts/cd/divisions/planning/2007-marin-countywide-plan>

Marin County Housing Element Information (for unincorporated areas of Marin County only)

<https://www.marincounty.org/depts/cd/divisions/housing/housing-element>

Mill Valley 2040 (City of Mill Valley General Plan)

<https://www.cityofmillvalley.org/gov/departments/building/planning/longrangeplannig/default.htm>

City of Mill Valley Housing Element Update 2013-2023 (note: the City will soon be updating the Housing Element for the next 8-year cycle)

<https://www.cityofmillvalley.org/civicax/filebank/blobdload.aspx?BlobID=24590>

About FEMA Flood Zones (portal to many web pages)

<https://www.fema.gov/glossary/flood-zones>

FEMA Information on Changing Flood Zone Maps (relevant for 411 Miller Ave Floodway)

<https://www.fema.gov/flood-maps/change-your-flood-zone>

Additional Explanation of FEMA Flood Zones AE AO, and Floodways Related to Insurance

<https://www.amica.com/en/products/flood-insurance/what-is-an-ae-flood-zone.html>



## Appendix B: Infeasible City-Owned Lots Due to Size, Environmental, or Configuration Factors





Site Location	APN	Acres	Avg Slope (%)	Zoning	Flood-plain (a)	Flood-way	# of Units (b)	Notes
30 Corte Madera City Hall Portion of Parking Lot (by Fire Dept)	028-014-06	0.14	5.3%	O-A	AE	No	2-3 townhouses	Small site but could potentially be a few aff townhouse units
26 Corte Madera City Hall Portion of Parking Lot (by MMarket)	028-014-21	0.19	6.4%	C-D	AE	No	2-3 townhouses	Small site but could potentially be a few aff townhouse units
26 Corte Madera City Hall and Back Portion of Parking Lot	028-014-16	0.49	6.5%	O-A	AE	Yes	N/A	Floodway makes infeasible
Plaza & Parking Lot	028-013-15	0.77	1.3%	Downtown Commercial (C-D)	AE	No	N/A	Site is public plaza plus has long, narrow parking lot, which makes it challenging to design a housing project without eliminating vital downtown space. Reconfiguring developable area by adding portion of private parking lot next door on sunnyside was considered, but that parcel is in Floodway.
Parking Lot behind D'Angelos	028-061-35	0.71	8.1%	Downtown Commercial (C-D)	AE	Yes	N/A	Small street frontage, narrow lot, units would abut other buildings. Very hard to design as infill.
Portion of Com Center parking lot	030-111-09	0.50	2.0%	Community Facilities (C-F)	mixed No/AE	No	7-10 moderate income townhouses	Buildable site is smaller than parking lot due to location of Bayland Corridor boundary and required 50' setback. Site also likely has soil subsidence issues. Replacement parking may also need to be arranged. Needs further analysis.
411 Miller Miller Parking Lot	030-271-70, 030-071-28	0.54	<2.5%	Open Area (O-A) & Commercial (C-N)	AE	Yes	7-10 moderate income townhouses	Site is impacted by existing Floodway designation, but recent improvements have enable a change by FEMA. Would require hydrology studies to demonstrate and obtain change.
Notes:								
a) AE and AO indicate location in FEMA floodplain. AE indicates FEMA has established baseline flood elevation, but project could be designed to accommodate.								
AO indicates shallow sheet flooding without known baseline, but could be established and designed for. Both types would also require flood insurance.								
b) Assumes townhouse development at approximately 15-18 units per acre..								

