RESOLUTION NO. 23-59

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX ADOPTING ENVIRONMENTAL FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, CERTIFYING THE 2023-31 HOUSING ELEMENT FINAL ENVIRONMENTAL IMPACT REPORT (SCH #2022080624), ADOPTING THE MITIGATION MONITORING AND REPORTING PROGRAM, AND APPROVING THE PROJECT

WHEREAS, the California Government Code Section 65302 mandates that each jurisdiction shall include a Housing Element in its General Plan, and that the Housing Element be updated periodically to reflect current conditions and legal requirements and set forth goals, policies and programs for the preservation, improvement and development of housing for all economic segments of the community and housing for persons with special needs; and

WHEREAS, State Housing Element Law (Government Code Sections 65580 et seq.) requires that the Town Council adopt a Housing Element for the eight-year period 2023-2031 to accommodate the Town of Fairfax regional housing needs allocation ("RHNA") of 490 housing units, comprised of 149 very-low income units, 86 low-income units, 71 moderate-income units, and 184 above moderate-income units; and

WHEREAS, the Town of Fairfax has prepared Housing Element Update 2023-2031 ("Project") in compliance with State Housing Element Law; and

WHEREAS, pursuant to section 21067 of the Public Resources Code, and section 15367 of the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.), the Town of Fairfax ("Town") is the lead agency for the proposed Project; and

WHEREAS, in accordance with State CEQA Guidelines section 15082, on April 3, 2023, the Town sent to the Office of Planning and Research and each responsible and trustee agency a Revised Notice of Preparation ("NOP") stating that an Environmental Impact Report (State Clearinghouse Number #2022080624) would be prepared; and

WHEREAS, twenty-seven comment letters were received in response to the NOP; and

WHEREAS, pursuant to Public Resources Code section 21083.9 and State CEQA Guidelines sections 15082(c) and 15083, the Town held a duly noticed Scoping Meeting on April 19, 2023, to solicit comments on the scope of the environmental review of the proposed Project; and

WHEREAS, a Draft Environmental Impact Report ("Draft EIR") was prepared, incorporating comments received in response to the NOP; and

WHEREAS, the Draft EIR determined that mitigation measures were required to mitigate impacts to a less than significant level for the following resource areas: air quality, biological resources, cultural and tribal cultural resources, and greenhouse gas emissions; and

WHEREAS, the Draft EIR further concluded that despite the incorporation of all feasible mitigation measures, the proposed Project would nonetheless result in significant and unavoidable impacts relating to greenhouse gas emissions and transportation; and

WHEREAS, in accordance with State CEQA Guidelines section 15085, a Notice of Completion was prepared and filed with the Office of Planning and Research on September 25, 2023; and

WHEREAS, as required by State CEQA Guidelines section 15087(a), the Town provided Notice of Availability of the Draft EIR to the public at the same time that the Town sent Notice of Completion to the Office of Planning and Research, on September 25, 2023; and

WHEREAS, during the public comment period, copies of the Draft EIR and technical appendices were available for review and inspection at the Town Hall; and

WHEREAS, pursuant to State CEQA Guidelines section 15087(e), the Draft EIR was circulated for at least a 45-day public review and comment period from September 26, 2023 to November 9, 2023, which was extended to November 13 to account for the Veterans Day weekend; and

WHEREAS, during the public review and comment period, the Town consulted with and requested comments from all responsible and trustee agencies, other regulatory agencies, and others pursuant to State CEQA Guidelines section 15086; and

WHEREAS, the Town received fourteen written comment letters on the Draft EIR, including an acknowledgement from the State Clearinghouse that the Town has complied with CEQA environmental review requirements; and

WHEREAS, pursuant to Public Resources Code section 21092.5, the Town provided copies of its responses to commenting public agencies at least ten (10) days prior to the Town's consideration of the Final EIR on November 28, 2023; and

WHEREAS, on November 29, 2023, the Planning Commission conducted the public hearing to consider the Draft EIR and all pertinent maps, documents and exhibits including HCD's findings, the Town's response to HCD's findings, the staff report and all attachments, and oral and written public comments for the Project and solicited comments on the document. After hearing all relevant testimony from staff, the public and the Town's consultant team, the Planning Commission voted to recommend that the Town Council certify the EIR for the Project; and

WHEREAS, on November 30, 2023, the Town released the Final EIR ("Final EIR"), which consists of the Draft EIR, all technical appendices prepared in support of the Draft EIR, all written comment letters received on the Draft EIR, written responses to all written comment letters received on the Draft EIR, and errata to the Draft EIR and technical appendices; and

WHEREAS, the "EIR" consists of the Final EIR and its attachments and appendices, as well as the Draft EIR and its attachments and appendices (as modified by the Final EIR), incorporated herein by reference; and

WHEREAS, all potentially significant adverse environmental impacts were sufficiently analyzed in the EIR; and

WHEREAS, as contained herein, the Town has endeavored in good faith to set forth the basis for its decision on the Project; and

WHEREAS, all of the requirements of the Public Resources Code and the State CEQA Guidelines have been satisfied by the Town in connection with the preparation of the EIR, which is sufficiently detailed so that all of the potentially significant environmental effects of the Project have been adequately evaluated; and

WHEREAS, the EIR prepared in connection with the Project sufficiently analyzes the Project's potentially significant environmental impacts and, although no significant and unavoidable impacts were identified, the EIR analyzes a range of feasible alternatives capable of reducing these effects to an even lesser level of significance; and

WHEREAS, the Town has made certain findings of fact, as set forth in **Exhibit A** to this Resolution, attached hereto and incorporated herein, based upon the oral and written evidence presented to it as a whole and the entirety of the administrative record for the Project, which are incorporated herein by this reference; and

WHEREAS, the Town finds that environmental impacts that are identified in the EIR as less than significant and do not require mitigation are described in **Section II** of **Exhibit A**; and

WHEREAS, the Town finds that environmental impacts that are identified in the EIR that are less than significant with incorporation of mitigation measures are described in **Section III** of **Exhibit A**; and

WHEREAS, the Town finds that even with the incorporation of all feasible mitigation measures, the environmental impacts that are identified in the EIR that are significant and unavoidable are described in **Section IV** of **Exhibit A**; and

WHEREAS, the cumulative impacts of the Project identified in the EIR and set forth herein, are described in **Section V** of **Exhibit A**; and

WHEREAS, the potential significant irreversible environmental changes that would result from the proposed Project identified in the EIR and set forth herein, are described in **Section VI** of **Exhibit A**; and

WHEREAS, the existence of any growth-inducing impacts resulting from the proposed Project identified in the EIR and set forth herein, are described in **Section VII** of **Exhibit A**; and

WHEREAS, alternatives to the proposed Project that might further reduce the already less than significant environmental impacts are described in **Section VIII** of **Exhibit A**; and

WHEREAS, all the mitigation measures identified in the EIR and necessary to reduce the potentially significant impacts of the proposed Project to a level of less than significant are set forth in the Mitigation Monitoring and Reporting Program (MMRP) in **Exhibit B** to this Resolution, attached hereto and incorporated herein; and

WHEREAS, prior to taking action, the Town has heard, been presented with, reviewed and considered all of the information and data in the administrative record, including but not limited to the EIR) and all oral and written evidence presented to it during all meetings and hearings; and

WHEREAS, the EIR reflects the independent judgment of the Town and is deemed adequate for purposes of making decisions on the merits of the Project; and

WHEREAS, no comments made in the public hearings conducted by the Town and no additional information submitted to the Town have produced substantial new information requiring recirculation of the EIR or additional environmental review of the Project under Public Resources Code section 21092.1 and State CEQA Guidelines section 15088.5; and

WHEREAS, on December 13, 2023, the Town conducted a duly noticed public hearing on this Resolution, at which time all persons wishing to testify were heard and the Project was fully considered; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FAIRFAX:

SECTION 1. The above recitals are true and correct and incorporated herein by reference.

SECTION 2. The Town Council hereby finds that it has been presented with the EIR, which it has reviewed and considered, and further finds that the EIR is an accurate and objective statement that has been completed in full compliance with CEQA and the State CEQA Guidelines. The Town Council finds that the EIR reflects the independent judgment and analysis of the Town. The Town Council declares that no evidence of new significant impacts or any new information of "substantial importance" as defined by State CEQA Guidelines section 15088.5, has been received by the Town after circulation of the Draft EIR that would require recirculation. Therefore, the Town Council hereby certifies the EIR based on the entirety of the record of proceedings.

SECTION 3. The Town Council hereby adopts the "CEQA Findings of Fact" where were prepared in accordance with State CEQA Guidelines sections 15091 and which are attached hereto as Exhibit A and incorporated herein by this reference.

SECTION 4. Pursuant to Public Resources Code section 21081.6, the Town Council hereby adopts the Mitigation Monitoring and Reporting Program attached hereto as Exhibit B and incorporated herein by this reference. Implementation of the Mitigation Measures contained in the Mitigation Monitoring and Reporting Program is hereby made a condition of approval of the Project. In the event of any inconsistencies between the Mitigation Measures set forth in the EIR or the Findings of Fact and the Mitigation Monitoring and Reporting Program, the Mitigation Monitoring and Reporting Program shall control.

SECTION 5. Based upon the entire record before it, including the EIR, Findings of Fact, and all written and oral evidence presented, the Town hereby approves the proposed Project.

SECTION 6. The documents and materials that constitute the record of proceedings on

which this Resolution has been based are located at Town Hall, 142 Bolinas Road, Fairfax, CA 94930. The custodian for these records is Jeffrey Beiswenger. This information is provided pursuant to Public Resources Code section 21081.6.

SECTION 7. Town staff shall cause a Notice of Determination to be filed and posted with the County Clerk and the State Clearinghouse within five working days of the adoption of this Resolution.

APPROVED AND ADOPTED this 13th day of December 2023.

_____
Barbara Coler
Mayor

ATTEST:

_____
Michele Gardner
Town Clerk

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EXHIBIT A
CEQA FINDINGS OF FACT

The California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.) (CEQA) requires that public agencies shall not approve or carry out a project for which an environmental impact report (EIR) has been certified that identifies one or more significant adverse environmental effects of a project unless the public agency makes one or more written Findings for each of those significant effects, accompanied by a brief explanation of the rationale for each Finding (State CEQA Guidelines [Cal. Code Regs., tit. 14, § 15000 et seq.], § 15091). This document presents the CEQA Findings of Fact made by Town of Fairfax, in its capacity as the CEQA lead agency, regarding the General Plan 2023-31 Housing Element Update (Project), evaluated in the Draft Environmental Impact Report ("Draft EIR") and Final Environmental Impact Report (Final EIR) for the Project.

SECTION I.
INTRODUCTION

Public Resources Code section 21002 states that "public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects[.]" Section 21002 further states that the procedures required by CEQA "are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects."

Pursuant to section 21081 of the Public Resources Code, a public agency may only approve or carry out a project for which an EIR has been completed that identifies any significant environmental effects if the agency makes one or more of the following written finding(s) for each of those significant effects accompanied by a brief explanation of the rationale for each finding:

1. Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

2. Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.

3. Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report.

As indicated above, section 21002 requires an agency to "avoid or substantially lessen" significant adverse environmental impacts. Thus, mitigation measures that "substantially lessen" significant environmental impacts, even if not completely avoided, satisfy section 21002's mandate. (*Laurel Hills Homeowners Assn. v. City Council* (1978) 83 Cal.App.3d 515, 521 ["CEQA does not mandate the choice of the environmentally best feasible project if through the imposition of feasible mitigation measures alone the appropriate public agency has reduced

environmental damage from a project to an acceptable level"]; *Las Virgenes Homeowners Fed., Inc. v. County of Los Angeles* (1986) 177 Cal. App. 3d 300, 309 ["[t]here is no requirement that adverse impacts of a project be avoided completely or reduced to a level of insignificance . . . if such would render the project unfeasible"].

While CEQA requires that lead agencies adopt feasible mitigation measures or alternatives to substantially lessen or avoid significant environmental impacts, an agency need not adopt infeasible mitigation measures or alternatives. (Pub. Resources Code, § 21002.1(c) [if "economic, social, or other conditions make it infeasible to mitigate one or more significant effects on the environment of a project, the project may nonetheless be carried out or approved at the discretion of a public agency"]; see also State CEQA Guidelines, § 15126.6(a) [an "EIR is not required to consider alternatives which are infeasible"]. CEQA defines "feasible" to mean "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors." (Pub. Resources Code, § 21061.1.) The State CEQA Guidelines add "legal" considerations as another indicia of feasibility. (State CEQA Guidelines, § 15364.) Project objectives also inform the determination of "feasibility." (*Jones v. U.C. Regents* (2010) 183 Cal. App. 4th 818, 828-829.) "'[F]easibility' under CEQA encompasses 'desirability' to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, and technological factors." (*City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 401, 417; see also *Sequoyah Hills Homeowners Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 715.) "Broader considerations of policy thus come into play when the decision making body is considering actual feasibility[.]" (*Cal. Native Plant Soc'y v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 1000 ("*Native Plant*"); see also Pub. Resources Code, § 21081(a)(3) ["economic, legal, social, technological, or other considerations" may justify rejecting mitigation and alternatives as infeasible] (emphasis added).

Environmental impacts that are less than significant do not require the imposition of mitigation measures. (*Leonoff v. Monterey County Board of Supervisors* (1990) 222 Cal.App.3d 1337, 1347.)

The California Supreme Court has stated, "[t]he wisdom of approving . . . any development project, a delicate task which requires a balancing of interests, is necessarily left to the sound discretion of the local officials and their constituents who are responsible for such decisions. The law as we interpret and apply it simply requires that those decisions be informed, and therefore balanced." (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 576.) In addition, perfection in a project or a project's environmental alternatives is not required; rather, the requirement is that sufficient information be produced "to permit a reasonable choice of alternatives so far as environmental aspects are concerned." Outside agencies (including courts) are not to "impose unreasonable extremes or to interject [themselves] within the area of discretion as to the choice of the action to be taken." (*Residents Ad Hoc Stadium Com. v. Board of Trustees* (1979) 89 Cal.App.3d 274, 287.)

SECTION II.
FINDINGS REGARDING ENVIRONMENTAL IMPACTS NOT REQUIRING MITIGATION

The Town Council hereby finds that the following potential environmental impacts of the Project are less than significant and therefore do not require the imposition of Mitigation Measures.

A. AESTHETICS

1. Scenic Vistas

Threshold: Would the Project have a substantial adverse effect on a scenic vista?

Finding: Less than significant. (Draft EIR, pp. 3.1-10 – 3.1-12)

Explanation:

A significant impact may occur if a project were to introduce incompatible scenic elements within a field of view containing a scenic vista or substantially block views of a scenic vista. The General Plan's Open Space Element identifies Visually Significant Areas in Fairfax (Figure 3.1-1), including a variety of ridges, hillsides, and forests that are highly visible from the three gateways and throughout the Fairfax Planning Area. Several sites identified for development under the Proposed Project are located in areas mapped as visual resources in the General Plan, including ridgeline scenic corridors, visually significant areas, adjacent to a scenic highway, and adjacent to views/vista points. If development pursuant to the Proposed Project were to be oriented or scaled in such a way that views of the hillside area are blocked from specific locations in the Planning Area, a potentially significant impact could result.

However, through Proposed Project Program 2-D the Town will adopt standards for low impact clustered residential development on large sites in Fairfax. It is the intent of these standards to focus low impact clustered residential development on relatively flatter portions of hill area sites in order to preserve larger areas of open space and protect views of the ridgelines. Zoning Code amendments then will be prepared as appropriate to allow for this type of housing and to establish development standards and design review criteria. General Plan Policy OS-1.4.2 also encourages the creation of open space through clustered development on parcels, which aligns with the intent of Program 2-D and the related zoning standards proposed to implement it.

Further, there are several local regulations and policies designed to preserve scenic vistas from potential development in the Planning Area. The General Plan outlines ways for the Town of Fairfax and its residents to consider existing open space areas, protect them from development, and expand protections for open space in the future. In 2004, the Town Council created a standing Open Space Committee to further long-term goals to acquire and maintain open space lands in the Fairfax Planning Area. The Committee is tasked with evaluating and prioritizing parcels in the Visually Significant Areas inventory based on established criteria and becoming involved in the formal review of any development projects concerning these parcels (OS-1.1, OS-1.2, OS-1.3, OS-1.4). All project applicants

are required to meet with the committee.

Other General Plan programs support the identification of Visually Significant Areas that aestheticize the appearance of the town and establish design guidelines for development within these areas. Policy LU-1.2.2 requires new or renewed development in Visually Significant Areas to be designed and sited to have the least visual impact as seen from the majority of the Town.

In addition, the Town code enforces a variety of protection measures for scenic vistas. Chapter 16.24.080 (Ridgelines and Views) requires that all subdivisions be designed to protect ridgelines pursuant to Chapter 17.060 and to assure adequate light, air, privacy and views on all parcels regardless of land use. Chapter 16.24.070 (Existing Vegetation) requires subdivisions to be designed to preserve desirable existing native, indigenous vegetation, especially trees, to the maximum extent feasible. Chapter 17.060.040 (Affected Significant View Corridors) requires that developments be designed and located to have the least impact on existing visual resources. Chapter 17.072 (Hill Area Residential Development Overlay Zone) requires height of retaining structures to be minimized and planting and choice of materials to visually integrate the structures with natural surroundings. In addition, Chapter 17.020 (Design Review Regulations) presents Design Review Regulations that require projects to have a well composed design, harmoniously related to other facilities in the immediate area and to the total setting as seen from hills and other key vantage points in the community.

Individual developments pursuant to the Proposed Project may be located in areas with visual resources, as identified in the General Plan. However, the Proposed Project would be required to comply with all General Plan policies and Town Code regulations that are designed to mitigate development impacts on scenic vistas, including the proposed low impact clustered residential standards, summarized in Chapter 2 of this Draft EIR, which are proposed for adoption to implement Program 2-D of the Housing Element Update. These standards limit maximum permitted gross building area for habitable space is limited to 2,500 square feet plus 10 percent of the lot area up to a maximum of 4,500 square feet; require low roofline profiles and avoidance of extended horizontal rooflines exceeding 40 feet; and limit primary building height to a maximum of 28.5 feet on an upslope lot, 35 feet on a downslope lot, 24 feet within 20 feet of a front property line on an upslope lot, and 24 feet at a rear setback line, measured to the adjacent natural or finished grade, whichever is lower. Further, the proposed standards require that at least 75 percent of the site must remain in its natural state and be preserved as permanent open space with a conservation easement or other development restriction; and require the submittal of a site plan showing the relation of the proposed structures to major ridgelines identified in the General Plan and significant view corridors if the proposed development is within 150 feet horizontal distance or 100 feet vertical distance of an adjacent ridge. As such, adherence to local regulations, policies, Proposed Project programs and standards would mitigate the Proposed Project's potentially substantial adverse effects on scenic vistas to a less-than-significant level. (Draft EIR, pp. 3.1-10 – 3.1-12)

2. **Scenic Resources**

Threshold: Would the Project substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?

