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Vin Smith, Planning Director
City of Mill Valley
26 Corte Madera Ave.
Mill Valley, CA 94941

RE: 2016 General Plan Amendments and Rezoning: CEQA Compliance

Dear Mr. Smith:

The following comments on California Environmental Quality Act (CEQA) compliance are submitted on behalf of Community Ventures Partners, Inc. (CVP).

I have reviewed the two Initial Studies for the proposed General Plan Amendments (“Amendments”) and Development Standards and Design Guidelines (“Rezoning”). These projects (Mill Valley, #PL15-4350) will amend the adopted General Plan Land Use Element and Land Use Map and the Zoning Ordinance, including changes to development standards. These projects will be considered at the January 26 and February 9, 2016 Mill Valley Planning Commission meetings.

Unfortunately, the Initial Studies for these projects do not comply with the requirements of CEQA, which specifically mandates review of the environmental impacts of the whole of the action for General Plan Amendments. (CEQA Guidelines § 15378(a)(1).) In short, the Initial Studies do not describe the reasons the Amendments and Rezoning will not have significant effects on the environment, as required by Pub. Res. Code § 21064, because the Initial Studies are not based on any facts or data, such as studies or surveys and do not actually identify any potential impacts.

The City of Mill Valley should start the CEQA process over and prepare study documents that comply with CEQA.

CEQA’s Basic Requirements

CEQA requirements are clear; when a project is changed, the CEQA documents must examine the incremental changes against the existing project baseline. Thus, CEQA compliance for amending the existing Mill Valley General Plan and Zoning Ordinance must examine the environmental impacts caused by the changes. The two Initial Studies do not, including any references to studies or any data, quantification, analysis or other examination of the changes.

Because the General Plan Amendments and rezoning propose an entirely new Multi-Family Zoning Ordinance, and provide for possibilities of increase in FAR and decreases in setbacks, increases in both density and impermeable surfaces are certainly possible, if not probable. The Initial Studies, however, do not include impact assessment of land use changes on circulation and transportation (including parking) due to more potential traffic, increase in polluted runoff to waterbodies, including the San

Francisco Bay, and increase in flooding due to a potential increases in impermeable surfaces and changes to existing building footprints in several areas within FEMA identified floodplains.

The following documents, while obviously available and applicable to the Amendments and Rezoning, were not referenced or analyzed in the Initial Studies. Each of these documents shows environmental constraints and potential impacts related to any increased density, development and construction in the downtown and commercial areas that are the subject of the Amendments and the Rezoning.

1. Flooding: City of Mill Valley, 2013 *Draft Flood Study - Arroyo Corte Madera Del Presidio*
<http://www.cityofmillvalley.org/Index.aspx?page=1477>
2. Flooding: City of Mill Valley, 2013 *Riverine Flood Study* (also called the "Mill Valley and Ross Valley Flood Study") studied flooding from stormfall due to topography, hillsides, and creek capacity. The City of Mill Valley hosted a Community Meeting with FEMA and the County of Marin regarding this study, and the resulting revision to the Flood Insurance Risk Maps, including the creation of a regulatory floodway.
<http://www.r9map.org/Pages/ProjectDetailsPage.aspx?choLoco=21&choProj=230\\>

Changes to the FEMA foodplain map were finalized in September 2013 based on this study, and became effective March 17, 2014. These studies and the accompanying maps show that many if not most of the properties that are covered by the Amendments and Rezoning are significantly inundated in a major, 100 year, flood - much more so than previously thought. Brief mentions of FEMA flooding maps do not constitute sufficient analysis of the above documents or even of the FEMA maps themselves.

3. Circulation and Transportation: City of Mill Valley, 2007 *Downtown Parking Study*
<http://www.cityofmillvalley.org/Index.aspx?page=808>.

Note also that the City has acknowledged that this existing downtown parking study is inadequate and that a new parking study is needed to fully evaluate the impacts of the proposed zoning changes in the downtown area.

4. Circulation and Transportation: City of Mill Valley, 2012 *Engineering And Traffic Survey Report*,
<http://www.cityofmillvalley.org/Index.aspx?page=1476>
5. Water Quality: City of Mill Valley, 2009-10 *Sewage Spill Reduction Action Plan*
<http://www.cityofmillvalley.org/Index.aspx?page=947>

The City has existing flooding, parking, congestion and sewer overflow problems as outlined in these reports. The Initial Studies do not assess the possibility that zoning and development changes and potential increased density may exacerbate these existing problems and therefore, the Initial Studies have no substantial evidence upon which to base any conclusions regarding impacts.

Later Studies are not a Free Pass under CEQA

Both Initial Studies use boilerplate paragraphs that contend that there will be no impacts to the environment because no development permits are being issued. The Initial Studies assure that later CEQA documentation will be done at the time of application for development permits. **But CEQA does not provide for that approach.** Court of Appeal decisions have held that EIRs are required for General Plan Amendments even if a CEQA document would be required later if permits were submitted for those development activities. Further, this boilerplate claim of later CEQA documentation is a common promise that often is not fulfilled.

GP EIR does not Cover Amendments or Rezoning

Neither the GP Amendments nor the Initial Study can depend on the 2013 General Plan or the General Plan EIR. The General Plan states that a Program Objective for Mixed Use Zoning in Commercial Districts is:

By 2015, remove the CUP requirement for multi-family residential uses and mixed uses where residential is above the ground floor or off of the commercial street frontage in the C-G and C-N Zoning Districts – while adding multi-family design guidelines to facilitate the City’s design review process - and evaluate modifications to residential development regulations in the P-A, C-R, C-G, and C-N Zoning Districts that promote housing development consistent with General Plan.

The General Plan did not change land use designations, FAR, or permitting requirements. Instead the General Plan only included an *objective* that the City do so in the future. The actual land use, rezoning and development standards changes were not included in the General Plan nor were they assessed in the General Plan EIR. This lack of coverage of the General Plan EIR is acknowledged by the City’s own decision to prepare Initial Studies for both the land use Amendments and the Rezoning.

Conclusion

CVP suggests that the City of Mill Valley take a step back and prepare environmental assessment documents that comply with CEQA. Given the large scale changes and potentially significant impacts, it is probable that the City will need to prepare an EIR for the Amendments and Rezoning.

Sincerely,

A handwritten signature in black ink, appearing to read "Ed Yates", with a long horizontal flourish extending to the right.

Ed Yates