## Appendix D: Other City-Owned Parcels for Potential Sale

(Includes all City-Owned Parcels > minimum single family lot size of 6,000 square feet)

Location	APN	Acres	Gross Square Feet	Avg Slope (%)	Zoning	Flood- plain (a)	Flood- way	Allowed # of Units	Notes	# of Lots	Per Lot	Total
Camino Alto and Stanton Way . Not maintained by DPW	033-102-18	5.25	228,690	42.0	RSP-5A	No		1 DU/1.5 acres	steep slope	3	\$1,000,000	\$3,000,000
Vasco Court / Corner of Edna Maguire	033-240-15	0.86	37,462	16.3	RSP-2A	No		1 DU/1.5 acres	Does not meet zoning			
Vasco Court / Corner across from Edna Maguire / Creek runs through property/ Bike Path	033-240-01	0.49	21,344	20.0	RSP-2A			1 DU/1.5 acres	Does not meet zoning			
Tenderfoot Trail/Zig Zag Trail. Not maintained by DPW	046-010-25	18.59	809,780	46.2	RSP-10A	No		1 DU/1.5 acres	Trail site			
Corner of Tenderfoot trail. Land Locked/ No Access. Not maintained DPW	046-010-34	0.41	17,644	40.2	RSP-10A			1 DU/1.5 acres	Does not meet zoning			
Marsh/Margurite ROW Creek runs through site two ways.	027-272-01	0.23	9,924	19.4	RS-43	AO		7 DU/acre	Difficult to develop			
Tenderfoot trail. Not maintained by DPW	046-030-29	9.70	422,532	42.2	RS-10A	No		1 DU/1.5 acres	Nested in trails	6	\$1,000,000	\$6,000,000
Fern Canyon. Not maintained by DPW	027-066-40	2.07	90,155	61.1	RS-10A			1 DU/1.5 acres	May be 1 lot. Steep slope.	1	\$1,000,000	\$1,000,000
Next to 226 Rose. Not maintained by DPW	027-252-43	0.49	21,300	72.8	RS-10			7 DU/acre	very steep slope; likely not marketable			
Miller Grove/AE Floodway	029-101-01	11.70	509,865	20.0	O-A	AE	Yes	N/A	Floodway. Not marketable.			
Fern canyon (near old railroad grade). Not maintained by DPW	027-066-50	7.89	343,688	63.9	O-A			N/A	Not marketable due to zoning.			
cascade park (lovell and cascade)	027-106-09	7.40	322,344	24.2	O-A	AE		N/A	Not marketable due to zoning.			
Marsh/Ralston Drive/Blithedale Canyon. Not maintined by DPW	027-033-29	6.80	296,208	36.6	O-A	No		N/A	Not marketable due to zoning.			
Edgewood/Cypress/Rose. Not maintained by DPW	046-320-01	5.47	238,273	62.4	O-A			N/A	Not marketable due to zoning.			
Park/Warner Canyon (Buena Vista/Camelita)	029-192-16	4.99	217,165	11.0	O-A	AE		N/A	Not marketable due to zoning.			
Fern canyon (near old railroad grade). Not maintained by DPW	027-280-03	4.01	174,676	53.7	O-A			N/A	Not marketable due to zoning.			
MonteVista / Tenderfoot trail. Not maintained by DPW	027-162-01	3.84	167,160	49.1	O-A	No		N/A	Not marketable due to zoning.			