Finding: No impact. (Draft EIR, p. 3.1-12)

Explanation:

A significant impact would occur if scenic resources, including but not limited to trees, rock outcroppings, and historic buildings, would be damaged or removed by a project within a state scenic highway. According to maps produced by the California Department of Transportation Scenic Highways Mapping Project, there are no designated State scenic highways in the Town of Fairfax and the closest eligible highway segment, SR 1 from near Marin City to Leggett, is located approximately seven miles west of Fairfax. Therefore, the Project would not substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway and no impacts would occur. (Draft EIR, p. 3.1-12)

3. **Visual Character**

Threshold: In non-urbanized areas, would the project substantially degrade the existing visual character or quality of public view of the site and its surroundings?

Finding: Less than significant. (Draft EIR, pp. 3.1-12 – 3.1-14)

Explanation:

A significant impact may occur if a project were to introduce incompatible visual elements on the project site or visual elements that would be incompatible with the aesthetic of the area surrounding the project site. The overall focus of the Proposed Project is to address local housing needs in compliance with State law while also seeking to retain Fairfax's village-like quality, with distinct neighborhoods, and large areas of surrounding visible open space. Most parcels within the Planning Area are developed, with commercial uses concentrated downtown, centered on Sir Francis Drake Boulevard, Broadway, and Bolinas Road, and residential uses throughout most of the rest of the community. Almost all the remaining vacant land is located in steeply sloped hillside areas.

Buildout of the Proposed Project would primarily involve housing within already developed areas downtown and on existing single family residential lots. In addition, Proposed Project Program 2-A would adopt Zoning Code amendments in the form of a Workforce Housing Overlay District, as a means of promoting the construction of housing for teachers, restaurant and service workers, firefighters, police officers, and others employed in Fairfax and Marin County. The overlay will be comprised of two subzones: one for high density workforce housing in the downtown area, and another for medium density workforce housing along Sir Francis Drake Boulevard. The overlay will also incorporate objective design and development standards to accommodate higher density development and ensure appropriate buffering of adjacent residential land uses. As such, proposed high-density development downtown would be required to comply with the new

zoning standards and therefore there would be no conflict applicable zoning. While changes to the visual aesthetic of the downtown will occur, these changes would not represent a degradation of visual aesthetic given the objective design and development standards for higher density development that Program 2-A will establish.

Residential projects proposed in Fairfax typically require a combination of reviews including zoning compliance, conditional use permit, design review as well as building permit plan checks. In addition to these procedures, which are common to most cities, Fairfax Town Code has established some additional review requirements that contribute to protecting its public views: the ridgeline scenic corridor permits (Chapter 17.060) and the hill area residential development permit (Chapter 17.072). Chapter 17.060 requires that developments shall be designed and located to have the least impact on existing visual resources. Chapter 17.072 requires height of retaining structures to be minimized and planting and choice of materials to visually integrate the structures with natural surroundings. In addition, Chapter 17.020 presents Design Review Regulations that require projects to have a well composed design, harmoniously related to other facilities in the immediate area and to the total setting as seen from hills and other key vantage points in the community. The proposed development shall be of a quality and aesthetic appropriate to, and serving to protect the value of, private and public investments in the immediate area.

All housing development pursuant to the Proposed Project would be also required to comply with the Town's Objective Design and Development Standards (ODDS) which has been integrated with Title 17 of the Town Code. The ODDS set forth the standards for neighborhood design, building form, lighting, and uses. These standards reflect the community's vision for implementing the intent of the Fairfax General Plan to facilitate housing production and specifically infill housing production, through development that reinforces the highly valued aesthetic and scale of the Town's walkable centers, neighborhoods, and corridors. As applicable, development would be subject to design review to ensure compatibility with the surrounding neighborhood. The General Plan in its Open Space element identifies Visually Significant Areas in Fairfax (Figure 3.1-1) and requires all development applicants to meet with the Open Space Committee. The Committee is tasked with evaluating and prioritizing parcels in the Visually Significant Areas inventory based on established criteria and becoming involved in the formal review of any development projects concerning these parcels (OS-1.1, OS-1.2, OS-1.3, OS-1.4). Other General Plan programs support the identification of Visually Significant Areas that aestheticize the appearance of the town and establish design guidelines for development within these areas such as Policy LU-1.2.2 (new or renewed development in Visually Significant Areas shall be designed and sited to have the least visual impact as seen from the majority of the town).

Other policies that protect the visual aesthetic of Fairfax include those from the County Watershed Program (CWP) such as Policy DES-3.1 (Promote infill. Encourage the development of vacant and underutilized parcels consistent with neighborhood aesthetic), Policy DES-3.2 (Promote green spaces. Encourage the creation of high-quality community plazas, squares, greens, commons, community and neighborhood parks, and rooftop gardens), and Policy DES-4.1 (Preserve visual quality. Protect scenic quality and views of

the natural environment — including ridgelines and upland greenbelts, hillsides, water, and trees — from adverse impacts related to development).

Therefore, the implementation of the Proposed Project would be pursuant to applicable zoning and other regulations governing scenic quality. Compliance with existing regulations and Proposed Project programs would help ensure the compatibility of new development and impacts would be less than significant. (Draft EIR, pp. 3.1-12 – 3.1-14)

4. **Light and Glare**

Threshold: Would the Project create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

Finding: Less than significant. (Draft EIR, pp. 3.1-14 – 3.1-15)

Explanation:

A significant impact may occur if a project were to introduce new sources of light or glare on or from the project site which would be incompatible with the surrounding area. New development facilitated under the Proposed Project would introduce new sources of light within the Planning Area. Potential sources of new nighttime light from new development include light spillover from the windows of residences. New development also could produce glare from sunlight reflecting off windows, reflective surfaces, and unshielded equipment. Motor vehicle windows, parked or passing by, or vehicle headlights at night form another potential source of light and glare.

As discussed previously, the Planning Area is a suburban area where existing lights and surfaces with glare are common. Buildout of the Proposed Project would primarily involve housing within already developed areas downtown and on existing single family residential lots. Therefore, the additional light and glare created under the Proposed Project would not illuminate currently dark or unlit areas without reflective or glaring surfaces. In addition, the Town's forested hillsides and tree-lined streets would limit light spillover to adjacent properties and illumination of the night sky.

All new development would be required to comply with Town of Fairfax regulations, including the Town's Objective Design and Development Standards, which are integrated with Title 17 (Zoning) of the Town Code. Site improvements, including lighting, are required to be consistent with the selected Architectural Style for the primary building. Further, development pursuant to the Proposed Project would be required to comply with Section 17.049.010 of the Town Code. The section has provisions for two-unit projects to have all exterior lighting directed downward, shielded to prevent direct offsite illumination, the minimum number of fixtures necessary to provide pathway, stair/step, and entry illumination, and a maximum of two-foot candles lighting intensity. No landscape lighting is allowed. Compliance with California Building Code CBC standards would also minimize glare from sunlight reflecting off building windows.

As such, new sources would not increase the amount of nighttime lighting or glare in such a way that would be incompatible with the suburban nature of the town. Impacts associated

with light and glare would be less than significant. (Draft EIR, pp. 3.1-14 – 3.1-15)

B. AGRICULTURE AND FOREST RESOURCES

1. Farmland Conversion, Agricultural Zoning, Forestland Zoning, Loss of Forest Land, Conversion of Farmland or Forestland

Thresholds: Would the Project convert Primate Farmland, Unique Farmland, or Farmland of Statewide significance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?

Would the Project conflict with existing zoning for agricultural use, or a Williamson Act contract?

Would the Project conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g)?

Would the Project result in the loss of forest land or conversion of forest land to non-forest use?

Would the Project involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?

Finding: No impact. (Draft EIR, p. 3.16-2)

Explanation:

Under the Farmland Mapping and Monitoring Program (FMMP), the Town of Fairfax is categorized as "Urban and Build-Up Land" and "Other Land".[1] There is no Farmland within the town limit. Therefore, the Project would have no impact on Prime Farmland, Unique Farmland, or Farmland of Statewide Importance. The Williamson Act, codified in 1965 as the California Land Conservation Act, allows local governments to enter into contracts with private landowners with the intent of restricting the use of land to agricultural or related open space through tax incentives. These incentives tax farmers based on an open space designation, which is a much lower rate than the full market value tax. Through this contract, farmers agree to freeze development of their land for 10 years. The current Marin County Williamson Act Parcel Map does not list any Williamson Contract parcels located within the Town of Fairfax.[2] Additionally, there are no districts on the Fairfax Zoning Map zoned for agricultural uses in the town. Therefore, no impacts related to conflicts with agricultural zoning or Williamson Act contracts would occur.

[1] California Department of Conservation. 2022. California Important Farmland Finder. Available: https://maps.conservation.ca.gov/DLRP/CIFF/. Accessed: July 23, 2023.
[2] Marin County. 2023. Williamson Act Parcels. Available: https://gisopendata.marincounty.gov/datasets/williamson-act-parcels/explore?location=37.991209%2C-121.747800%2C9.34. Accessed: July 23, 2023.

In the Public Resources Code (PRC) section 4526, the California Board of Forestry and Fire Protection defines "Timberland" as land, not owned by the federal government, nor designated as experiential forest land, which is capable and available for growing any commercial tree species. The board defines commercial trees on a district basis following consultation with district committees and other necessary parties. There is no land within the Town of Fairfax zoned for timberland production or that otherwise meets this definition. The PRC section 12220 (g) defines forest land as ". . . land that can support 10-percent native tree cover of any species, including hardwoods, under natural conditions, and that allows for management of one or more forest resources, including timber, aesthetics, fish and wildlife, biodiversity, water quality, recreation, and other public benefits." While wooded hillsides in Fairfax may support more than 10 percent native tree coverage, these lands are interspersed with development and are not managed for forest resources or used for commercial timber production. These areas are relevant to the Planning Area's biological resources and are evaluated in terms of special-status species, sensitive habitats, and related regulations and plans in Section 3.3: Biological Resources. Development pursuant to the Proposed Project would take place on parcels currently zoned for residential uses and as such no conflicts, loss of forest land, or conversion of forest land to non-forest use would result from Project implementation. Therefore, the Proposed Project would have no impact on forest resources. (Draft EIR, p. 3.16-2)

C. AIR QUALITY

1. Air Quality Plans and Air Quality Standards

Threshold: Would the Project conflict with or obstruct implementation of the applicable air quality plan; violate any air quality standard or contribute substantially to an existing or projected air quality violation?

Finding: Less than significant. (Draft EIR, pp. 3.2-33 – 3.2-36)

Explanation:

The Clean Air Act (CAA) requires that a State Implementation Plan (SIP) or an air quality control plan be prepared for areas with air quality violating the National Ambient Air Quality Standards (NAAQS). The SIP sets forth the strategies and pollution control measures that states will use to attain the NAAQS. The CAA requires attainment plans to demonstrate a five percent per year reduction in nonattainment air pollutants or their precursors, averaged every consecutive 3-year period, unless an approved alternative measure of progress is developed. Air quality attainment plans (AQAP) outline emissions limits and control measures to achieve and maintain these standards by the earliest practical date. The current Air Quality Attainment Plan (AQAP) for the San Francisco Bay Area Air Basin (SFBAAB) is the 2017 Clean Air Plan.[3]

According to the Bay Area Air Quality Management District (BAAQMD)'s CEQA

[3] Bay Area Air Quality Management District. 2017. *Final 2017 Clean Air Plan.* Adopted April 19. Available: https://www.baaqmd.gov/~/media/files/planning-and-research/plans/2017-clean-air-plan/attachment-a_-proposed-final-cap-vol-1-pdf.pdf?la=en. Accessed: July 1, 2021.

Guidelines, to meet the Threshold of Significance for operational-related criteria air pollutant and precursor impacts for plans (other than regional plans), a proposed plan must satisfy the following criteria.[4]

Consistency with current air quality plan (AQP) control measures (this requirement applies to project-level as well as plan-level analyses).

A proposed plan's projected Vehicle Miles Traveled (VMT) or vehicle trips (VT) (either measure may be used) increase is less than or equal to its projected population increase.

Each of these criteria is addressed below for the Proposed Project.

Consistency with the 2017 Clean Air Plan

The primary goals of the 2017 Clean Air Plan (CAP) are to (1) reduce emissions and decrease concentrations of harmful pollutants, (2) safeguard public health by reducing exposure to air pollutants that pose the greatest health risk, and (3) reduce GHG emissions and protect the climate. The Proposed Project includes policies and programs that will support regional attainment of the CAAQS and NAAQS. For example, the Proposed Project encourages higher-density and infill developments where appropriate, connectivity between neighborhoods, and walkable design that compliments the existing natural and built environment to reduce VMT. The Proposed Project further provides the policy framework to guide future development toward land use patterns that support walking, and biking (Policy 1-3, and programs 1-A, 1-B, 1-D, 1-E, and 2-A). These policies would support alternative modes of travel within the Planning Area, which could help reduce per service population VMT and Greenhouse Gas (GHG) emissions from passenger vehicles.

Other fundamental components of the Proposed Project also support the goals of the CAP. The preservation of open space through Proposed Project programs that develop ADUs and identify housing sites in the downtown area and existing residential lots would help to reduce emissions by preserving existing green space throughout the town that can sequester carbon. The Proposed Project's criteria for selecting Housing Opportunity areas includes adequate pedestrian, neighborhood service, and neighborhood facility access which support multimodal mobility that could result in less energy consumption and fewer vehicle trips compared to the current more auto-oriented development pattern.

The 2017 CAP also contains 85 control strategies designed to reduce ozone precursors, protect public health, and serve as a regional climate protection strategy. The BAAQMD's implementation of the control strategies employs a wide range of tools and resources, and many of the control strategies are not intended or designed to be achieved by local government. Table 3.2-6 identifies the 2017 CAP control measures that are relevant to the Proposed Project and summarizes how the Project would be either consistent or inconsistent with these measures.

As shown in DEIR Table 3.2-6 and the analysis above, the Proposed Project would support

[4] Bay Area Air Quality Management District. 2022. California Environmental Quality Act. Air Quality Guidelines. Available: https://www.baaqmd.gov/plans-and-climate/california-environmental-quality-act-ceqa/updated-ceqa-guidelines. Accessed: August 16, 2023.

the primary goals of the CAP and would be consistent with applicable control measures contained in the CAP. Therefore, the Proposed Project would have a less than significant impact with respect to conflicts with the 2017 Clean Air Plan.

Projected VMT and Population Increase

In Section 3.13, *Transportation,* DEIR Table 3.13-2 provides a summary of the VMT forecasts for baseline 2019 conditions and for future townwide VMT, accounting for buildout of the Proposed Project. The VMT forecasts indicate that, at buildout, the Proposed Project would result in a Home-Based VMT per capita that is 10.4 percent below the baseline 2019 Town VMT per capita, which is less than the projected population increase. As such, operational impacts from implementation of the Proposed Project would be less than significant.

Based on the above analysis, the Proposed Project would support implementation of the 2017 Clean Air Plan. Accordingly, the Proposed Project would not fundamentally conflict with the 2017 Clean Air Plan and would have a less-than-significant air quality impact. (Draft EIR, pp. 3.2-33 – 3.2-36)

2. **Other Adverse Emissions**

Threshold: Would the Project result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?

Finding: Less than significant. (Draft EIR, pp. 3.2-43 – 3.2-44)

Explanation:

Although offensive odors rarely cause physical harm, they can be unpleasant, leading to considerable distress among the public and often generating citizen complaints to local governments and air districts. Odor impacts on residential areas and other sensitive receptors, such as hospitals, day-care centers, and schools, warrant the closest scrutiny, but consideration should also be given to other land uses where people may congregate, such as recreational facilities, work sites, and commercial areas.

According to the BAAQMD, land uses associated with odor complaints typically include wastewater treatment plants, landfills, confined animal facilities, composting stations, food manufacturing plants, refineries, and chemical plants. [5] Residential development does not create substantial odors. Potential odor emitters during construction include diesel exhaust and evaporative emissions generated by asphalt paving and the application of architectural coatings. Construction-related activities near existing receptors would be temporary in nature, and construction activities would not result in nuisance odors. Potential odor emitters during operations would include exhaust from vehicles and fumes from the reapplication of architectural coatings as part of ongoing building maintenance. However, odor impacts would be limited to circulation routes, parking areas, and areas immediately

[5] Bay Area Air Quality Management District. 2017. *California Environmental Quality Act, Air Quality Guidelines*. May. Available: https://www.baaqmd.gov/~/media/files/planning-and-research/ceqa/ceqa_guidelines_may2017-pdf.pdf?la=en. Accessed: July 1, 2021.

adjacent to recently painted structures. Although such brief exhaust- and paint-related odors may be considered adverse, they would not be atypical of developed suburban areas and would not affect a substantial number of people or rise to the level of a significant impact under CEQA. Because the Proposed Project would not result in a new, substantial, or long-term source of odors, this impact would be less than significant. (Draft EIR, pp. 3.2-43 – 3.2-44)

D. BIOLOGICAL RESOURCES

1. Riparian Habitat

Threshold: Would the Project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?

Finding: Less than significant. (Draft EIR, pp. 3.3-19 – 3.3-20)

Explanation:

The Planning Area includes riparian habitat located along Bothin Creek, Fairfax Creek and San Anselmo Creek, which is considered a sensitive natural community and habitat for sensitive wildlife species located throughout the Planning Area. Implementation of the Proposed Project could have a significant impact on riparian habitat or other sensitive natural communities if future development under the Proposed Project results in the removal or degradation of the habitat.

Future development under the Proposed Project would take place primarily in previously developed portions of the Planning Area, limiting the potential for disruption to undeveloped habitat areas. Even so, the Town of Fairfax General Plan introduces several policies that aim to reduce any potentially significant impacts of development that is adjacent to natural areas General Plan Policies CON-5.2, CON-6.1, CON-6.2, and CON-6.3 require the protection of threatened and endangered species and habitat, riparian vegetation, and tree canopies. As stated in CON 5.2, the Town will maintain and restore native vegetation where appropriate for habitat value, aesthetics, reference habitat, and riparian habitat. Policies CON-6.1 and CON-6.2 call for the Town to identify and protect special-status species and resident and migrant wildlife, and their habitats within the Fairfax Planning Area. Further, Chapter 17.040.040 of the Fairfax Town Code establishes that no building, accessory building, structure or swimming pool shall be constructed closer to the top of the stream bank of the Fairfax and San Anselmo creeks than 20 feet or two times the average depth of the bank, whichever is greater, without authorization by variance, except for retaining walls and bulkheads which replace failing structures and which do not increase the height, width, length or configuration of the original structure. With implementation of these policies and adherence to local regulations, as discussed above, the impacts of future development under the Proposed Project on riparian habitat or sensitive natural communities would be less than significant. (Draft EIR, pp. 3.3-19 – 3.3-20)

2. **Wetlands**

Threshold: Would the Project have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

Finding: Less than significant. (Draft EIR, pp. 3.3-20 – 3.3-21)

Explanation:

The United States Fish and Wildlife Service (USFWS) National Wetlands Inventory (2021) listed riverine (other water) features within the Planning Area. Further, the 2007 County Watershed Program (CWP) Update EIR identified freshwater marsh habitat in the Planning Area as well. These features have the potential to contain wetlands and are considered federally protected, as defined by Section 404 of the Clean Water Act (CWA). Implementation of the Proposed Project could have a significant impact on federally protected wetlands if future development under the Proposed Project results in the direct removal, filling, hydrological interruption, or otherwise degradation of the habitat.

Future development under the Proposed Project would take place primarily in previously developed portions of the Planning Area and existing single family residential lots, limiting the potential for disruption to undeveloped wetland habitat in the Planning Area. Future development under the Proposed Project would be subject to the requirements of Clean Water Act Section 404 and 401 permitting requirements, which would limit and/or mitigate impacts from projects that would discharge pollutants or dredged or fill materials into waters of the state, including wetlands. Future development would also be subject to the California Department of Fish and Wildlife (CDFW) Lake and Streambed Alteration Program, which would require any project that could substantially divert or obstruct the flow of, substantially change or use any material from, or deposit debris into a river, stream, or lake to agree to measures that would protect existing fish or wildlife resources.

General Plan Policies CON-5.2, CON-6.1, CON-6.2, and CON-6.3 require the protection of threatened and endangered species and habitat, riparian vegetation, and tree canopies. As stated in CON 5.2, the Town will maintain and restore native vegetation where appropriate for habitat value, aesthetics, reference habitat, and riparian habitat. Policies CON-6.1 and CON-6.2 calls for the Town to identify and protect special-status species and resident and migrant wildlife, and their habitats within the Fairfax Planning Area. Further, Chapter 17.040.040 of the Fairfax Town Code establishes that no building, accessory building, structure or swimming pool shall be constructed closer to the top of the stream bank of the Fairfax and San Anselmo creeks than 20 feet or two times the average depth of the bank, whichever is greater, without authorization by variance, except for retaining walls and bulkheads which replace failing structures and which do not increase the height, width, length or configuration of the original structure. These policies and regulations would reduce impacts on wetland habitats by limiting development in certain areas. With implementation of these policies and adherence to regulations, as discussed above, impacts of future development under the Proposed Project would be less than significant in regard to direct removal, filling, hydrological interruption, or other means of degradation of

wetland habitat. (Draft EIR, pp. 3.3-20 – 3.3-21)

3. **Wildlife Movement**

Threshold: Would the Project interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

Finding: Less than significant. (Draft EIR, pp. 3.3-21 – 3.3-22)

Explanation:

The Planning Area is not within any known regional wildlife movement corridor, as indicated by CDFW's Biogeographic Information and Observations System Habitat Connectivity Viewer.[6] However, the riparian corridors along Bothin Creek, Fairfax Creek and San Anselmo Creek may serve as movement corridors for wildlife species. The Planning Area's riparian habitat may provide movement corridors for aquatic and riparian species, such as Foothill Yellow-Legged Frog. Housing sites identified in the Proposed Project are located in riparian areas and in the western and southern portions of the town that contain woodlands. As such, construction could potentially adversely affect the movement of fish or wildlife species.

The Town of Fairfax General Plan introduces several policies that reduce any potentially significant impacts of Town-owned sites that are adjacent to riparian habitat and can potentially impede wildlife movement. General Plan Policies CON-5.2, CON-6.1, CON-6.2, and CON-6.3 require the protection of threatened and endangered species and habitat, riparian vegetation, and tree canopies. As stated in CON 5.2, the Town will maintain and restore native vegetation where appropriate for habitat value, aesthetics, reference habitat, and riparian habitat. Policies CON-6.1 and CON-6.2 call for the Town to identify and protect special-status species and resident and migrant wildlife, and their habitats within the Fairfax Planning Area. Further, Chapter 17.040.040 of the Fairfax Town Code establishes that no building, accessory building, structure or swimming pool shall be constructed closer to the top of the stream bank of the Fairfax and San Anselmo creeks than 20 feet or two times the average depth of the bank, whichever is greater, without authorization by variance, except for retaining walls and bulkheads which replace failing structures and which do not increase the height, width, length or configuration of the original structure.

However, structures and trees in the Planning Area could provide nesting habitat for native wildlife—specifically, bats, and native resident and migratory birds, thereby potentially affecting native wildlife nurseries. Thus, development anticipated by the Proposed Project would be required to adhere to the existing Town of Fairfax Trees Ordinance (Chapter 8.36). This ordinance aims to provide reasonable regulations for the maintenance and removal of trees in the town and establish a stable and sustainable urban forest. Further, a

[6] California Department of Fish and Wildlife. n.d. Biogeographic Information and Observation System. Version 5.96.99. Available: https://apps.wildlife.ca.gov/bios/?bookmark=648. Accessed: May 28, 2021.

tree protection plan may be required on project construction sites where significant or protected trees may be impacted. Compliance with these policies would ensure less-than-significant impacts on trees that could provide nesting habitat for wildlife.

In addition, as discussed under Impact 3.3-3, future development under the Proposed Project would be subject to the requirements of Clean Water Act Section 404 and 401 permitting requirements, which would limit and/or mitigate impacts from projects that would discharge pollutants or dredged or fill materials into waters of the state, including wetlands. Future development would also be subject to the CDFW Lake and Streambed Alteration Program, which would require any project that could substantially divert or obstruct the flow of, substantially change or use any material from, or deposit debris into a river, stream, or lake to agree to measures that would protect existing fish or wildlife resources.

Future development within the Planning Area would be subject to the General Plan goals and policies related to biological resources and various policies and regulations for preserving and protecting open space; preserving natural resources, including plant, animal, and fish habitats; protecting wetlands; participating in river restoration efforts; and protecting and enhancing streams and creeks. Compliance with these policies would ensure the preservation of natural resources in the Planning Area and impacts would be less than significant. (Draft EIR, pp. 3.3-21 – 3.3-22)

4. **Local Policies and Ordinances**

Threshold: Would the Project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

Finding: Less than significant. (Draft EIR, pp. 3.3-22 – 3.3-23)

Explanation:

A significant impact would occur if the Proposed Project would conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance. General Plan Policies CON-5.2, CON-6.1, CON-6.2, and CON-6.3 require the protection of threatened and endangered species and habitat, riparian vegetation, and tree canopies. As stated in CON 5.2, the Town will maintain and restore native vegetation where appropriate for habitat value, aesthetics, reference habitat, and riparian habitat. Policies CON-6.1 and CON-6.2 call for the Town to identify and protect special-status species and resident and migrant wildlife, and their habitats within the Fairfax Planning Area. Further, Chapter 17.040.040 of the Fairfax Town Code establishes that no building, accessory building, structure or swimming pool shall be constructed closer to the top of the stream bank of the Fairfax and San Anselmo creeks than 20 feet or two times the average depth of the bank, whichever is greater, without authorization by variance, except for retaining walls and bulkheads which replace failing structures and which do not increase the height, width, length or configuration of the original structure.

The Fairfax Town Code Chapter 8.36 also states the Town derives much of its character and beauty from its large trees and natural setting, requiring project applications to be

reviewed by the Tree Committee when tree removals or alterations are proposed. The chapter also outlines what is required to obtain a tree removal permit such as a tree protection plan. The Proposed Project would be required to adhere to this existing ordinance. As a result, the Proposed Project would not conflict with any local policies or ordinances protecting biological resources, and a less than significant impact would occur. (Draft EIR, pp. 3.3-22 – 3.3-23)

5. **Habitat Conservation Plans**

Threshold: Would the Project conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

Finding: No Impact. (Draft EIR, p. 3.3-23)

Explanation:

A significant impact would occur if a project would conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. There are no Habitat Conservation Plans in Marin County. [7] Therefore, development of the Proposed Project would not conflict with any Habitat Conservation Plan. No impact would occur. (Draft EIR, p. 3.3-23)

ENERGY

1. **Wasteful Use of Energy**

Threshold: Would the Project result in potentially significant impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?

Finding: Less than significant. (Draft EIR, 3.5-9 – 3.5-11)

Explanation:

Development facilitated by the Proposed Project would involve the use of energy during construction and operation. Energy use during construction would be primarily in the form of fuel consumption to operate equipment, light-duty vehicles, machinery, and generators for lighting. Temporary grid power may also be provided to construction trailers or electric construction equipment. Long-term operation of development projects would require permanent grid connections for electricity and natural gas service to power internal and exterior building lighting, and heating and cooling systems. In addition, the increase in vehicle trips and operation of the regional transportation system associated with potential development could increase fuel consumption.

[7] CDFW. 2021. Natural Community Conservation Planning (NCCP). California Regional Conservation Plans Map. <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=68626&inline>. Accessed: July 25, 2023.

Construction

Construction and maintenance of future land use development envisioned under the Proposed Project would result in short-term consumption of energy resulting from the use of construction equipment and processes. CalGreen includes specific requirements related to recycling, construction materials, and energy efficiency standards that would apply to construction of future development envisioned by the Proposed Project and would minimize wasteful, inefficient, and unnecessary energy consumption. Construction and operation of developments facilitated by the Proposed Project would be required to comply with relevant provisions of CalGreen and Title 24 of the California Energy Code, as well as the construction codes in Chapter 15.04 of the Town Code, which would further avoid wasteful, inefficient, and unnecessary energy consumption.

Operation

Operation of the development facilitated by the Proposed Project would consume natural gas and electricity for building heating and power, lighting, and water conveyance, among other operational requirements. Additionally, the increase in vehicle trips associated with potential development and daily operation of the regional transportation system would use energy in the form of fuel consumed by propulsion of passenger vehicles, including automobiles, vans and trucks, and transit vehicles, including buses and trains. Increases in motor vehicle trips are primarily a function of population growth with the development of up to 598 residential units under the Proposed Project.

Energy consumption under the Proposed Project is based on the net increase in energy consumption. Electricity and natural gas would be consumed by residences. Gasoline and diesel would be consumed by vehicles traveling to and from the residential development pursuant to the Proposed Project. Operation of development associated with implementation of the Proposed Project would increase the consumption of electricity, natural gas, and transportation fuels. While the number of residential units increased by up to 598 units under the Proposed Project, total energy use is anticipated to decrease, primarily due to the town's delivery of energy through Marin Clean Energy (MCE), which has much higher goals for renewable energy than PG&E, and the increase in fuel efficiency for vehicles from the State's transportation-related standards and regulations.

Further, Proposed Project Policy 1-3 promotes mixed use developments and higher density development in downtown Fairfax as a means for accommodating future growth. By placing services and amenities close to where people live and work, the land use scenario envisioned by the Proposed Project would reduce the need to drive and reduce per capita energy consumption and greenhouse gases. Additionally, while development under the Proposed Project would increase energy consumption in the Planning Area, this more concentrated level of development is consistent with the goals of Plan Bay Area's goals of encouraging higher-density and infill developments where appropriate.

Implementation of the Proposed Project policy listed above, as well as other policies and implementation programs contained in the General Plan that would result in direct and indirect energy conservation, such as encouraging green building techniques, water conservation, and waste reduction, would promote greater energy efficiency in municipal

and community operations and development. Furthermore, the Proposed Project contains a land-use strategy that actively promotes infill mixed-use development where appropriate, which would result in greater energy efficiency overall for Planning Area residents and operations. Therefore, while energy consumption in the Planning Area would increase with the operation of development under the Proposed Project, the Proposed Project would not result in wasteful, inefficient, or unnecessary consumption of energy. Therefore, this impact would be less than significant. (Draft EIR, pp. 3.5-9 – 3.5-11)

2. **Energy Efficiency Plans**

Threshold: Would the Project conflict with or obstruct a state of local plan for renewable energy or energy efficiency?

Finding: Less than significant. (Draft EIR, pp. 3.5-11 – 3.5-12)

Explanation:

State and local renewable energy and energy efficiency plans that apply to the Proposed Project are discussed above under Regulatory Setting. State plans include the AB 1493 Pavley Rules, California Title 24 energy efficiency standards, EO B-16-12, SB 350, and SB 100. Each of these plans contains required standards related to energy efficiency and renewable energy development. Local plans that address energy efficiency and are designed to achieve the State's RPS mandates include PG&E's and MCE's Integrated Resource Plans (IRP) and the Town's CAP. The Fairfax General Plan also includes goals and policies that relate to energy use and reduction.

As discussed under Impact 3.5-1, implementation of the Proposed Project would increase energy consumption relative to existing conditions. However, the Proposed Project contains a land-use strategy that actively promotes high density and infill mixed-use development where appropriate, which would result in greater energy efficiency overall for Planning Area residents and operations. Future development under the Proposed Project would be subject to increasingly robust regulations to meet the State's renewable energy mandates and would be required to comply with Title 24 standards and CALGreen requirements.

Development under the Proposed Project would be required to comply with State and local renewable energy and energy efficiency plans. As a result, it would benefit from renewable energy development and increases in energy efficiency. Specifically, vehicles and energy use from increased VMT and average daily trips within the area is expected to become increasingly more efficient as a result of the regulations included in Pavley Rules and EO B-16-12, which address average fuel economy and commercialization of zero-emission vehicles, respectively. Building energy efficiency is also anticipated to increase as a result of compliance with Title 24 building codes, which are expected to move toward zero net energy for newly constructed buildings, and shift toward 100 percent renewable energy under SB 350 and SB 100 regulations. With implementation of the Proposed Project, PG&E would continue to pursue procurement of renewable energy sources to meet its RPS portfolio goals and to comply with State regulations. PG&E's 2022 IRP portfolio meets its climate strategy goal of 70 percent RPS by 2030. PG&E is on a trajectory to meet its

broader, net zero energy system, climate goal by 2040.[8] As noted in MCE's 2021 IRP, MCE's renewable power content targets continue to exceed California's minimum RPS requirements and will continue to do so through 2030.[9] Therefore, buildout of the Proposed Project would not conflict with or obstruct State or local plans for renewable energy or energy efficiency and this impact would be less than significant. (Draft EIR, pp. 3.5-11 – 3.5-12)

E. GEOLOGY AND SOILS

1. Fault Rupture

Threshold: Would the Project directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault; strong seismic ground shaking; seismic-related ground failure including liquefaction; or landslides?

Finding: Less than significant. (Draft EIR, pp. 3.6-21 – 3.6-23)

Explanation:

Fault Rupture and Ground Shaking

For the Proposed Project, a significant impact due to fault rupture could occur if new structures were constructed within a designated Alquist-Priolo Earthquake Fault Zone, or within an active or potentially active known fault. A significant impact due to ground shaking could occur if implementation of the Proposed Project led to construction in an area that would experience ground shaking, potentially causing damage or harm to buildings or people.

As noted above, there are no designated Alquist-Priolo Earthquake Fault Zones in Fairfax, however, the area is subject to ground shaking in the event of an earthquake due to its proximity to the San Andreas Fault System. All future development under the Proposed Project would be required to comply with the provisions of the Fairfax Town Code – Chapter 15.04, the current California Building Codes, and the specifications outlined in project-specific geotechnical investigations which are required for development in hillside areas per Chapter 17.072 of the Town Code. Compliance with existing regulations would ensure that risks are minimized to the extent practicable, and impacts related to fault rupture and ground shaking would be less than significant.

[8] Pacific Gas and Electric Company. 2022. Integrated Resource Plan. Available: https://www.pge.com/en_US/for-our-business-partners/energy-supply/integrated-resource-plan/integrated-resource-plan.page. Accessed: July 24, 2023.
[9] MCE. 2021. Operational Integrated Resource Plan. Available: https://www.mcecleanenergy.org/wp-content/uploads/2022/11/MCE-2022-Integrated-Resource-Plan_11012022.pdf. Accessed: July 24, 2023.

Liquefaction

A significant impact due to liquefaction could occur if implementation of the Proposed Project would result in construction in areas of elevated liquefaction risk. As shown in Figure 3.6-2, the southern and central area surrounding San Anselmo and Deer Park Creek and the northern portion of the Planning Area surrounding Fairfax Creek are high liquefication zones. Housing development within these areas pursuant to the Proposed Project would be required to comply with the provisions of the California Building Code related to soils as well as General Plan Program S-1.1.1.1 which requires geotechnical analyses for all new development and substantial improvement proposals. Further, pursuant to Section 16.24.150 of the Town Code, the Town Engineer may require subsurface geotechnical investigation that considers the potential, on the entire slope face, both on and adjacent to the subject property, for ground failure, erosion subsidence, differential settlement, liquefaction, and any other adverse geologic conditions. Per the Town Code, geotechnical reports may be required to include recommendations for restrictions on development where development poses a hazard and proposed mitigation measures for hazardous conditions.

While the precise details of projects pursuant to the Housing Element, including building footprints, placement on the site, and related site-specific conditions, cannot be known at this time, compliance with existing regulations and mitigation strategies would reduce potential impacts related to liquefaction to the maximum extent practicable. Therefore, impacts are considered less than significant.

Landslides

Implementation of the Proposed Project could have a significant impact due to landslides if new developments were to be located in areas with high landslide risk. Landslides may occur on slopes of 15 percent or less; however, the probability is greater on steeper slopes that exhibit old landslide features such as steep slopes or banks, slanted vegetation, and transverse ridges. Landslide-susceptible areas are characterized by steep slopes and downslope creep of surface materials.

As discussed above under the Environmental Setting, seismically induced landslides and precipitation-induced landslides can occur on much of the steep terrain in much of Fairfax, particularly in wet weather months. As shown in Figure 3.6-1, landslide risk occurs mainly in the steep hills at the southern and western edges of the Planning Area boundary, with small pockets of landslide risk also evident in the northern hills and eastern boundary. Given that almost all remaining vacant land is located in steeply sloped hillsides areas in the town, the Proposed Project has identified several sites for development on steeply sloped hillsides. As such, housing sites identified in the Proposed Project are in proximity to mapped landslides hazards and landslide impacts are potentially significant.

Development on these sites and in areas with slope stability hazards would be subject to the provisions of Chapter 17.072 of the Town Code, which establishes standards applicable to projects in areas of steep slope and landslide risk in the Hill Area Residential Development Overlay Zone. The ordinance outlines specifications for project-specific geotechnical investigations and a grading erosion control plan which are required for

development in hillside areas. Development shall be prohibited in areas determined by the Town Engineer to be geotechnically unstable based on a report by a licensed soils engineer where the Planning Commission determines that the corrective work would be inconsistent with the purpose and the intent of this chapter. Approval of a hill area residential development permit shall be pursuant to geotechnical reports that find that the site can be developed without geologic or seismic hazards. Further, General Plan Policy OS-4.1.1 requires areas that are prone to landslides be developed with adequate engineering to mitigate the hazard.