tenderfoot trail. Not maintained by DPW	046-030-20	3.22	140,263	39.9	O-A	No		N/A	Not marketable due to zoning.			
Evelyn/Cascade Damn. Not maintained by DPW	046-010-14	3.02	131,551	49.2	O-A	No		N/A	Not marketable due to zoning.			
Golf Club House	029-084-01	2.26	98,446	33.1	O-A	No		N/A	Not marketable due to zoning.			
Old Mill Park (lower)	028-102-12	2.08	90,605	16.4	O-A	AE	Yes	N/A	Not marketable due to zoning.			
MonteVista / Tenderfoot trail. Not maintained by DPW	027-161-26	2.00	87,120	57.5	O-A			N/A	Not marketable due to zoning.			
Old Mill Park (upper near structure/bathrooms)	028-091-09	1.73	75,359	13.6	O-A	AE		N/A	Not marketable due to zoning.			
Cascade/Throckmorton. Not maintained by DPW	027-161-15	1.39	60,600	48.7	O-A	AE		N/A	Not marketable due to zoning.			
Sycamore/Corner of MVMS/MMWD Easement	030-161-12	1.33	58,000	14.8	O-A	No		N/A	Not marketable due to zoning.			
Molino /Cascade (Other side of Old Mill Park). Not maintained by DPW	028-132-09	1.04	45,344	59.4	O-A			N/A	Not marketable due to zoning.			
Cascade/Throckmorton. Not maintained by DPW	027-161-05	1.00	43,512	47.0	O-A	AE		N/A	Not marketable due to zoning.			
MonteVista/Earnscliff Park	027-235-28	0.90	39,282	30.9	O-A	No		N/A	Not marketable due to zoning.			
Norris Memorial Park (Molino/Helens). Not Maintained by DPW	028-161-02	0.65	28,509	30.9	O-A	No		N/A	Not marketable due to zoning.			
Fairway Drive (near Golf Course). Not maintained by DPW. Between RS-10 SFR. Could be split into two lots and sold?	029-161-47	0.59	25,760	34.5	O-A	No		N/A	Not marketable due to zoning.			
Narrow ROW near Azalea/Camino Alto and Pathway. Not maintained by DPW	033-112-01	0.53	23,000	29.4	O-A	No		N/A	Not marketable due to zoning.			
Library and back off/AE Floodplain. Maintained by DPW	028-091-11	0.48	20,757	23.8	O-A			N/A	Not marketable due to zoning.			
Norris Memorial Park (Molino/Helens). Not Maintained by DPW	028-161-01	0.41	17,650	34.2	O-A			N/A	Not marketable due to zoning.			
MonteVista / Tenderfoot trail. Not maintained by DPW	046-030-23	0.39	16,944	46.5	O-A	No		N/A	Not marketable due to zoning.			
Sycamore/ROW/AE Floodplain. 18' wide.	030-101-22	0.27	11,765	10.2	O-A	AE		N/A	Not marketable due to zoning.			
Norris Memorial Park (Molino/Helens). Not Maintained by DPW	028-161-03	0.16	6,825	46.1	O-A			N/A	Not marketable due to zoning.			
Behind 700 East Blithedale/ Roque Mar /AE Floodplain. 47' wide	030-124-11	0.16	7,171	34.9	C-G	AE		29 DU/acre	Too small for cost of building in flood plain unless combined with 700 Blithedale			