In addition, Chapter 8.32 of the Town Code requires that all construction activities include erosion and sediment controls and pollution prevention practices. When required by the Phase II Stormwater Permit or by the Town, a project shall have an Erosion and Sediment Control Plan (ESCP) which addresses erosion and sediment control and pollution prevention during the construction phase as well as final stabilization control measures. Erosion control plans shall comply with the County of Marin stormwater regulations and shall meet the National Pollutant Discharge Elimination System (NPDES) permit requirements for Marin County and additional provisions Chapter 8.32 of the Town Code which prevents urban runoff pollution.

Compliance with these NPDES, Marin County, and local Town Code and General Plan regulations would reduce impacts related to landslides. The impact would be less than significant. (Draft EIR, pp. 3.6-21 – 3.6-23)

2. **Soil Erosion**

Threshold: Would the Project result in substantial soil erosion or the loss of topsoil?

Finding: Less than significant. (Draft EIR, pp. 3.6-23 – 3.6-24)

Explanation:

Topsoil refers to the uppermost layer of soil, which have the highest concentration of organic matter, and where most biological soil activity occurs. Implementation of the Proposed Project could have a significant impact due to soil erosion or loss of topsoil if associated construction and development activities could expose soils to the effects of erosion, which could hinder proper drainage and stormwater management. Erosion control, particularly during grading, is necessary to avoid downstream sedimentation and flooding. Once disturbed, through the removal of vegetation, asphalt, or an entire structure, exposed and stockpiled soils could be affected by wind and water.

As discussed above under the Environmental Setting, the soil types in the Planning Area with the highest susceptibility to erosion are the Tocaloma-McMullin complex soils that exist primarily in the western and southern portions of the town. Tocaloma-McMullin complex soils contain well-drained loam to very gravelly loam. These soil types within the Planning Area also are located on the hillsides of Fairfax, compounding erosion risk.

Stormwater can cause erosion of soils on hillsides and creek banks in Fairfax. Future development under the Proposed Project would be required to comply with the provisions

of the Town Code pertaining to grading and to stormwater controls. Specifically, Chapter 8.32 of the Town Code requires that any construction project include erosion and sediment controls and pollution prevention practices. The combination of best management practices (BMPs) used, and their execution in the field, must be customized to the site using up-to-date standards and practices. When required by the Phase II Stormwater Permit or by the Town, a project shall have an Erosion and Sediment Control Plan (ESCP) which addresses erosion and sediment control and pollution prevention during the construction phase as well as final stabilization control measures.

Construction that disturbs more than one acre would be subject to compliance with a National Pollutant Discharge Elimination System (NPDES) permit. The NPDES permit requires an erosion and sediment control plan, which includes sufficient engineering analysis to show that the proposed erosion and sediment control measures during the period when preconstruction and construction related grading activities are to occur are capable of controlling surface runoff and erosion and retaining sediment on the project site. Construction activity subject to NPDES permitting requirements also must include a post-construction erosion and sediment control plan. Once construction is complete and exposed areas are re-vegetated or covered by buildings, asphalt, or concrete, the erosion hazard is substantially eliminated or reduced.

As such, compliance with existing regulations would reduce impacts to the extent practicable and impacts related to erosion would be less than significant. (Draft EIR, pp. 3.6-23 – 3.6-24)

3. **Unstable Soils**

Threshold: Would the Project be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?

Finding: Less than significant. (Draft EIR, pp. 3.6-24 – 3.6-26)

Explanation:

The Proposed Project would have a significant impact if related development were located on an unstable geologic unit or soil, or a geologic unit or soil that would become unstable as a result of such development, and potentially result in on- or off-site landslides, lateral spreading, subsidence, liquefaction, or collapse. Liquefaction and landslide hazards associated with implementation of the Proposed Project are examined under Impact 3.6-1.

Overall, soils underlying Fairfax are considered to have moderately expansive characteristics and the potential for lateral spreading and subsidence is considered low. As discussed under the Environmental Setting, areas within Fairfax are underlain by slightly to moderately expansive soils, which swell and shrink as they gain and lose moisture and can result in damage to overlying structures. In particular, the southeastern portion of the Planning Area is underlain with the Saurin-Bonnydoon complex which is a clay loam that is moderately expansive. If these underlying soils are exposed to varying moisture content

over time, the result could be damage to foundations, walls, or other improvements.

Development associated with the implementation of the Proposed Project could be located on a geologic unit or soils that are susceptible to lateral spreading. As discussed above under the Environmental Setting, the factors determining the potential for lateral spreading are liquefiable soils and the proximity to an open face or slope. As shown in Figure 3.6-2, areas adjacent to the creeks and most of the Valley floor are subject to high liquefaction risk. San Anselmo Creek and Fairfax Creek provide an open face which poses some risk of lateral spreading, though it is not expected to be a great risk.

Development associated with the implementation of the Proposed Project could be located on soils that pose a low risk of subsidence. As discussed above under the Environmental Setting, the withdrawal of groundwater, oil, or natural gas can cause land to be displaced vertically. However, the USGS California Water Science Center maps of historical and current recorded subsidence does not identify the Town of Fairfax as an area that has experienced subsidence.[10] Marin County experiences slight risk of subsidence but only near the shoreline in combination with risk from sea level rise.[11] Therefore, subsidence is unlikely to result from construction created under the Proposed Project.

The potential risks related to construction on expansive or unstable soils from Proposed Project would be addressed through required compliance with the provisions of the California Building Code (CBC) related to soils and foundations and related development standards contained in the Town Code and General Plan. General Plan Program S-1.1.1.1 requires geotechnical analyses for all new developments and substantial improvement proposals. Chapter 17.072 of the Town Code outlines specifications for project-specific geotechnical investigations and a grading erosion control plan which are required for development in hillside areas. Approval of a hill area residential development permit shall be pursuant to geotechnical reports that find that the site can be developed without geologic or seismic hazards.

In addition, Chapter 8.32 of the Town Code establishes administrative procedures, minimum standards of review, and implementation and enforcement procedures for ensuring stable soil conditions. The ordinance requires that all construction activities include erosion and sediment controls and pollution prevention practices. When required by the Phase II Stormwater Permit or by the Town, a project shall have an Erosion and Sediment Control Plan (ESCP) which addresses erosion and sediment control and pollution prevention during the construction phase as well as final stabilization control measures.

Development in areas with expansive soils would require compliance with State and local building codes. Chapter 18 of the CBC regulates the excavation of foundations and retaining walls. This chapter regulates the preparation of a preliminary soil report,

[10] U.S. Geological Survey (USGS). N.d. Areas of Land Subsidence in California. Available: https://ca.water.usgs.gov/land_subsidence/california-subsidence-areas.html. Accessed: July 25, 2023.

[11] County of Marin. October, 2022. Housing & Safety Element Update to the Marin Countywide Plan. Available: https://www.marincounty.org/-/media/files/departments/cd/planning/environmental-impact/housing-and-safety-elements-eir-docs/marin-co-hese-public-draft-eirwith-appendicesoct-2022reduced-size.pdf?la=en. Accessed: January 6, 2023.

engineering geologic report, geotechnical report, and supplemental ground-response report. Chapter 18 also regulates analysis of expansive soils and the determination of the depth to groundwater table. Appendix Chapter J of the CBC regulates grading activities, including drainage and erosion control and construction on unstable soils, such as expansive soils and areas subject to liquefaction.

As such, compliance with existing regulations detailed above would ensure that any impact is reduced to a less than significant level. (Draft EIR, pp. 3.6-24 – 3.6-26)

4. **Expansive Soils**

Threshold: Would the Project be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code, creating substantial risks to life or property?

Finding: Less than significant with mitigation. (Draft EIR, p. 3.6-26)

Explanation:

A significant impact could occur if new development under the Proposed Project would locate structures in areas on top of expansive soil that would create substantial risk to life or property. As stated under Impact 3.6-3, areas within Fairfax are underlain by slightly to moderately expansive soils, which swell and shrink as they gain and lose moisture and can result in damage to overlying structures. Compliance with the provisions of the California Building Code, adopted by the Town as Chapter 15.04 of the Town Code, require soil investigations by a civil engineer to identify corrective action needed to prevent structural damage to each dwelling proposed to be constructed on the expansive soil. Therefore, compliance with existing regulations would reduce expansive soil-related impacts to a less than significant level. (Draft EIR, p. 3.6-26)

5. **Septic Tanks**

Threshold: Would the Project have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?

Finding: Less than significant. (Draft EIR, p. 3.6-27)

Explanation:

A significant impact could occur if new development under the Proposed Project would locate structures in areas without connection to the Town's sanitary sewer system and on soils incapable of adequately supporting the use of septic tanks. The Town Code (Chapter 13.04) requires that every building be connected to the public sewer system maintained by the sanitary district. In addition, Chapter 15.04 states a permit may be issued for the repair, replacement, or alteration of a previously constructed septic tank or sewage disposal system other than a septic system where no public sewer is available upon approval by the Town Council, the Planning Commission, the Marin County Health Department, Sanitary District Number 1 of Marin County, and the Bay Area Water Quality Control Board. Given that implementation of the Proposed Project would primarily involve the facilitation of housing

construction in established neighborhoods on existing lots and infill sites, future development under the Proposed Project would generally connect to existing sewer trunk lines or require future expansion of existing sewer trunk lines. In the event that the use of septic tanks is permitted during development under the Proposed Project, compliance with all requirements outlined in Chapters 13.04 and 15.04 of the Town Code would be required. As a result, the impact would be less than significant. (Draft EIR, p. 3.6-26)

6. **Paleontological Resources**

Threshold: Would the Project directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

Finding: Less than significant. (Draft EIR, p. 3.6-27)

Explanation:

Paleontological resources are mineralized or fossilized remains of prehistoric plants and animals, as well as mineralized impressions or trace fossils that provide indirect evidence of the form and activity of ancient organisms. As discussed under the Environmental Setting, following a search of the fossil database maintained by the University of California Museum of Paleontology at the University of California, Berkeley did not identify any fossils within Fairfax, but did identify fossils in the greater county. Although not anticipated, sub-surface construction activities associated with the Project implementation, such as grading or trenching, could result in a significant impact to paleontological resources, if encountered.

However, Public Resources Code Section 5097.5 specifies the procedures to be followed in the event of the unexpected discovery of paleontological resources. Compliance with existing regulations would result in less than significant impacts related to paleontological resources. (Draft EIR, p. 3.6-27)

F. GREENHOUSE GAS EMISSIONS

1. **Emissions Generation**

Threshold: Would the Project generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?

Finding: Significant and Unavoidable. (Draft EIR, pp. 3.7-26 – 3.7-30)

Explanation: See page 87

2. **Emission Reduction Plans**

Threshold: Would the Project conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emission of greenhouse gases?

Finding: Significant and Unavoidable. (Draft EIR, pp. 3.7-30 – 3.7- 3.7-34)

Explanation: See page 90

G. HAZARDS AND HAZARDOUS MATERIALS

1. **Hazardous Materials**

Threshold: Would the Project create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

Finding: Less than significant. (Draft EIR, pp. 3.8-14 – 3.8-16)

Explanation:

Buildout of the Proposed Project would primarily consist of infill development on underutilized commercial sites and ADUs, with the remainder of sites comprised of low impact clustered residential development and single-family housing and would not involve the transport, use, or disposal of significant quantities of hazardous materials. Construction activities arising from implementation of the Proposed Project would involve routine transport, use, and disposal of hazardous materials such as solvents, paints, oils and greases, and materials that are typically used in construction projects. Such transport, use, and disposal would be compliant with applicable regulations such as those described under the Regulatory Setting, which include regulations from the Resource Conservation and Recovery Act (RCRA), Cal OSHA, the U.S. Department of Transportation, and others. The regulations mentioned cover hazardous materials–related topics such as proper personal protective equipment, transport, handling, recordkeeping, and disposal, among others.

Although solvents, paints, oils, greases, fuels, and other materials would be transported, used, and disposed of during construction, these materials are typically used in construction projects and would not represent any undue hazard. Releases involving common construction hazardous materials would be small and localized and spills that may occur would be contained and cleaned according to the Safety Data Sheet[12] (SDS) in the appropriate manner.[13] A hazardous material SDS would include accidental release clean up measures such as appropriate techniques for neutralization, decontamination, cleaning

[12] SDS include information such as the properties of a chemical; the physical, health, and environmental health hazards; protective measures; and safety precautions for handling, storing, and transporting the chemical. In addition, OSHA requires that SDS preparers provide specific minimum information as detailed in Appendix D of 29 CFR 1910.1200.

[13] Occupational Safety and Health Administration (OSHA). 2012. Hazard Communication Standard: Safety Data Sheets. Last revised: February 2012. Available: https://www.osha.gov/Publications/OSHA3514.html. Accessed: March 2020.

or vacuuming, and adsorbent materials, etc. Contractors and staff would be covered by Cal OSHA and CUPA training standards that require documented employee training and equipment for emergency response.

Moreover, any project requiring greater than 1 acre of soil disturbance would be required to obtain National Pollutant Discharge Elimination System (NPDES) coverage under the NPDES General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities (Construction General Permit), Order No. 2009-0009-DWQ (in addition to the regulations previously mentioned). The Construction General Permit would require the development and implementation of a Stormwater Pollution Prevention Plan (SWPPP), which includes Best Management Practices (BMPs) to regulate and prevent contamination of stormwater runoff. Construction BMPs can include the following:

- Maintenance activities, maintenance schedules, and long-term inspection procedures to minimize release of fluids, oils and fuels from construction equipment.
- Controls for reducing or eliminating the discharge of pollutants
- Procedures for the proper disposal of waste[14]

Demolition or development under the Proposed Project may involve the handling and transport of could result in the need to handle and transport asbestos or lead based paints; however, such activities are subject to various federal, State, and local regulations, including BAAQMD regulations pertaining to asbestos abatement; Construction Safety Orders 1529 (pertaining to asbestos) and 1532.1 (pertaining to lead) from Title 8 of the California Code of Regulations; Part 61, Subpart M of the Code of Federal Regulations (pertaining to asbestos); and lead exposure guidelines provided by the United States Department of Housing and Urban Development. Asbestos and lead abatement must be performed and monitored by contractors with appropriate certifications from the state Department of Health Services. Construction activities may involve the use of diesel-powered equipment or the application of architectural coatings, but not at levels that could create a significant hazard to the public or environment. Similarly, once constructed, the residents of new homes constructed pursuant to the Proposed Project may use cleaning solvents or landscaping chemicals, but not at levels that could create a significant hazard to the public or environment.

Routine transport of hazardous materials on major arterials and highways within and surrounding the Planning Area are regulated and monitored by USDOT, Caltrans, and the California Highway Patrol. Any hazardous material transport via railroad through the Planning Area would be regulated and monitored by USDOT.

Overall, any transport, use, storage, and disposal of hazardous materials would be required

[14] U.S. Environmental Protection Agency (U.S. EPA). 2018. Stormwater Phase II Final Rule: Pollution Prevention/Good Housekeeping Minimum Control Measure. Available: https://www.epa.gov/sites/production/files/2018-12/documents/epa_stormwater_phase_ii_final_rule_factsheet_2.8_pollution_prevention_12-04-18.pdf. Accessed June 2020.

to comply with existing regulations established by several agencies, including the Department of Toxic Substances Control, the US Environmental Protection Agency (EPA), the US Department of Transportation, and the Occupational Safety and Health Administration. Compliance with existing regulations would result in a less than significant impact. (Draft EIR, pp. 3.8-14 – 3.8-16)

2. **Accident or Upset**

Threshold: Would the Project create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

Finding: Less than significant. (Draft EIR, p. 3.8-16)

Explanation:

Buildout of the Proposed Project would primarily consist of infill development on underutilized commercial sites and ADUs, with the remainder of sites comprised of low impact clustered residential development and single-family housing. The construction and operation of housing generally does not involve the release -- accidental or otherwise -- of hazardous materials that would create a significant hazard to the public. Further, existing regulatory programs associated with handling hazardous materials during construction and operation of the site would decrease potential impacts. Following the correct procedures outlined by governing bodies would decrease the chance of an accidental release to a less than significant level.

As noted in the discussion of Impact 3.8-1, adherence to requirements of existing regulatory programs would reduce potential impacts associated with the handling of hazardous materials (during both construction and operation) and reasonably foreseeable upset or accident conditions involving the aforementioned hazardous materials handling to a less-than-significant level. In the event of an accidental release of hazardous materials, several Federal, State, or local agencies such as the EPA, SF Bay Regional Water Quality Control Board, DTSC, or Marin County will provide oversight in remediation. Additionally, proper abatement procedures will be followed when renovating any of the structures that have lead-based paint or asbestos.

Adherence to existing regulations and programs would reduce impacts associated with the release of hazardous materials into the environment due to foreseeable upset and accident conditions to less than significant. (Draft EIR, p. 3.8-16)

3. **Hazards Near Schools**

Threshold: Would the Project emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

Finding: Less than significant. (Draft EIR, p. 3.8-17)

Explanation:

Fairfax has three public schools and one charter school located within one-quarter mile of development sites under the Proposed Project, construction projects such as housing would require little ground disturbance (lessening the potential risk of exposure) during construction and any hazardous materials use would still be subject to applicable requirements as mentioned under Impact 3.8-1. Buildout of the Proposed Project would not involve emitting or handling acutely hazardous materials or wastes in the vicinity of schools. Furthermore, there are no open and active hazardous materials sites within or adjacent to a school campus.

Adherence to the requirements of existing regulatory programs would reduce potential impacts associated with handling hazardous materials near a school to a less-than-significant level. (Draft EIR, p. 3.8-17)

4. **Waste Sites**

Threshold: Would the Project be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

Finding: Less than significant. (Draft EIR, p. 3.8-17)

Explanation:

A significant impact would occur if development under the Proposed Project is located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment. The California Department of Toxic Substances Control's EnviroStor database which, pursuant to Government Code Section 65962.5, lists Federal Superfund, State Response, Voluntary Cleanup, School Cleanup, Hazardous Waste Permit, and Hazardous Waste Corrective Action site, and the State Water Resources Control Board's GeoTracker database, which tracks authorized or unauthorized discharges of waste to land, or unauthorized releases of hazardous substances from underground storage tanks. According to the database, hazardous materials sites exist within the Planning Area, as shown on Figure 3.8-1 and Table 3.8-1, including the Fair Anselm Center which is an active Cortese List site. However, no sites identified for development pursuant to the Proposed Project are located on open or active hazardous materials sites. As such, impacts are less than significant. (Draft EIR, p. 3.8-17)

5. **Public Airports**

Threshold: For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?

Finding: No impact. (Draft EIR, p. 3.8-18)

Explanation:

There are no public airports within two miles of the town limits. The nearest airport is the San Rafael Airport located approximately five miles northeast of the town. The Proposed Project generally involves housing development within urbanized areas downtown and on existing single family residential lots within the Town limit. Therefore, implementation of the Proposed Project would result in no impact related to airport hazards. (Draft EIR, p. 3.8-18)

6. **Emergency Plans**

Threshold: Would the Project impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

Finding: Less than significant. (Draft EIR, p. 3.8-18)

Explanation:

See Impact 3.15-1 in DEIR Section 3.15: Wildfire for further analysis. The County's Emergency Operations Plan (EOP) and the Fairfax EOP establishes the emergency management organization for emergency response, establishes operational concepts associated with emergency management, and provides a flexible platform for planning emergency response in the county. The Town of Fairfax Local Hazard Mitigation Plan (LHMP) also details emergency response and evacuation preparations to minimize risks of fire danger. Such mitigation strategies include continuing to facilitate the distribution of emergency preparedness materials and trainings, conduct periodic tests of emergency sirens and emergency warnings systems, maintain the emergency operations center, and update the Marin Municipal Water District Fireflow Master Plan to improve the water distribution system.

Development facilitated by the Proposed Project would be constructed in accordance with federal, state, regional, and local requirements, which are intended to ensure the safety of town residents and structures to the extent feasible. Compliance with these standard regulations would be consistent with the Town's LHMP. Thus, implementation of the Proposed Project would not impair an emergency response or emergency evacuation plan and impacts would be less than significant. (Draft EIR, p. 3.8-18)

7. **Wildland Fires**

Threshold: Would the Project expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?

Finding: Less than significant. (Draft EIR, p. 3.8-19)

Explanation:

See Impacts 3.15-1 and 3.15-2 in DEIR Section 3.15: Wildfire for analysis on this impact.

Compliance with existing State and local codes and regulations as well as proposed policies would reduce impacts to a less-than-significant level related to exacerbating wildfire risks during construction, operation, and implementation of the Proposed Project. (Draft EIR, p. 3.8-19)

H. HYDROLOGY AND WATER QUALITY

1. Water Quality Standards

Threshold: Would the Project violate any water quality standards or waste discharge requirements?

Finding: Less than significant. (Draft EIR, pp. 3.9-12 – 3.9-14)

Explanation:

The Proposed Project would have a significant environmental impact if it would violate water quality standards and waste discharge requirements such as those set out in the National Pollutant Discharge Elimination System (NPDES) General Permit for Construction Activities (Construction General Permit). Violation could occur if the Proposed Project would substantially increase pollutant loading levels in the sanitary sewer system, either directly, through the introduction of pollutants generated by industrial or other land uses, or indirectly, through stormwater pollution.

The Regional Water Quality Control Board (RWQCB), Marin Countywide Stormwater Pollution Prevention Program (MCSTOPPP), and Town Code and General Plan water quality protection requirements and conditions applicable to implementation of the Project are intended to reduce any potential construction period and post-construction water quality impacts to a less-than-significant level, consistent with federal and State water quality regulations and plans. These RWQCB, MCSTOPPP, and Town requirements and conditions apply to future housing development facilitated by the Proposed Project.

Construction activities arising from implementation of the Proposed Project, such as grading and other construction-related earth-disturbing activities, could result in short-term water quality impacts. These would be associated with soil erosion and subsequent sediment transport to adjacent properties, roadways, or watercourses via storm drains. Sediment transport to local drainage facilities such as drainage inlets, culverts, and storm drains would end up in creeks and San Francisco Bay and result in water quality impacts. Construction activities could also generate dust, litter, oil, and other pollutants that could temporarily contaminate runoff from the Planning Area. However, no substantial increase in stormwater runoff is anticipated for development facilitated by the Proposed Project due primarily to the existing stormwater management requirements identified above and further discussed below. Furthermore, reductions in stormwater flows could result from increased landscaped areas and other water quality enhancements that do not currently exist.

Any project requiring a grading permit would be required to submit an Erosion and Sediment Control Plan (ESCP), which would be subject to review and approval by the Town, and would need to meet Town standards such as including erosion control best

management practices (BMPs) for grading activities and revegetation of graded areas; proper sizing of detention basins, dams, or filters intended to reduce release of suspended sediment; and designating washout areas or facilities for equipment. Individual projects disturbing more than one acre of ground would be required to obtain coverage under the State Construction General Permit, which requires preparation and implementation of a Storm Water Pollution Prevention Plan (SWPPP); the SWPPP also must include BMPs to control contamination of surface flows and potential discharge of pollutants from commencement of construction through project completion. Compliance with the Construction General Permit and the Fairfax Town Code (Chapter 8.32) requirements regarding grading permits would ensure that BMPs would be implemented to control soil erosion and sedimentation and restrict non-stormwater discharges from construction sites as well as any release of hazardous materials. As a performance standard, the selected BMPs would represent the best available, economically achievable technology and the best conventional pollutant control technology. These standard National Pollutant Discharge Elimination System (NPDES) and local required construction period measures would reduce the construction period pollutants entering waterbodies to a less-than-significant level.

Post-construction, other potential water quality impacts include runoff into storm drains or water bodies if proper minimization measures are not implemented. However, BMPs as required in the SWPPP and the Phase II Small Municipal Separate Storm Sewer System (MS4) NPDES Permit, ranging from source control to treatment of polluted runoff, would be implemented to reduce pollutants in stormwater and other nonpoint-source runoff. Chapter 8.32 of the Town Code is also intended to protect and enhance water quality consistent with existing regulations. The ordinance requires operators of construction sites to install, implement, or maintain appropriate best management practices (BMPs) to maintain pre-development stormwater runoff rates and prevent nonpoint source pollution whenever possible.

Development associated with the Proposed Project would be designed and maintained in accordance with Town, San Francisco Bay RWQCB, MCSTOPP, and NPDES regulations. Stormwater runoff would be treated using BMPs, as required. Therefore, at the program level, development associated with the Proposed Project would not violate any water quality standards or waste discharge requirements or otherwise substantially degrade water quality. Therefore, this impact would be less than significant. (Draft EIR, pp. 3.9-12 – 3.9-14)

2. **Groundwater Supplies**

Threshold: Would the Project substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that the Project may impede sustainable groundwater management of the basin?

Finding: Less than significant. (Draft EIR, pp. 3.9-14 – 3.9-15)

Explanation:

The Proposed Project would have a significant impact if it would substantially deplete

groundwater supplies or interfere with the sustainable management of groundwater basins. As discussed in the Environmental Setting, none of the four groundwater basins in the county intersect with the Fairfax Planning Area or are under management by a groundwater sustainability agency. Further, according to the Marin Municipal Water District (MMWD) which supplies water to Fairfax, groundwater is not currently or planned to be used as a water supply source. Development associated with the Proposed Project would also not draw directly from local groundwater (i.e., drill new wells) during either construction or operation.

Development associated with the Proposed Project would be expected to increase the amount of impervious area within the Planning Area, which could indirectly influence groundwater recharge. However, implementation of State and local stormwater management policies would result in an increase in the use of bioretention and other methods that would slow rates of water flow, which would allow stormwater to infiltrate the soil and support groundwater recharge. In addition, as discussed in Impact 3.9-1, new development and redevelopment, depending on the area of impervious surfaces, could be required to incorporate on-site methods to result in no net increase in drainage off-site compared to pre-project site hydrology; these methods could include low impact development techniques that filter, store, evaporate, and detain runoff close to the source of rainfall and control the rate and/or volume of stormwater, allowing stormwater to naturally infiltrate soils.

Furthermore, existing regulations and existing General Plan policies would ensure that development under the Proposed Project would not interfere substantially with groundwater recharge. Policy CON-3.1.1 requires maintenance of floodwater capacity and promotion of creek restoration. Policy CON-3.1.2 requires the Town to protect and restore riparian habitat and ensure natural channel processes in the watershed. Policy CON-4.2.2 requires the Town to improve stormwater management through improved assessment, design, and implementation of standard practices as contained in a Storm Drain Master Plan. Under this policy, Program CON-4.2.2.1 requires projects to reduce stormwater runoff through use of Low Impact Design (LID) methods.

Based on the foregoing, at the program level, development under the Proposed Project would not substantially decrease groundwater supplies and would not impede sustainable groundwater management of the basin. Therefore, this impact would be less than significant. (Draft EIR, pp. 3.9-14 – 3.9-15)

3. **Erosion or Siltation**

Threshold: Would the Project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?

Finding: Less than significant. (Draft EIR, pp. 3.9-15 – 3.9-16)

Explanation:

Implementation of the Proposed Project would primarily involve facilitation of housing construction in established neighborhoods and already developed areas. As such, development associated with the Proposed Project would be expected to increase the amount of impervious area within the Planning Area. Therefore, buildout of the Proposed Project could increase runoff and alter existing drainage patterns resulting in erosion, siltation, and flooding. Additionally, construction activities could involve excavation and disturbance of existing ground surface, exposing base soil and temporarily altering surface drainage patterns.

As discussed in Impact 3.9-1, RWQCB, MCSTOPPP, and Town stormwater management requirements and conditions apply to future potential development facilitated by the Proposed Project. Standard construction period requirements applicable to potential future development facilitated by the Proposed Project include preparation of an Erosion and Sediment Control Plan to reduce on-site erosion and off-site siltation, and if disturbing more than one acre of ground, State General Construction Permit requirements including preparation of a Stormwater Pollution Prevention Plan (SWPPP). Standard post-construction period requirements include (1) site design measures to minimize impervious surfaces or reduce runoff by dispersing it to landscaping or using pervious pavements; and (2) use of low-impact development techniques to result in no net increase in drainage off-site compared to pre-project site hydrology. All these stormwater management measures and techniques are designed to reduce the volume and rate of stormwater and allow water to infiltrate the underlying soil naturally, or capture water for reuse such as a rain barrel or cistern for irrigation purposes. These measures would reduce the effects of new or replaced impervious surfaces due to potential future development facilitated by the Project. As discussed further in Impact 3.9-4, future development in a flood hazard area would be required to comply with the Town's floodplain management standards in Town Code Chapter 17.068, which are designed to prevent or regulate construction of barriers that might unnaturally divert floodwaters or increase flood hazards in other areas.

Compliance with applicable regulations and implementation of erosion and sediment control BMPs discussed above would ensure that impacts associated with substantial alteration of the existing drainage pattern of the Planning Area would be reduced. Therefore, at the program level, development under the Proposed Project would not result in substantial erosion, siltation, or flooding on- or off-site and impacts would be less than significant. (Draft EIR, pp. 3.9-15 – 3.9-16)

4. **Flood Hazard**

Threshold: In flood hazard, tsunami, or seiche zones, would the Project risk release of pollutants due to project inundation?

Finding: Less than significant. (Draft EIR, p. 3.9-16)

Explanation:

As discussed above, there are approximately 54 acres of 100-year floodplains in the Planning Area, primarily comprised of lands in the floodplain adjacent to the confluence of Fairfax and San Anselmo Creeks. In addition, there are smaller areas along Fairfax

Creek within the 100-year floodplain. There are approximately 44 acres of 500-year floodplains in the Planning Area, including the land along Wood Lane and Porteous Ave in the southern portion of Fairfax, as well as along Olema and Bothin roads within the Fairfax Creek floodplain. As shown in Figure 3.9-1, the remainder of the Planning Area is predominantly in an area of minimal flood hazard (flooding not anticipated in the 100-year or 500-year time frames).

Implementation of the Proposed Project would primarily involve facilitation of housing construction in established neighborhoods and already developed areas, some of which are located within or adjacent to Special Flood Hazard areas, including the 100-year floodplain. Development in Special Flood Hazard areas is regulated by the standards in Chapter 17.068 of the Town Code, which requires that buildings be protected against flood damage at the time of initial construction; restricts the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters; and establishes standards for filling, grading, dredging, and other development activities which may increase flood damage. Additionally, as noted above, all development pursuant to the Proposed Project would be subject to the applicable provisions of Chapter 8.32 of the Town Code regarding stormwater management and drainage control, which would help ensure pre-development stormwater runoff rates and prevent nonpoint source pollution whenever possible. Compliance with these regulations would limit the risk of loss and damage due to flooding to the maximum extent practicable and associated impacts would be less than significant with compliance.

As noted in the Environmental Setting, there are no dams located in or around the Planning Area that would result in flooding portions of the town in the event of a dam failure. Further, there are no levees within or near the Planning Area that could threaten buildout associated with the Proposed Project with flooding. Most of the Planning Area lies at least 115 feet above sea level. Based on the distance from San Francisco Bay and elevation of the Planning Area, the Proposed Project is not susceptible to tsunami inundation. Furthermore, there are no large water bodies within the Planning Area likely to result in a flood risk from a seiche. Therefore, at the program level, development under the Proposed Project would result in flood impacts that would be less than significant. (Draft EIR, p. 3.9-16)

5. **Water Quality Control Plan / Groundwater Management Plan**

Threshold: Would the Project conflict with or obstruction implementation of a water quality control plan or sustainable groundwater management plan?

Finding: Less than significant. (Draft EIR, p. 3.9-17)

Explanation:

As discussed under Impact 3.9-1, established programs for controlling stormwater runoff and reducing pollutants in stormwater, as stated in the Fairfax Town Code stormwater regulations and the MCSTOPPP, would apply to future housing development facilitated by the Project. These programs and regulations are designed for consistency with the NPDES MS4 permit, which itself complies with Federal clean water laws and is consistent with

State clean water laws. Commonly practiced BMPs, as required by these regulations, would be implemented to control construction site runoff and reduce the discharge of pollutants to storm drain systems from stormwater and other nonpoint-source runoff. Construction runoff would also have to be in compliance with the appropriate water quality objectives for the region. The NPDES Construction General Permit requires stormwater discharges not to contain pollutants that cause or contribute to an exceedance of any applicable water quality objectives or water quality standards, including designated beneficial uses. Thus, implementation of water quality control measures and BMPs would ensure that water quality standards would be achieved, including the water quality objectives that protect designated beneficial uses of surface and groundwater, as defined in the Basin Plan. Therefore, the Proposed Project would not obstruct implementation of a water quality control plan.

Further, as described in the Environmental Setting, none of the four groundwater basins in the county has been designated a medium- or high-priority basin by the California Department of Water Resources or intersect with the Fairfax Planning Area. Therefore, none of these groundwater basins requires a groundwater management plan, and the Project would not result in a conflict with a sustainable groundwater management plan. Therefore, at the program level, development under the Proposed Project would result in impacts that would be less than significant. (Draft EIR, p. 3.9-17)

I. LAND USE AND PLANNING

1. Established Communities

Threshold: Would the Project physically divide an established community?

Finding: No impact. (Draft EIR, p. 3.10-13)

Explanation:

The physical division of an established community typically refers to the construction of a linear feature, such as an interstate highway or railroad tracks, or removal of a means of access, such as a local bridge, that would affect mobility within an existing community or between a community and outlying area. However, physical division could also occur if large buildings were designed in such a way so as to create “walls” or oriented in such a way that would obstruct movement or circulation on commonly used routes. The Proposed Project does not involve the construction of a linear feature or other barrier as described above and would not remove any means of access or impact mobility. Implementation of the Proposed Project would facilitate residential development required to meet the Town’s RHNA allocation, consisting primarily of infill development on underutilized commercial sites and ADUs, with the remainder of sites comprised of low impact clustered residential development and single-family housing within the Town limit.

Therefore overall, because the Proposed Project would not introduce any physical barriers to the Planning Area, it would result in no impact with respect to physically dividing an existing community. (Draft EIR, p. 3.10-13)

2. **Conflicts With Plans**

Threshold: Would the Project cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?

Finding: No impact. (Draft EIR, pp. 3.10-13 – 3.10-17)

Explanation:

Regional Plans

Plan Bay Area is the regional blueprint for development and conservation in the nine county San Francisco Bay Area. As discussed in the Regulatory Setting, both Plan Bay Area 2040 and its update, Plan Bay Area 2050, promote compact, mixed-use, infill development within walkable/bikeable neighborhoods close to public transit, jobs, schools, shopping, parks, recreation, and other amenities in order to reduce GHG emissions, increase housing opportunities, promote equity and diversity, focus development within the already developed footprint, increase access to affordable housing, increase employment opportunities, and increase non-automotive mode share and the effectiveness of the transportation system. Plan Bay Area 2050 was adopted in October 2021, and continues to support the goals of Plan Bay Area 2040 while identifying a path to make the Bay Area more equitable for all residents and more resilient in the face of unexpected challenges. RHNA and Plan Bay Area 2050 discuss planning for housing on two separate time horizons: RHNA focuses on the shorter-term with its eight-year cycle, while Plan Bay Area 2050 presents a longer-term vision for the next 30 years. The two efforts, however, are coordinated, with RHNA's near-term focus setting the stage for early implementation of Plan Bay Area 2050's envisioned growth pattern.

The Proposed Project's goals and associated policies and programs set the stage for early implementation of Plan Bay Area 2050's envisioned growth pattern. Housing Goal #1 increases the range of housing options to meet the housing needs for all economic segments of the community. Housing Goal #2 addresses housing affordability by addressing regulatory, process, and market factors that limit housing production and preservation in Fairfax. Housing Goal #3 promotes suitable and affordable housing for special needs populations, including housing for lower income households, large families, single parent households, the disabled, older adults, and people experiencing homelessness. Housing Goal #4 fosters equal housing opportunity for all residents of Fairfax, regardless of race, religion, sex, marital status, ancestry, national origin, color, or ability. Finally, Housing Goal #5 monitors the effectiveness of housing programs to ensure that they respond to housing needs.

Table 3.10-3 presents the Plan Bay Area 2050 strategies that are applicable to the analysis of land use, population, and housing in this chapter and how the programs associated with the Proposed Project's goals (described above) complies with each of the strategies. Consistency with Plan Bay Area 2050 strategies not listed in Table 3.10-3 are further evaluated in other chapters of this EIR. Table 3.10-3 shows that the Proposed Project generally would not disrupt or hinder implementation of any Plan Bay Ares 2050 strategies.

Accordingly, development under the Proposed Project would not fundamentally conflict with Plan Bay Area 2050 and would result in no impact.

As shown in Table 3.10-3, the Proposed Project would support key objectives of Plan Bay Area throughout the Planning Area, such as creating greater opportunity for low-income groups in High Resource Areas and adding more affordable housing typologies throughout the Planning Area. Therefore, the Proposed Project would not conflict with Plan Bay Area, and there would be no impact.

Local Plans and Regulations

Local land use plans and regulations that cover the Planning Area include the Town of Fairfax General Plan and the Town Code. As the Proposed Project is an update to existing local policies and development standards, there are cases in which it differs from existing standards and regulations. Any proposed amendments to the Zoning Code will be completed after adoption of the Housing Element.

The Town of Fairfax General Plan envisions the Planning Area as a unique and diverse community with a distinct center, providing human-centered scaled development and walking and bicycling amenities for the town's inhabitants. The General Plan seeks to guide the evolution of the town center and retain aspects of the town that make it special. To achieve this vision, the Town establishes the following goals in the General Plan: to manage future growth while preserving the area's natural resources (Goal LU-5), to preserve human-centered scale and sense of community (Goal LU-7), and to preserve community diversity through affordable housing opportunities primarily along transit corridors (Goal LU-8).