## Appendix D: Recent Single Family Lot Sales

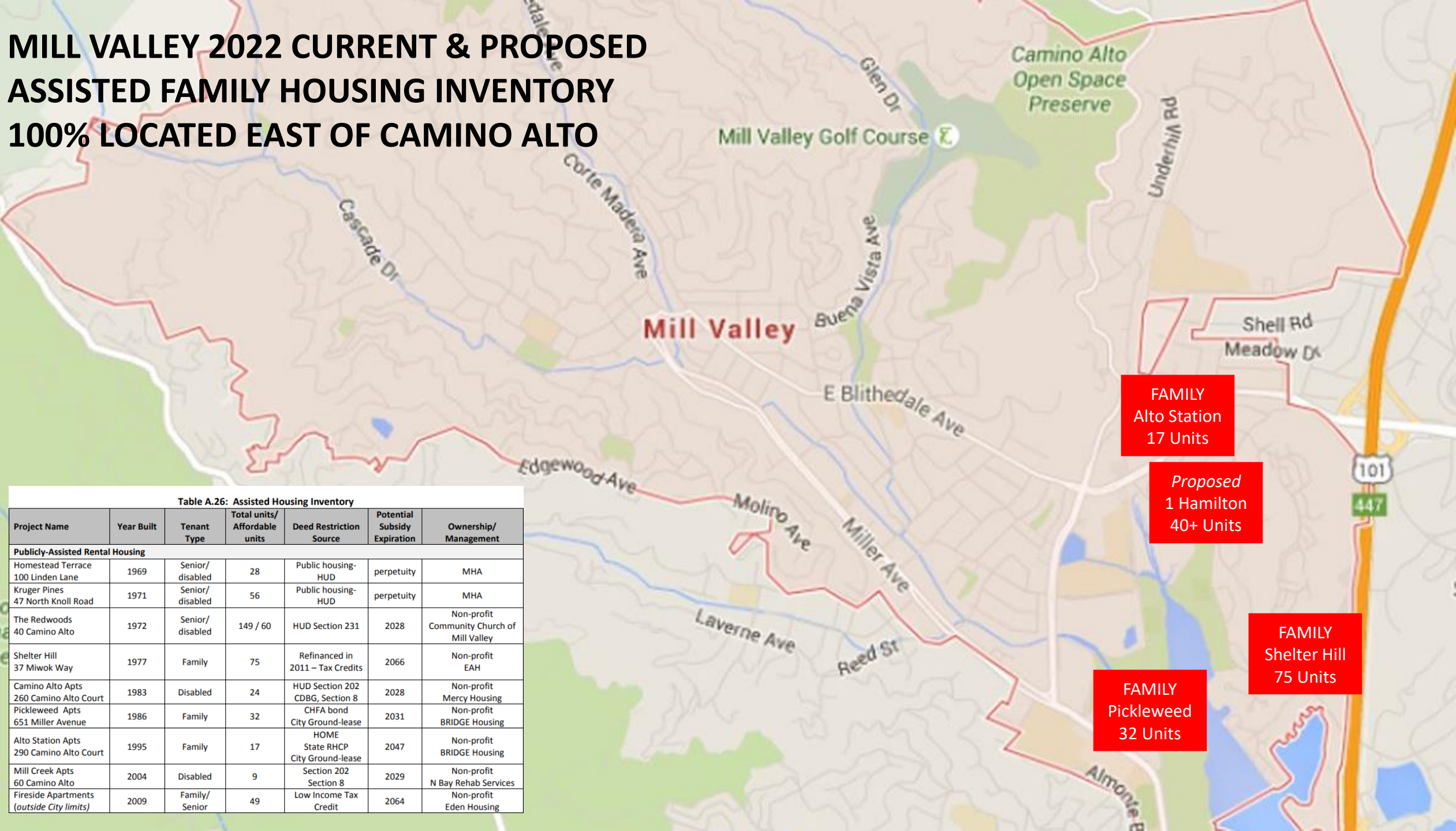
	Address	Acreage	quare Feet	Sale Date	Sale Price	Price/Sq. Ft. of Land	Notes
	50 Sandy Lane	1.154	50,268	10/20/2020	\$ 1,250,000	\$ 24.87	1.15 acre parcel above the Mill Valley golf course. Lot features views of the San Francisco Bay and the ridges to the West. Located at the end of a quiet cul de sac with utilities to the lot line. Near trails.
	201 Marion	0.240	10,454	3/24/2019	\$ 450,000	\$ 43.05	Appears to have slope. Site formerly had 1962 house on it (now demolished, foundation visible). Sold previously in 2016 for \$300,000.
	390 N. Ferndale	0.130	5,662	2/24/2019	\$ 559,000	\$ 98.73	Description says site has "approved plans" for 1,800 sf new home. Had former (demolished) 1918 home on it. Note: site size below min lot of 6,000 sf.
	316 W. Blithedale	0.200	8,712	7/25/2018	\$ 1,050,000	\$ 120.52	Sold 4 months earlier for \$800,000 (\$91.83 per sq. ft.). Also sold for 1.05M in 2004.
	321 Loring Avenue	0.132	5,760	6/25/2018	\$ 450,000	\$ 78.13	Description says "approved plans, shovel ready." Note: below min lot size.