The Proposed Project builds upon these goals and includes multiple goals and policies that would support the realization of the General Plan vision for the Planning Area. The Proposed Project includes multiple policies that encourage mixed-use, compact development and pedestrian- and bicycle-friendly streets within the Planning Area (Policy 1-1, Policy 1-3, and Policy 1-4). The Proposed Project focuses on infill development and development of underutilized and vacant areas (Policy 2-1, Policy 2-6, and Policy 2-7).

The Proposed Project retains the overall land use framework of the General Plan, with some targeted changes to the Zoning Code to promote housing development (Programs 1-D, 1-E, 1-M, 2-A, 2-C, 2-D, 2-E, 3-C). For example, The Town will amend the Zoning Code to allow shopkeeper units on designated streets in all commercial districts subject to objective standards, density/intensity limits, and parking requirements (Program 1-D). The Town will also adopt Zoning Code amendments in the form of a Workforce Housing Overlay District, to implement these provisions and provide an alternative to AB2011 as a means of promoting the construction of housing for teachers, restaurant and service workers, firefighters, police officers, and others employed in Fairfax and Marin County (Program 2-A). These changes are generally consistent with the General Plan vision of providing housing opportunities.

Further, the Workforce Housing Overlay District allows multifamily residential development at much higher densities than previously permitted in the town, and it allows

housing on some sites where residential uses were not previously permitted at all. However, implementation of the Proposed Project will require zoning amendments and future developments pursuant to the Proposed Project will need to be consistent with the new zoning amendments. Consequently, no conflicts would result.

Program 2-D also provides standards for or low impact clustered residential development on large sites in Fairfax. There are a number of large hillside sites with adequate access, utility services, and topography that might accommodate a low impact clustered residential development, including both attached and detached single-family dwellings and accessory dwelling units. Zoning Code amendments will be prepared as appropriate to allow for this type of housing and to establish development standards and design review criteria. The General Plan also outlines design standards for hillside development that the Proposed Project would comply with, such as minimizing stormwater runoff, soil erosion, and designing sites to have the least visual impact. As such, no conflicts would result.

Development associated with implementation of the Proposed Project and construction of approved pipeline projects is projected to result in up to approximately 1,171 new residents[15] and 598 new housing units. To accommodate the RHNA allocation, the Proposed Housing Element identifies strategies and programs to support live-work units, promote workforce housing, and promote ADUs/JADU production. Such programs will require amendments to the Town Code that add objective development standards, permit allowable floor area ratio (FAR) to be calculated on the basis of total site area rather than per parcel, reduce the rear setback requirements, eliminate the requirement for covered parking spaces to serve caretaker units, and revise the parking requirements for multi-family developments (Programs 1-D, 1-E, 1-M, 2-A, 2-C, 2-D, 2-E, 3-C). However, the Proposed Project would not involve changes to base zoning districts. Future residential projects consistent with the Proposed Project will be required to comply with the policies in the General Plan regarding land use and Town Code requirements associated with zoning districts, allowable uses, and development standards. All future residential development occurring within the town would be required to be evaluated in accordance with local regulations, including the General Plan and Town Code. Therefore, implementation of the Proposed Project would have no impact in regard to conflicts with a land use plan, policy, or regulation adopted to avoid an environmental effect. (Draft EIR, pp. 3.10-13 – 3.10-17)

J. MINERAL RESOURCES

1. Regional and Statewide Mineral Resources, Locally-Important Mineral Resource

Threshold: Would the Project result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?

[15] Projected population from development under the Proposed Project was estimated using 2021 ACS 5-Year Estimate Tables B25033 and B25024 to calculate average Fairfax household population numbers of 2.11 residents for single-family residential units and 1.87 residents for multifamily residential units. Average household population numbers were then applied to the 217 single-family units and 381 multifamily units to be built out under the Proposed Project.

Would the Project result in the loss of availability of a localy-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?

Finding: No impact. (Draft EIR, p. 3.16-3)

Explanation:

Much of the land in the Planning Area has been previously graded or developed. Mineral resources in the Town of Fairfax are limited to gravel and stone and there are no active mineral resource extraction facilities within the Planning Area. According to the Marin Countywide Plan, 12 sites in the County have been identified for mineral resources, including eight sites designated by the State and four sites permitted by the County. However, none of these mineral resource sites are located in the Town of Fairfax. In addition, no locally important mineral resource recovery sites are delineated in the General Plan or other land use plans. The Proposed Project would not facilitate new development in the vicinity of a mineral resource site, and therefore would not result in the loss of availability of either a known mineral resource deposit or a locally important mineral resource recovery site. As such, the Proposed Project would have no impact on the availability of mineral resources within Fairfax. (Draft EIR, p. 3.16-3)

K. NOISE

1. Noise Standards

Threshold: Would the Project result in the generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?

Finding: Less than significant. (Draft EIR, pp. 3.11-18 – 3.11-21)

Explanation:

Construction

Noise from individual construction projects carried out under the Proposed Project would likely result in temporary increases in ambient noise levels at 25 feet and at adjacent property lines. As the precise details and timeframes for individual development projects that would be carried out under the Proposed Project cannot be known at this time, it is not possible to determine exact noise levels, locations, or time periods for construction of such projects, or construction noise at adjacent properties. In addition, several sites for development under the Proposed Project would involve construction of small-scale housing, typically of not more than three single-family residences or multi-family residential structures designed for not more than six dwelling units. Of the proposed 598 housing units, 46 are new single-family homes, 160 are ADU/JADUs, and 11 are various single family pipeline projects that would represent small-scale housing. Pursuant to CEQA Section 15303, the State has determined that such projects would not have a

significant effect on the environment.

Of the larger scale projects anticipated with buildout of the Proposed Project, construction could potentially expose existing sensitive noise receptors to sustained construction noise, including from construction-related traffic, demolition, and reconstruction activities. Table 3.11-7 illustrates typical noise levels associated with construction equipment at a distance of 25 feet. At a distance of 25 feet from the construction site, noise levels similar to those shown in Table 3.11-7 would be expected to occur with individual development projects. Noise would typically drop off at a rate of about 6 dBA per doubling of distance. Therefore, construction noise levels would be about 6 dBA lower than shown in the table at 50 feet from the noise source and 12 dBA lower at a distance of 100 feet from the noise source.

As shown in Table 3.11-7, noise levels from construction activity could approach 107 dBA Leq 25 feet from construction equipment, specifically from the operation of pile drivers. Pile foundations are generally used under two situations: 1) when there is a layer of weak soil at the ground surface that cannot support the weight of a building; or 2) when a building has very heavy, concentrated loads, such as in a high-rise structure, bridge, or water tank. Such construction activity would exceed the exterior noise limits established in Chapter 8.20 of the Town Code and the Town's General Plan. The Town's exterior noise standards are 50 dBA for single-family residential areas and 55 dBA for multi-family residential areas. Construction noise would exceed ambient noise levels and may temporarily disturb people at neighboring properties. However, exemptions for construction activity based on time of day are outlined in Chapter 8.20 of the Town Code.

The severity of construction-related noise impacts depends on the proximity of construction activities to sensitive receptors, the presence of intervening barriers, the number and types of equipment used, and the duration of the activity. While these factors cannot be known precisely for future projects under the Proposed Project, individual projects would be required to comply with Town standards. Per Town Code Section 8.20.060, the operation of any tools or equipment used in construction or demolition work or in property maintenance work between the hours of 6:00 p.m. and 8:00 a.m. Monday through Friday or on weekends and holidays between the hours of 4:00 p.m. and 9:00 a.m. is prohibited. Construction that complies with the time-of-day restrictions for construction activities would result in less than significant noise impacts with regard to the generation of noise in excess of thresholds.

Implementation of policies contained in the General Plan would further reduce construction noise and associated impacts. Policies N-1.1.2, N-1.1.4, and N-3.1.2 establish noise/land use compatibility standards as well as exterior and interior noise standards. Further, Policy N-3.1.4 requires the implementation of appropriate standard controls to mitigate noise impacts for all construction projects.

Therefore, compliance with existing time-of-day restrictions for construction activities as well as the applicable Town Code and General Plan policies would ensure that impacts related to construction noise would be less than significant.

On-Site Operational Noise

Residential development associated with the Proposed Project is not likely to generate noise levels that would exceed the Town's standards. The noise generated by on-site activities for new development would be subject to the Town's maximum allowable exterior noise limits, contained in Chapter 8.20 of the Town Code. The noise standard for exterior use areas (such as backyards) is 50 dBA during the day and 40 dBA at night for single-family residential and 55 dBA during the day and 50 dBA at night for multi-family residential. Stationary noise sources at new residential and mixed-use development would include ventilation and heating (HVAC) systems. Residential developments that comply with these noise standards would result in less than significant noise impacts with regard to the generation of noise in excess of thresholds. Therefore, compliance with the requirements of the General Plan and Town Code would reduce potential on-site noise impacts to a less than significant level.

Traffic Noise

Future development associated with the Proposed Project would result in an increase in traffic in and adjacent to the Planning Area and placement of new sensitive receptors within the Planning Area. Future noise conditions were projected using a reference distance of 50 feet from each roadway segment centerline for local roadways. Then, based on the average daily traffic volumes provided by the traffic consultant, traffic noise levels were quantified for the 2040 Plus Project condition. Existing (2023) traffic noise levels were obtained from traffic modelling data performed by Fehr & Peers. The difference in noise between these two scenarios represents the Proposed Project's incremental contribution to noise levels in the area. Table 3.11-8 shows the results of the noise modeling analysis and Figure 3.11-1: Projected Noise Contours (2040) shows projected noise level contours along local roadways within the Planning Area with the Proposed Project.

Traffic noise impacts along roadways and at intersections with adjacent existing sensitive receptors were analyzed using the Traffic Noise threshold discussed in the Methodology and Assumptions section on page 3.11-17. Under this threshold, new development of residential land uses should not be allowed in noise impacted areas unless effective mitigation measures are incorporated into the project design to reduce noise levels in outdoor activity areas to 60 dBA L_{DN} or less. As such, residential development sites exposed to noise levels exceeding 60 dBA LDN shall be built following the protocols in the California Building Code. Further, the Town's General Plan requires development to incorporate noise reduction guidelines as outlined in the CalGreen Code (adopted in Chapter 15.04 of the Town Code). Compliance with such codes will require developments to use state-of- the-art construction techniques that will mitigate outdoor activity noise to the greatest extent feasible.

Further, as noted in the Environmental Setting on page 3.11-5, a 3 dBA change in ambient noise levels is considered to be a barely perceivable difference. Thus, a 3 dB or less change in noise levels traffic would not constitute a significant impact, because such a change in ambient noise levels is considered just noticeable.

As shown in Table 3.11-8, none of the roadway segments studied are projected to exceed a 3 dB increase in noise levels under the Proposed Project compared to existing conditions. As such, the increase in traffic under the Proposed Project is considered to be a less-than-

significant noise impact and no mitigation is required. (Draft EIR, pp. 3.11-18 – 3.11-21)

2. **Vibration**

Threshold: Would the Project result in the exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?

Finding: Less than significant. (Draft EIR, pp. 3.11-23 – 3.11-24)

Explanation:

Construction Vibration

Construction of individual projects facilitated by the Proposed Project could intermittently generate groundborne vibration on and adjacent to construction sites. Buildings in the vicinity of a construction site respond to vibration with varying degrees ranging from imperceptible effects at the lowest levels, to low rumbling sounds and perceptible vibrations at minor levels, and up to minor damage at the highest vibration levels. Table 3.11-3 lists groundborne vibration levels from various types of construction equipment at various distances. However, several sites for development under the Proposed Project would involve construction of small-scale housing, typically of not more than three single-family residences or multi-family residential structures designed for not more than six dwelling units. Of the proposed 598 housing units, 46 are new single-family homes, 160 are ADU/JADUs, and 11 are various single family pipeline projects that would represent small-scale housing. Pursuant to CEQA Section 15303, the State has determined that such projects would not have a significant effect on the environment.

Larger scale construction, such as at the School Street site, may utilize equipment needed for high-rise structures, such as pile drivers. Applicable construction equipment, such as a pile driver, could approach vibration levels of 0.65 PPV at a distance of 25 feet from the source and 0.230 PPV at 50 feet.

However, exemptions for construction activity based on time of day are outlined in Chapter 8.20 of the Town Code. Per Town Code Section 8.20.060, the operation of any tools or equipment used in construction or demolition work or in property maintenance work between the hours of 6:00 p.m. and 8:00 a.m. Monday through Friday or on weekends and holidays between the hours of 4:00 p.m. and 9:00 a.m. is prohibited. Compliance with such regulations would reduce the potential for impacts related to excessive groundborne vibration.

Therefore, compliance with applicable Town Code policies and regulatory requirements, such as the construction hour restrictions, would ensure that construction vibration associated with development under the Proposed Project would be minimized to the maximum extent practicable and impacts would be less than significant.

Operational Vibration

Stationary Source Vibration

As development occurs, there is generally a potential for more operational vibration sources to be developed. However, implementation of the Proposed Project would not directly result in an increase of operational sources of vibration in the Planning Area given that construction would primarily involve infill residential development on underutilized commercial sites and ADUs, with the remainder of sites comprised of low impact clustered residential development and single-family housing. Due to the nature of development not typically involving large scale vibration generating equipment, stationary source vibration impacts associated with implementation of the Proposed Project would be less than significant.

Traffic Vibration

There would be an anticipated increase in traffic in the Planning Area associated with both the increase in density and intensity allowed under the Proposed Project and with regional increases in traffic generally (see Section 3.13: Transportation). Vibration resulting from vehicle traffic is generated primarily by heavy truck passage over discontinuities in the pavement (such as potholes, bumps, and expansion joints). Sir Francis Drake Boulevard, which bisects the Town of Fairfax, is the major east-west arterial from West Marin to Highway 101. Groundborne vibration generated by traffic traveling on roadways is generally below the threshold of perception at adjacent land uses, unless there are severe discontinuities in the roadway surface. Therefore, vehicle traffic resulting from construction and operation of residential projects under the Proposed Project would not be anticipated to result in substantial or excessive groundborne vibration and impacts would be less than significant. (Draft EIR, pp. 3.11-23 – 3.11-24)

3. **Airport Noise**

Threshold: For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

Finding: No impact. (Draft EIR, p. 3.11-24)

Explanation:

The Town of Fairfax is not located within the vicinity of a private airstrip or airport land use plan, or where such a plan has not been adopted, is not located within two miles of a public airport or public use airport. The nearest airport is the San Rafael Airport located approximately five miles northeast of the Planning Area. Therefore, future development consistent with the Proposed Project would not expose people residing or working in the project area to excessive noise levels, and no impact would occur. (Draft EIR, p. 3.11-24)

L. POPULATION AND HOUSING

1. **Population Growth**

Threshold: Would the Project induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of road or other infrastructure?

Finding: Less than significant. (Draft EIR, pp. 3.10-17 – 3.10-18)

Explanation:

Implementation of the Proposed Project could induce substantial population growth directly if its proposed land uses and development standards would provide for significant population or employment growth above projected levels, or indirectly if infrastructure extensions would encourage significant numbers of people to move to the area.

The implementation of the Proposed Project would facilitate construction of new housing to meet the Town of Fairfax RHNA obligations. Development associated with the implementation of the Proposed Project is projected to result in up to approximately 1,171 new residents and 598 new housing units. As such, the resulting increase in population and housing units would not be considered substantial unplanned growth as it would be consistent with regional planning projections, and it would occur incrementally over a period of eight years. Further, the Proposed Project generally involves infill development within the town limit and does not propose the extension of roads or infrastructure into undeveloped areas. Therefore, the Proposed Project would result in a less than significant impact associated with population growth, either directly or indirectly.

Given that the Proposed Project's direct and indirect projected population growth is commensurate with regional growth projections, the Proposed Project would not induce substantial unplanned population growth in the Planning Area and the impact would be less than significant. (Draft EIR, pp. 3.10-17 – 3.10-18)

2. **Displacement of Housing**

Threshold: Would the Project displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere; and displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?

Finding: Less than significant. (Draft EIR, pp. 3.10-18 – 3.10-19)

Explanation:

The Proposed Project would facilitate the provision of housing to meet the projected need at all income levels in Fairfax. The location of proposed new housing units is shown in Figure 2-3 of Chapter 2, Project Description of this EIR. In total, the Proposed Project would result in up to 598 new housing units, primarily consisting of infill development on underutilized commercial sites and ADUs, with the remainder of sites comprised of low impact clustered residential development and single-family housing. It is possible that buildout under the Proposed Project could result in the demolition of an existing residences; however, buildout would result in a substantially higher amount of new housing of different

types and price points than exists now, which would be accessible to people of all ages and backgrounds.

Indirect displacement resulting from development within the Planning Area could potentially occur through the process of neighborhood economic and demographic change in an existing area, which often results from real estate investment and increased demand from higher-income residents. The Proposed Project and Town Code contain provisions to protect against the indirect displacement of housing units and people in Fairfax. The Proposed Project's provisions for creating an even distribution of new housing at all levels of affordability include all policies under Housing Goal #3. These policies promote implementation of affordable housing and inclusion of a wide range of unit sizes to accommodate various household sizes. Implementation of these policies would ensure that development under the Proposed Project would specifically serve existing residents at risk of gentrification and displacement's negative effects by providing affordable housing that is accessible to a variety of income levels as well as health and human services for homeless populations, elderly residents, and undocumented residents, rather than simply providing new housing that can only be accessed by individuals of a higher income level. Program 3-F of the Proposed Project will offer tenants protection and education about their renter rights by preparing and distributing brochures, posting information on the Town website, and by having the Town Council consider a Rental Housing Fee.

Adherence to existing regulations and implementation of policies and actions in the Proposed Project would prevent the indirect displacement of substantial numbers of residents or housing units to the maximum extent practicable. Overall, the Proposed Project would not directly or indirectly displace substantial numbers of people or housing units, and any potential indirect impacts would be addressed by existing Town policies and provisions for affordable housing, as well as policies in the Proposed Project; this impact would be less than significant. (Draft EIR, pp. 3.10-18 – 3.10-19)

M. PUBLIC SERVICES

1. Fire Protection

Threshold: Would the Project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for fire protection, police protection, schools, parks, or other public facilities?

Finding: Less than significant. (Draft EIR, pp. 3.12-9 – 3.12-13)

Explanation:

Police Service

The Planning Area is served by the Fairfax Police Department (FPD) and is part of the

Region II California State Mutual Aid System. The FPD has established minimum staffing levels that should result in the scheduling of at least two officers during Friday and Saturday nights between the hours of 2100 and 0300 and one officer at all other times. The FPD has not established any other service ratios or response time goals at this time. However, the increased local population generated by implementation of the Proposed Project may increase the need for police services.

Implementation of the Proposed Project would involve construction of up to 598 housing units throughout the town, primarily consisting of infill development on underutilized commercial sites and ADUs, with the remainder of sites comprised of low impact clustered residential development and single-family housing within the Town limit. The increased local population generated by the Proposed Project would likely result in an increase in calls for police services compared to existing conditions. However, development would take place incrementally over the 8-year planning period and be concentrated primarily in central infill areas with police access.

In consultation between the Town and the FPD Chief of Police[16], the department has no plans to increase staffing/equipment levels of construct new facilities between 2023 and 2031. The FPD does not anticipate the need to construct new facilities to serve the Town of Fairfax in 2031, assuming the construction of up to 598 housing units occurs. The additional residential units can still be adequately served by the existing staffing of two officers on duty 24/7. However, the FPD plans to reinstate a currently frozen position to allow for consistently having two officers on duty 24/7 when vacations, training, sick time off are taken into account from existing staffing. As such, the Proposed Project would not require the construction of new police facilities. Impacts would be less than significant.

Fire Protection

The Ross Valley Fire Department (RVFD) continues full operations that service the Planning Area. Standards of response coverage benchmarks, as outlined in the Ross Valley Fire Department Annual Report 2012-2013, include on scene arrival of the first unit within eight minutes of receipt of a 911 call in 90 percent of requests for service for priority responses and wildland fire responses. For building fires, a 14 personnel in 15 minutes standard was set. In order to maintain standards of response coverage benchmarks, Fire Station 19 and 21 will experience an increase in minimum staffing from two firefighters to three firefighters due to the closure of Station 18 on July 1, 2025. Stations 20 and 21 are currently in the beginning stages of a remodel to help accommodate the projected increased staffing in July 2025.

The increased local projected buildout population and housing units generated by the Proposed Project would likely result in a subsequent increase in fire and emergency medical service calls to the Planning Area compared to existing conditions. In consultation between the Town and the RVFD Interim Fire Chief[17], the department does not anticipate a need to construct or expand their station facilities as a result of the buildout of up to 598 housing units under the Proposed Project. Correspondence with service providers is located

[16] R. Tabaranza, personal communication, July 3, 2023.
[17] D. Mahoney, personal communication, July 5, 2023.

in Appendix F of the DEIR.

However, given that Fairfax is just one part of the RVFD JPA, requirements for each town within the JPA may have a greater impact on the department as a whole and trigger some type of new facility or expansion within any of the four towns that are serviced by the RVFD JPA which may result in environmental impacts. The specific impacts associated with the construction of such new facilities are not known at this time, and any analysis of such impacts would be speculative. In addition, any such new facilities would require separate environmental analysis and any necessary project specific mitigation prior to being considered for approval. As a result, this impact would be less than significant.

Schools

As discussed in Chapter 2, Project Description, development under the Proposed Project would result in up to 598 new residential units and 1,171 new residents in the Planning Area compared with existing conditions. It is reasonably foreseeable that some of these units would support families with children that may attend RVSD facilities. To calculate student potential for new development under the Proposed Project, the applicable student generation rate of 0.2 per dwelling unit (as provided in Table 3.12-2) is applied to project buildout of 598 units. Thus, implementation of the Proposed Project could result in an additional 120 Fairfax students attending the RVSD over the planning period.

In consultation between the Town and the RVSD Superintendent[18], the district does not have any current plans to increase staffing/equipment levels or to construct new facilities between 2023 and 2031. Based on the Proposed Project, the district anticipates that they would have sufficient space at Manor School to service Fairfax students for transitional kindergarten (TK) through Grade 5. However, since White Hill Middle School also services San Anselmo students along with Fairfax students, growth planned in the Town of San Anselmo and County of Marin housing elements would further increase enrollment at White Hill Middle School. Therefore, the RVSD anticipates that there will be a need for new/expanded facilities at White Hill Middle School.

The Proposed Project would result in an incremental increase in population in the Planning Area over the next eight years, which would increase student enrollment at White Hill Middle School in Fairfax and therefore require construction of new or physically altered facilities. The environmental impacts related to traffic, noise, air quality, and GHG emissions during construction and operation of the school facilities have been considered throughout this EIR. Detailed design of the new school facilities has not yet been completed, so site specific impacts cannot be evaluated at this time. However, construction of new school facilities would be subject to separate project-level CEQA review at the time the design is proposed in order to identify and mitigate project-specific impacts as appropriate.

For example, White Hill Middle School is located in a high/very high liquefaction zone and a High Fire Hazard Severity Zone. Any new development of expansion of the school's facility would be required to comply to applicable regulations further detailed in Section

[18] M. Trahan, personal communication, July 6, 2023.

3.6: Geology and Soils and Section 3.15: Wildfire. Such regulations include complying with the provisions of the California Building Code related to soils and foundations and General Plan policies that require site-specific geotechnical analyses for all new developments and substantial improvement proposals. The Town of Fairfax General Plan also details emergency response and evacuation preparations to minimize risks of fire danger, such as vegetation management and defensible space activities, maximizing access for emergency response vehicles, and enforcing provisions of the California Fire Code. As such, compliance with existing regulations would reduce impacts to a less than significant level related to the provisions of school facilities.

Parks

There are three parks within Fairfax, totaling approximately 4.79 acres, including Peri Park, Bolinas Park, and Contratti ballfield. The current townwide parkland ratio is .65 acres per 1,000 residents. Consistent with the Quimby Act (California Government Code Section 66477), the Town Code Section 16.24.100 provides parkland dedication requirements for subdivisions. The payment of fees, or the dedication of land, or both, shall be in a proportionate amount necessary to provide five acres of property devoted to local park or recreational purposes for each 1,000 persons residing in the town. Subdivisions containing less than five parcels and not used for residential purposes shall be exempted from the requirements of this section.

The Proposed Project would result in an incremental increase in population in the Planning Area over the next eight years, which would increase demand for parks and recreation facilities and therefore require construction of new or physically altered facilities. The environmental impacts related to traffic, noise, and air quality and GHG emissions during construction and operation of the park facilities have been considered throughout this EIR. Detailed design of the new park facilities has not yet been completed, so site specific impacts cannot be evaluated at this time. However, construction of new parks would be subject to separate project-level CEQA review at the time the design is proposed in order to identify and mitigate project-specific impacts as appropriate. As such, compliance with existing regulations would reduce impacts to a less than significant level related to the provision of park facilities.

Other Public Facilities

Other public facilities typically include libraries, hospitals, and administrative buildings. The incremental increase in local population generated by implementation of the Proposed Project over the next eight years would likely use existing public service and community facilities within the town, including the Women's Club, the Pavilion, the Marin County Fairfax Library, and school spaces that could be used for community activities. The Town has not adopted service standards for other public facilities, but supports expansion and funding mechanisms to ensure adequate access.

In the event that a new public service or community facility is needed, construction of such a facility could result in subsequent environmental impacts; the specific impacts of which are not known at this time and any analysis would require speculation. General Plan Goal OS-1 requires the protection and preservation of open space lands in the Planning Area.

Therefore, it is likely that any new public service or community facilities necessary to serve the Planning Area would be located and constructed in an urbanized and developed area to mitigate environmental impacts. The environmental impacts related to traffic, noise, air quality, and GHG emissions during construction and operation of the park facilities have been considered throughout the technical modeling provided in other chapters of this EIR. Future recreational facilities will tier from this EIR to identify and mitigate site-specific impacts if and when design of those parks is complete. Therefore, public service and community facilities impacts of the Proposed Plan would be less than significant. (Draft EIR, pp. 3.12-9 – 3.12-13)

N. RECREATION

1. Increased Use

Threshold: Would the Project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

Finding: Less than significant. (Draft EIR, p. 3.12-13)

Explanation:

As discussed under Impact 3.12-1, population growth associated with implementation of the Proposed Project could increase demand for the Town's existing neighborhood parks and potentially require the construction of new or physically altered facilities to meet the increased demand for parkland. There are three parks within Fairfax, totaling approximately 4.79 acres, that are managed by the Town's Department of Public Works (DPW) Park Maintenance Division, as well as additional recreational facilities such as regional parks, trails, and school athletic fields that are not managed by the Town's Park Maintenance Division.[19]

Construction of new parks and physical alteration of existing parks to accommodate increasing population may result in environmental impacts. However, environmental impacts related to construction emissions, vehicle miles traveled (VMT), and biological resources associated with construction of expansion of the proposed parks are accounted for in technical modeling provided in other chapters of this EIR. Future parks will tier from this EIR to identify and mitigate site specific impacts if and when design of those parks is complete. The General Plan includes various goals and policies to ensure adequate open space is provided within the Town. Compliance with General Plan Policy LU-1.1.2 requires additional park areas to be created in existing neighborhoods where practicable. In addition, Policy OS-1.4.5 requires the Town to dedicate a portion of privately-owned undeveloped and underdeveloped lands that connect or expand to existing open space for open space uses. Further, Section 16.24.100 of the Town Code requires developers to pay in-lieu fees or dedicate parkland which would help ensure that population growth associated with the Proposed Project would not result in substantial physical deterioration

[19] Town of Fairfax. 2012. Town of Fairfax 2010-2030 General Plan. Available: https://www.townoffairfax.org/general-plan/. Accessed: July 18, 2023.

of existing parks and recreation facilities. Therefore, this impact would be less than significant. (Draft EIR, p. 3.12-13)

2. **Construction and Expansion**

Threshold: Does the Project include recreational facilities or require the construction or expansion of recreational facilities which might have an aderse physical effect on the environment?

Finding: Less than significant. (Draft EIR, p. 3.12-14)

Explanation:

As discussed under Impact 3.12-1, the increased local population generated by the Proposed Project would likely use existing public service and community facilities within the town, including the Women's Club, the Pavilion, the Marin County Fairfax Library, and school spaces that could be used for community activities, as well as regional recreational facilities, such as Marin County's 39 parks and 34 open space reserves.

Project implementation would result in increased use of recreational facilities in the Town and the surrounding area; however, given the extent of existing facilities in Fairfax and the surrounding area and that development under the Proposed Project would result in new housing units incrementally over the eight-year planning period, population growth with implementation of the Proposed Project would not be expected to result in the substantial physical deterioration of existing facilities or to require construction or expansion of recreational facilities to meet the needs of new residents.

Although no such facilities are directly proposed under the Proposed Project, the expansion of existing recreational facilities or the construction of new ones would be permitted. Given that the precise location and design of such facilities cannot be known at this time, potential environmental impacts cannot be determined. However, environmental impacts related to construction emissions, vehicle miles traveled (VMT), and biological resources associated with construction or expansion of new recreational facilities are accounted for in technical modeling provided in other chapters of this EIR. Additionally, future facilities will be able to tier from this EIR to identify and mitigate site specific impacts if and when design of those facilities is complete. Therefore, overall implementation of the Proposed Project would have a less than significant impact with respect to impacts associated with the construction or expansion of recreational facilities. (Draft EIR, p. 3.12-14)

O. TRANSPORTATION / TRAFFIC

1. **Plans, Policies, and Ordinances**

Threshold: Would the Project conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?

Finding: Less than significant. (Draft EIR, pp. 3.13-14 – 3.13-15)

Explanation:

New residential development under the Proposed Project would typically be expected to result in additional vehicular trips and the increased use of streets (for all modes of transportation). Applicable local regulations and plans related to transportation include the Town's General Plan, Town Code, and the Town of Fairfax Bicycle & Pedestrian Plan. Implementation of the Proposed Project would result in the development of up to 598 housing units, primarily consisting of infill development on underutilized commercial sites and ADUs, with the remainder of sites comprised of low impact clustered residential development and single-family housing.

The Town's General Plan policies encourage the provision of safe streets, adequate parking, and transportation alternatives to the private automobile, such as carpooling and pedestrian and bicycle improvements. The Town's Objective Design and Development Standards, which have been integrated with Title 17 (Zoning) of the Town Code, promote development patterns that support safe, effective, and multi-modal transportation options, including auto, pedestrian, bicycle, and transit. Residential neighborhood development should support new walkable neighborhood patterns through new networks of well-designed multi-modal streets that are safe for pedestrians and cyclists. Further, all new developments must receive a currently valid traffic impact permit (TIP) in order avoid neighborhood disruption through traffic, as required by Chapter 17.056 of the Town Code. The goals of the Bicycle and Pedestrian Plan also include increasing bicycle and pedestrian access, making the bicycle an integral part of daily life in Fairfax, and encouraging walking as a daily form of transportation.

Buildout of the Proposed Project housing sites inventory would increase the number and proportion of housing units in the more walkable areas of Fairfax within a half mile of Sir Francis Drake Boulevard, an important transit corridor for the region. Development under the Proposed Project would be consistent with such policies and regulations by increasing housing opportunities in already urbanized areas which is an integral part of VMT reduction and encouraging transportation alternatives, such as walking and biking. For example, Proposed Policy 1-3 promotes mixed use developments with a residential component in Downtown Fairfax to locate higher density residential development in proximity to transit. Program 1-A requires the Town to develop and adopt a Town Center Plan to encourage residential development in the Town Center, thus facilitating the use non-vehicular modes of travel for new residents. Program 1-B similarly proposes a high-density residential development in the Town Center that is located within easy walking distance of shops, restaurants, Fairfax Market, and transit services, which will further reduce VMT.

Further, proposed ADUs and low impact clustered residential development will result in new housing development in existing single family neighborhoods. Existing bicycle lanes (see Figure 3.13-1) on Oak Manor Dr, Manor Rd, Olema Rd, Scenic Rd, Spruce Rd, Park Rd, and Bolinas Rd serve single family residential neighborhoods and connect them to the larger community. In addition, planned network improvements, such as proposed bicycle lanes on Forest Ave and Rockridge Rd, will continue to improve multimodal transportation options for existing and proposed single family residential developments.

As a result, future development consistent with the Proposed Project would not conflict with a program plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities. Therefore, adoption of the Proposed Project and compliance with existing regulations would result in a less-than-significant impact related to conflicts with transportation plans. (Draft EIR, pp. 3.13-14 – 3.13-15)

2. **Design Hazards**

Threshold: Would the Project substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

Finding: Less than significant. (Draft EIR. 3.13-19 – 3.13-20)

Explanation:

Implementation of the Proposed Project would involve construction of up to 598 housing units throughout the town consisting largely of infill development on underutilized commercial sites and ADUs, with the remainder of sites comprised of low impact clustered residential development and single-family housing. While the Project does not specifically propose the construction or realignment of any roadways, access improvements would be needed to accommodate new housing on some vacant hillside sites outside of the Town Center.

Since the Proposed Project involves adoption of a long-range plan with policy-level guidance and and implementing regulations and does not propose any specific development projects, the detailed design of individual future developments and new transportation facilities cannot be known at this stage. However, all future public and private access improvements would be required to comply the Town's roadways standards. Chapter 16.24 of the Town Code provides general requirements and improvements for streets and pedestrian ways. The Town's standards delineate widths, intersections, grades, alleys, curbs, and roadbeds to ensure safety. Chapter 12.08 of the Town Code provides sidewalk standards; all sidewalks constructed in the town shall have a minimum width of three feet and shall conform in width and location to contiguous sidewalks previously constructed. Chapter 12.16 of the Town Code regulates private roads, including the radii of all curves, width, and grades. Further, the Town's Objective Design and Development Standards have been integrated with Title 17 of the Town Code and regulate roadway design.

Through the design and engineering review process, Town staff and staff from other relevant agencies will evaluate development proposals as well as modifications to the existing transportation facilities and new proposed facilities to ensure public health and safety. Requirements include adequate and safe sidewalks or crosswalks, dedicated and protected bicycle facilities, realigning sharp curves, prohibiting certain movements, signalizing intersections, and improving sight distance, among other measures. Projects in the Town Center, including School Street Plaza and workforce housing sites, may require site access improvements. Any such improvements would be required to comply with the provisions set forth in the Town Code, and the Fire Department as set forth in the Fire Code. Provisions include sidewalk standards in Chapter 12.08 of the Town Code as well

as the Town's Objective Design and Development Standards. Such standards require streets to be applied to create walkable and safe neighborhoods with redundant routes for vehicular, bicycle, and pedestrian circulation.

Proposed projects on vacant land in hillside areas would require the development of new access roads. Such roadways would be required to meet the provisions of the Subdivision Ordinance (Chapter 16.24), the Fire Code, and the Town's Private Roads Ordinance (Chapter 12.16) which regulates the road radii of all curves, width, and grades. As such, all new streets and redesign of existing streets will be completed to ensure safety according to applicable federal, State, and local design standards, such as the California Manual on Uniform Traffic Control Devices and the Town Code.

As such, the Proposed Project would not substantially increase hazards due to design features and it would be compatible with existing uses in the area. Therefore impacts would be less than significant. (Draft EIR. 3.13-19 – 3.13-20)

3. **Emergency Access**

Threshold: Would the Project result in inadequate emergency access?

Finding: Less than significant. (Draft EIR, pp. 3.13-20 – 3.13-21)

Explanation:

The Ross Valley Fire Department (RVFD) services Ross, San Anselmo, Sleepy Hollow, and Fairfax. RVFD Fire Station 21 is located at 10 Park Road in Fairfax.

While the Proposed Project does not specifically propose the construction or realignment of any roadways, access improvements would be needed to accommodate new housing on some vacant hillside sites outside of the Town Center. However, all such access improvements would be required to comply with applicable provisions of the General Plan, Town Code, and the Ross Valley Fire Department (RVFD) Fire Prevention Standards. Policy S-3.1.3 of the General Plan requires that development maximize access and egress for emergency response vehicles. Chapter 16.24 of the Town Code provides general requirements and improvements for streets and pedestrian ways. Streets and alleys, where appropriate, shall be provided subject to approval by the review authority and subject to the Town's standards that delineate widths, intersections, grades, alleys, curbs, and roadbeds. The 2022 California Fire Code, adopted in Chapter 8.04 of the Town Code, also requires fire apparatus access roads to be provided for every building constructed. The RVFD Fire Prevention Standards include provisions for premises identification, residential turn arounds, vegetation management, and fire road access gates.

In addition, Town staff review all development applications to ensure that applicable requirements are met, including provisions for adequate access for emergency responders and response vehicles, consistent with the Fire Code. Further, Section 17.040.070 for the Town Code requires all fire protection plans for development to be approved by the Fire Department Chief.

Compliance with existing regulations and standards would ensure that Proposed Project impacts related to emergency access would be less than significant. (Draft EIR, pp. 3.13-20 – 3.13-21)

P. UTILITIES AND SERVICE SYSTEMS

1. Wastewater Treatment Requirements

Threshold: Would the Project require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?

Finding: Less than significant. (Draft EIR, pp. 3.14-15 – 3.14-19)

Explanation:

Water

A significant impact would occur if the Proposed Project would require the construction or relocation of water facilities, including treatment and conveyance systems, which could cause significant environmental effects. Water is supplied to the Planning Area by the Marin Municipal Water District (MMWD), which also serves the populous eastern corridor of Marin County. Prior to delivering water to customers, MMWD water is treated at its three treatment plants to ensure compliance with applicable standards. As described above, these facilities include the Bon Tempe Treatment Plant (BTTP), the San Geronimo Treatment Plant (SGTP), and the Ignacio treatment facility. This supply is supplemented with water from Sonoma County Water Agency (SCWA or Sonoma Water), which provides surface water from the Russian River and to a lesser extent groundwater from the Santa Rosa Plain Subbasin of the Santa Rosa Valley Basin.