# **EXHIBIT C**

# MILL VALLEY 2022 CURRENT & PROPOSED ASSISTED FAMILY HOUSING INVENTORY

## 100% LOCATED EAST OF CAMINO ALTO

Table A.26: Assisted Housing Inventory						
Project Name	Year Built	Tenant Type	Total units/ Affordable units	Deed Restriction Source	Potential Subsidy Expiration	Ownership/ Management
<b>Publicly-Assisted Rental Housing</b>						
Homestead Terrace 100 Linden Lane	1969	Senior/ disabled	28	Public housing- HUD	perpetuity	MHA
Kruger Pines 47 North Knoll Road	1971	Senior/ disabled	56	Public housing- HUD	perpetuity	MHA
The Redwoods 40 Camino Alto	1972	Senior/ disabled	149 / 60	HUD Section 231	2028	Non-profit Community Church of Mill Valley
Shelter Hill 37 Miwok Way	1977	Family	75	Refinanced in 2011 – Tax Credits	2066	Non-profit EAH
Camino Alto Apts 260 Camino Alto Court	1983	Disabled	24	HUD Section 202 CDBG, Section 8	2028	Non-profit Mercy Housing
Pickleweed Apts 651 Miller Avenue	1986	Family	32	CHFA bond City Ground-lease	2031	Non-profit BRIDGE Housing
Alto Station Apts 290 Camino Alto Court	1995	Family	17	HOME State RHCP City Ground-lease	2047	Non-profit BRIDGE Housing
Mill Creek Apts 60 Camino Alto	2004	Disabled	9	Section 202 Section 8	2029	Non-profit N Bay Rehab Services
Fireside Apartments (outside City limits)	2009	Family/ Senior	49	Low Income Tax Credit	2064	Non-profit Eden Housing

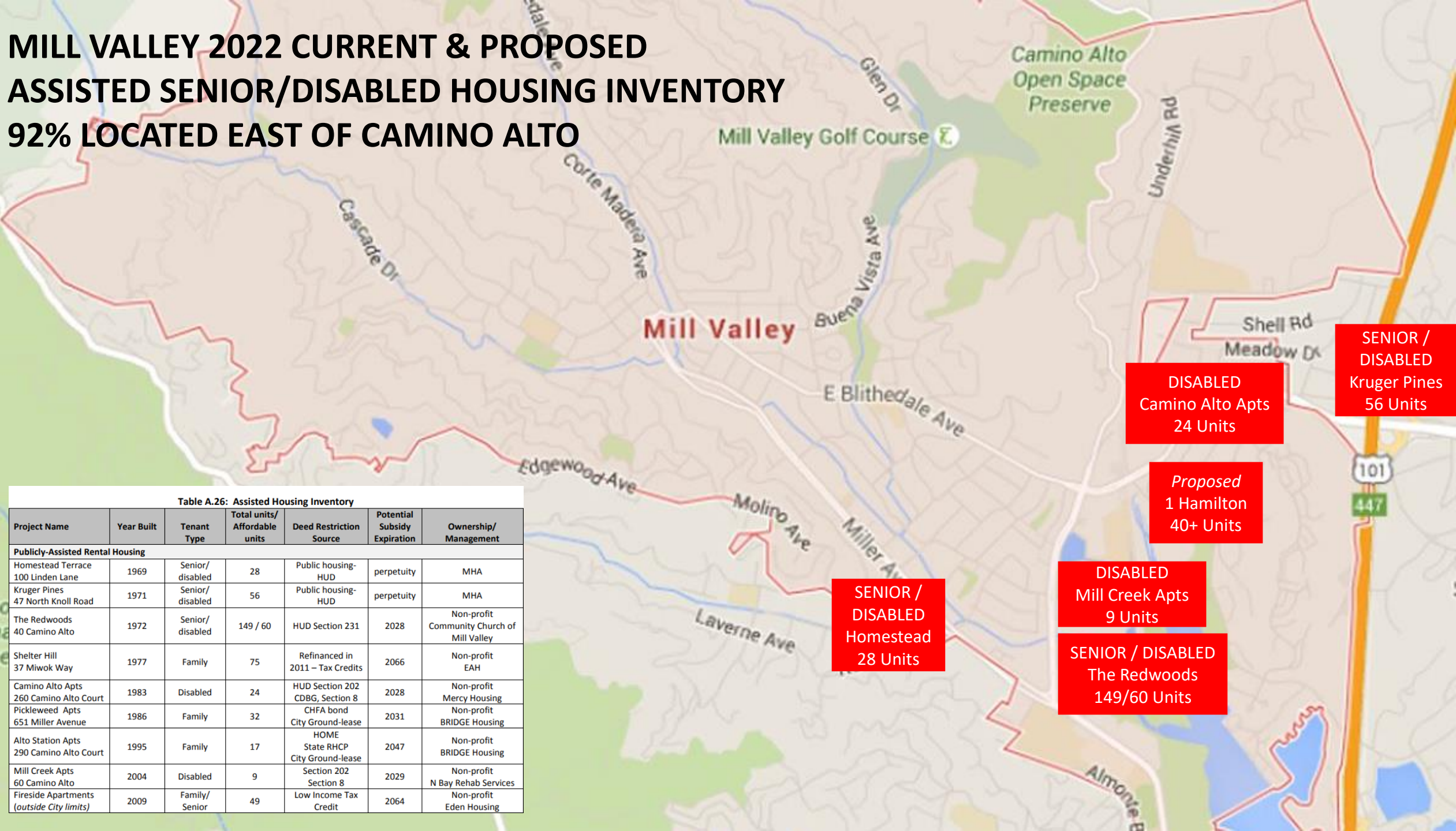




# MILL VALLEY 2022 CURRENT & PROPOSED ASSISTED SENIOR/DISABLED HOUSING INVENTORY 92% LOCATED EAST OF CAMINO ALTO

**Table A.26: Assisted Housing Inventory**

Project Name	Year Built	Tenant Type	Total units/ Affordable units	Deed Restriction Source	Potential Subsidy Expiration	Ownership/ Management
<b>Publicly-Assisted Rental Housing</b>						
Homestead Terrace 100 Linden Lane	1969	Senior/ disabled	28	Public housing- HUD	perpetuity	MHA
Kruger Pines 47 North Knoll Road	1971	Senior/ disabled	56	Public housing- HUD	perpetuity	MHA
The Redwoods 40 Camino Alto	1972	Senior/ disabled	149 / 60	HUD Section 231	2028	Non-profit Community Church of Mill Valley
Shelter Hill 37 Miwok Way	1977	Family	75	Refinanced in 2011 – Tax Credits	2066	Non-profit EAH
Camino Alto Apts 260 Camino Alto Court	1983	Disabled	24	HUD Section 202 CDBG, Section 8	2028	Non-profit Mercy Housing
Pickleweed Apts 651 Miller Avenue	1986	Family	32	CHFA bond City Ground-lease	2031	Non-profit BRIDGE Housing
Alto Station Apts 290 Camino Alto Court	1995	Family	17	HOME State RHCP City Ground-lease	2047	Non-profit BRIDGE Housing
Mill Creek Apts 60 Camino Alto	2004	Disabled	9	Section 202 Section 8	2029	Non-profit N Bay Rehab Services
Fireside Apartments (outside City limits)	2009	Family/ Senior	49	Low Income Tax Credit	2064	Non-profit Eden Housing



SENIOR /  
DISABLED  
Kruger Pines  
56 Units

DISABLED  
Camino Alto Apts  
24 Units

Proposed  
1 Hamilton  
40+ Units

DISABLED  
Mill Creek Apts  
9 Units

SENIOR / DISABLED  
The Redwoods  
149/60 Units

SENIOR /  
DISABLED  
Homestead  
28 Units