In 2020, MMWD prepared an Urban Water Management Plan to ensure that sufficient water supplies are available to meet existing and future water needs, and that steps are in place should a critical water shortage occur. The UWMP accounts for ABAG projections through 2040. As shown in Tables 3.14-1 through 3.14-3, there are sufficient water supplies to meet the district's projected demand through 2045, with Fairfax only comprising a small portion of eastern Marin County's demand. As such implementation of the Proposed Project would not require the construction or expansion of treatment facilities over and above that which is already planned to serve demand in the MMWD service area through 2040.

Within the Planning Area, water is delivered through distribution mains in most of the major streets. Implementation of the Proposed Project would primarily consist of infill development on underutilized commercial sites and ADUs. As such, there is already water utility infrastructure in place to serve future development needs. The remainder of sites proposed are comprised of low impact clustered residential development in undeveloped hillside areas. Such developments pursuant to the Proposed Project would be required to install new water mains within the street network to serve fire and domestic water needs.

Final sizing of any particular line will be subject to modeling of the system that must rely on water use parameters of any particular project or group of projects once those details are known. Clustering would minimize grading and conserve environmental resources, thus reducing construction impacts to the maximum extent practicable.

The land use and population projections developed for the Proposed Project and used as the basis for technical modeling in this EIR account for the construction of this new local conveyance infrastructure. Therefore, the environmental impacts related to construction period traffic, noise, air quality, and GHG emissions have been considered throughout this EIR at a programmatic level. Where new streets are to be constructed; installation of the mains will be done concurrently with roadway construction. However, it is important to note that that there are no specific projects proposed on these sites and accordingly the specific location and design details of any future development cannot be known at this time. At such time specific developments are proposed, if any project-specific impacts not identified and mitigated in this Draft EIR would result, subsequent project-level CEQA may be required.

As such, compliance with existing regulations and implementation of Proposed Project policies would reduce impacts to the maximum extent practicable. Overall, buildout of the Proposed Project would result in less than significant impacts related to the provision of water treatment and conveyance facilities.

Wastewater

A significant impact would occur if the Proposed Project would require the construction or relocation of wastewater treatment facilities which could cause significant environmental effects. The Planning Area is within the service boundaries of the Central Marin Sanitation Agency (CMSA), which serves the central Marin County area. The CMSA WWTP has a permitted dry weather treatment capacity of 10 million gallons per day (mgd) and a wet weather capacity of over 125 mgd. As shown in Table 3.14-4, the agency's average daily dry weather flows have consistently been below the permitted dry weather treatment capacity. Decreases in average dry weather flow are associated with lower water usage by customers due to their increased water conservation efforts during the proclaimed drought years.[20]

In 2018, CMSA prepared a Facilities Master Plan that details a condition assessment of the Wastewater Treatment Plant (WWTP) at the agency. CMSA utilizes development projections contained in the general plans of the cities, towns, and unincorporated areas of Marin County to plan for future growth-related demand for wastewater treatment. The plan details capital projects that are recommended for assets or facilities that are in need of rehabilitation or replacement. The CMSA service area includes 105,040 Marin County residents in 2020.[21] While the Proposed Project could involve development of up to 598 new housing units by 2031, this represents an extremely small increase with respect to the

[20] Central Marin Sanitation Agency. 2021. Adopted Biennial Operating and Capital Budget. Available: https://www.cmsa.us/FY24%20&%20FY25%20BUDGET%20ADOPTED%202023%2006-22%20GFOA%20WEBSITE.pdf. Accessed: July 3, 2023.
[21] Ibid.

total available capacity and agency service area. As such, there would be sufficient sewer capacity to serve development under the Proposed Project.

Implementation of the Proposed Project would primarily consist of infill development on underutilized commercial sites and ADUs. As such, there is already sewer infrastructure in place to serve future development needs. The remainder of sites proposed are comprised of low impact clustered residential development in undeveloped hillside areas. Such developments pursuant to the Proposed Project would be required to install new sewer mains. Clustering would minimize grading and conserve environmental resources, thus reducing construction impacts to the maximum extent practicable.

The land use and population projections developed for the Proposed Project and used as the basis for technical modeling in this EIR account for the construction of this new local conveyance infrastructure. Therefore, the environmental impacts related to construction period traffic, noise, air quality, and GHG emissions have been considered throughout this EIR at a programmatic level. Where new streets are to be constructed; installation of the mains will be done concurrently with roadway construction. However, it is important to note that that there are no specific projects proposed on these sites and accordingly the specific location and design details of any future development cannot be known at this time. At such time specific developments are proposed, if any project-specific impacts not identified and mitigated in this Draft EIR would result, subsequent project-level CEQA may be required. As such, compliance with existing regulations and implementation of Proposed Project policies would reduce impacts to the maximum extent practicable. Overall, buildout of the Proposed Project would result in less than significant impacts related to the provision of wastewater treatment and conveyance facilities.

Stormwater

A significant impact would occur if the Proposed Project would require the construction or relocation of stormwater drainage infrastructure which could cause significant environmental effects. The Town of Fairfax owns and maintains the public storm drainage collection system in the Planning Area, which is comprised of a number of underground culverts/storm drains and engineered channels, eventually discharging by permit to the San Francisco Bay.

Future developments within the Planning Area must meet the requirements of the Marin Countywide Stormwater Pollution Prevention Program and meet State and Town requirements, as more fully described in Section 3.10: Hydrology and Water Quality. New development and redevelopment, depending on the area of impervious surfaces, could be required to incorporate on-site methods to result in no net increase in drainage off-site compared to pre-project site hydrology; these methods could include low impact development techniques that filter, store, evaporate, and detain runoff close to the source of rainfall and control the rate and/or volume of stormwater, allowing stormwater to naturally infiltrate soils.

Implementation of the Proposed Project would primarily consist of infill development on underutilized commercial sites and ADUs. As such, there is already stormwater infrastructure in place to serve future development needs. The remainder of sites proposed

are comprised of low impact clustered residential development in undeveloped hillside areas. Such developments pursuant to the Proposed Project would be required to install new stormwater infrastructure. Clustering would minimize grading and conserve environmental resources, thus reducing construction impacts to the maximum extent practicable.

The land use and population projections developed for the Proposed Project and used as the basis for technical modeling in this EIR account for the construction of this new local conveyance infrastructure. Therefore, the environmental impacts related to construction period traffic, noise, air quality, and GHG emissions have been considered throughout this EIR at a programmatic level. Where new streets are to be constructed, installation of the stormwater infrastructure will be done concurrently with roadway construction. However, it is important to note that that there are no specific projects proposed on these sites and accordingly the specific location and design details of any future development cannot be known at this time. At such time specific developments are proposed, if any project-specific impacts not identified and mitigated in this Draft EIR would result, subsequent project-level CEQA may be required.

Development pursuant to the Proposed Project would be required to comply with these requirements, which would minimize the increase in stormwater volume and velocity to the maximum extent practicable. Therefore, through compliance with stormwater regulations and implementation of Proposed Project policies, there would be a less than significant impact on stormwater facilities.

Power and Telecommunications

A significant impact would occur if the Proposed Project would require the construction or relocation of power and telecommunications infrastructure which could cause significant environmental effects. PG&E is expected to be able to meet overall demand for electricity and natural gas for all its customers, including Marin County, in the future.[22] PG&E will continue to maintain and upgrade its electrical and natural gas distribution systems as needed based on future demand trends. For electricity, this includes local and regional distribution lines, undergrounding or poles where needed, and transformer stations. For natural gas, this includes local and regional pipelines and transmission stations.

The Project would add 598 units to the Planning Area over the next nine years. There is no evidence that this incremental amount of new housing in already developed areas or new population growth will require major energy improvements or new facilities. Where new streets are to be constructed, installation of the power lines would also be done concurrently with roadway construction. PG&E has anticipated this level of growth in its long-range service planning process. Therefore, it is anticipated that the Proposed Project would not result in the relocation or construction of new of expanded electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects.

[22] Pacific Gas & Electric Corporation (PG&E), Corporate Website accessed July 2023. https://www.pge.com/en_US/about-pge/company-information/regulation/general-rate-case/grc.page.

In addition, the need for telecommunication systems will likely grow with development pursuant to the Proposed Project. The facilities and networks for these telecommunication services are presently provided by a number of private firms that will expand as consumer demand continues to grow. There is no evidence that this incremental amount of new housing in already developed areas or new population growth will require major telecommunications improvements or new facilities. According to the California Public Utilities Commission, local telecommunication companies have anticipated at least this level of growth in its long-range service planning process.[23] Therefore, it is anticipated that the Proposed Project would not require or result in the relocation or construction of new or expanded telecommunications facilities, the construction or relocation of which could cause significant environmental effects.

It is important to note that that there are no specific projects proposed on these sites and accordingly the specific location and design details of any future development cannot be known at this time. At such time specific developments are proposed, if any project-specific impacts not identified and mitigated in this Draft EIR would result, subsequent project-level CEQA may be required. In addition, Chapter 19.04 of the Town Code requires any wireless telecommunications facility to have a use permit in order to minimize environmental impacts. As such, compliance with existing regulations would reduce impacts to the maximum extent practicable. Overall, buildout of the Proposed Project would result in less than significant impacts related to the provisions of power and telecommunications facilities. (Draft EIR, pp. 3.14-15 – 3.14-19)

2. **Water Supplies**

Threshold: Would the Project have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?

Finding: Less than significant. (Draft EIR, pp. 3.14-19 – 3.14-20)

Explanation:

Water is supplied to the Planning Area by the Marin Municipal Water District (MMWD), which also serves the populous eastern corridor of Marin County. A significant impact would occur if MMWD would not have sufficient water supplies available to serve the Proposed Project during normal, dry, and multiple dry years through 2031.

In June 2021, MMWD published its 2020 Urban Water Management Plan. As shown in Tables 3.14-1 through 3.14-3, the plan assesses water service reliability during normal, single dry-year, and multiple dry-year hydrologic conditions and ensures that steps are in place should a critical water shortage occur. The UWMP accounts for Association of Bay Area Government (ABAG) population projections through 2040. Based on this analysis, the district expects the available supplies to be sufficient to meet projected demands in all hydrologic conditions, including for a normal, single dry, and multiple dry years through

[23] California Public Utilities Commission, Communications Division, Internet and Phone Section, website https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone.

2045, while considering the impacts of climate change. Further, MMWD services the populous eastern corridor of Marin County, with the Town of Fairfax representing only a small portion of the district's demand. Therefore, sufficient water supply is available to serve development and future population under the Proposed Project through 2031 during normal, dry, and multiple dry years.

In May of 2023, the MMWD published the final draft report of its Strategic Water Supply Assessment (SWSA). The SWSA includes an assessment of current and future hydrological conditions, performance of the Marin Water system under these conditions, and a robust consideration of alternatives and strategies, and eventual roadmap to a more resilience water supply future. All scenarios assume Marin Water future water demands consistent with those presented the UWMP with updates to reflect the Regional Housing Needs Assessment (RHNA) growth projections.

According to the SWSA, Marin Water is faced with ample supply in most years but stressed during extended periods of drought. However, water management actions available to Marin Water provide sufficient capability to address historical and projected future droughts. A robust portfolio of actions in the Integrated Strategy diversifies drought supplies and significantly increases Marin Water's resilience. Such actions include expansion of Sonoma-Marin partnerships, local storage optimization, conveyance improvements to deliver water from Sonoma Water's transmission system to Marin storage more effectively, and Petaluma brackish desalination. Benefits will occur in non-extended drought years with more durable supply and increased storage to ensure a sufficient water supply is available to serve development under the Proposed Project during normal, dry, and multiple dry years.

Further, the Fairfax General Plan and Town Code also include multiple provisions that support water conservation. General Plan Policy CON-4.1.1 requires water conservation policies and programs to cut water demand. Specific programs include providing property owners incentives to utilize greywater and other water conservation methods to reduce potable water consumption. Chapter 17.132 of the Town Code is its Water Conservation Ordinance and requires developments, including those pursuant to the Proposed Project, to comply with the latest adopted water conservation ordinance of the MMWD. Such ongoing Marin Water rules relate to irrigation limits, swimming-pool filling, fixing leaks, and using recycled water whenever feasible. Additionally, MMWD would implement the water shortage contingency plan described in the UWMP and all other conservation measures during dry years described in the SWSA to continue providing sufficient supplies for the service area.

Therefore, based on the findings of the UMWP and SWSA, MMWD would have sufficient water supplies available to serve development pursuant to the Proposed Project during normal, dry, and multiple dry years. As such, impacts would be less than significant. (Draft EIR, pp. 3.14-19 – 3.14-20)

3. **Wastewater Capacity**

Threshold: Would the Project result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity

to serve the project's projected demand in addition to the provider's existing commitments?

Finding: Less than significant. (Draft EIR, p. 3.14-20)

Explanation:

A significant impact would occur if the Central Marin Sanitary Agency, Waste Water Treatment Plan (CMSA WWTP) would not have adequate capacity to serve the Proposed Project's projected demand in addition to CMSA's existing commitments. CMSA services an area that includes San Rafael, Mill Valley, and the Ross Valley. As discussed in Impact 3.14-1 above, the CMSA WWTP has a permitted dry weather treatment capacity of 10 million gallons per day (mgd) and a wet weather capacity of over 125 mgd.

While the Proposed Project could involve development of up to 598 new housing units by 2031, this represents a relatively small increase with respect to the total available capacity and CMSA service area. Further, CMSA utilizes development projections contained in the general plans of the cities, towns, and unincorporated areas of Marin County to plan for future growth-related demand for wastewater treatment. As such, there would be sufficient sewer capacity to serve development under the Proposed Project and impacts would be less than significant. (Draft EIR, p. 3.14-20)

4. **Solid Waste**

Threshold: Would the Project generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?

Finding: Less than significant. (Draft EIR, p. 3.14-21)

Explanation:

Construction

A significant impact would occur if development under the Proposed Project generates solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals. Demolition and construction activities associated with implementation of the Proposed Project would result in a temporary increase in solid waste generation. Solid waste generation would occur periodically during construction. However, the increase would be minimal and temporary. In addition, individual projects within the Planning Area would be required to comply with the Chapter 8.14 of the Town Code which requires recycling or reuse of at least 70 percent of all other C&D debris generated by the project, as also required by the Marin County Hazardous and Solid Waste Management Joint Powers Authority. Therefore, the Proposed Project would not generate solid waste in excess of State or local standards or in excess of the capacity of local infrastructure during construction. This impact would be less than significant.

Operation

As noted in the Environmental Setting, Fairfax contracts with Marin Sanitary Service (MSS) for waste and recycling collection and handling. MSS also owns and operates the Marin Recycling Center. MSS transports the Town's non-recyclable waste to Redwood Landfill located just north of Novato, which is the only permitted landfill operating in the county. The landfill's maximum permit capacity is 19,100,000 cubic yards with a remaining capacity of 26 million cubic yards. The maximum permitted intake at the landfill is approximately 2,300 tons per day.

According to the California Department of Resources Recycling and Recovery (CalRecycle), the typical solid waste generate rate for single-family homes is between 8 and 12 pounds per day, while the typical rate for multi-family homes is between 4 and 8 pounds per day. Conservatively assuming an average rate of 10 pounds per unit per day and development of up to 598 new housing units by 2031, the Proposed Project would generate 6,080 pounds or 3.04 tons per day. This represents just over 0.01 percent of the average daily permitted capacity of the Redwood Landfill.

Further, between 2005 and 2010, solid waste generation in Fairfax decreased by 33.5 percent with the implementation of various programs and requirements, and residential development under the Proposed Plan would be required to comply with Senate Bill 1883, which requires a 75 percent reduction in organic waste disposal from 2014 levels by 2025.[24] As such, implementation of the Proposed Project would not generate solid waste in excess of established standards or in excess of the capacity of local infrastructure. Impacts would be less than significant. (Draft EIR, p. 3.14-21)

5. **Solid Waste Laws**

Threshold: Will the Project comply with federal, state, and local statutes and regulations related to solid waste?

Finding: Less than significant. (Draft EIR, p. 3.14-22)

Explanation:

A significant impact would occur if development under the Proposed Project would violate any federal, State, or local statutes or regulations related to solid waste. As described under the Environmental Setting, waste collection services in the Planning Area are provided by Marin Sanitary Service (MSS). Marin Sanitary Service (MSS) provides trash/recycling/compost services to Fairfax residents and businesses. Hazardous and e-waste is managed by the Marin Household Hazardous Waste Facility, which operates household hazardous and electronic waste disposal drop-off facility in San Rafael.

Federal, State, and local statutes and regulations related to solid waste include AB 939, AB 1327, SB 1016, AB 341, and AB 1826. Developments pursuant to the Proposed Project would be subject to policies in the Town of Fairfax 2010-2030 General Plan aimed at increasing waste diversion, recycling, and green purchasing. For example, the General Plan

[24] Town of Fairfax. 2014. Town of Fairfax Climate Action Plan. Available: https://www.townoffairfax.org/documents/climate-action-plan_2030/. Accessed: July 6, 2023.

requires the town to reduce the amount of waste generated in Fairfax by 100 percent by 2025. In addition, Program CON-7.1.2.4 requires the Town to continue to implement the Source Reduction and Recycling Element of the California Integrated Waste Management Act of 1989 (AB 939). Additional programs include enacting ordinances that reduce the amount of non-recyclable waste created by residents and business activities and reduce the amount of waste created by construction activities.

Any development of future land uses under the Proposed Project would be required to comply with these federal, State, and local statutes and regulations related to solid waste. Therefore, the impact would be less than significant. (Draft EIR, p. 3.14-22)

Q. WILDFIRE

1. Response Plans

Threshold: If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the Project substantially impair an adopted emergency response plan or emergency evacuation plan?

Finding: Less than significant. (Draft EIR, pp. 3.15-14 – 3.15-15)

Explanation:

Sir Francis Drake Boulevard is the principal evacuation route available in and out of the Ross Valley in the event of a natural hazard event. Increased development under the Proposed Project would increase traffic on Sir Francis Drake; however, there is a robust framework of emergency preparedness and evacuation actions in place to facilitate evacuation.

The RVFD has published detailed emergency evacuation maps from Fire Safe Marin, also shown in Figure 3.15-3 below, and information on preparedness. Such maps highlight temporary refuge areas, lower risk areas, WUI elevated risk areas, safe routes, and evacuation routes in order to inform residents about emergency evacuation procedures. Maps also detail neighborhood zones to inform townwide evacuation routes. RVFD also disseminates helpful evacuation tips to residents, such as on what to wear, where to go, and what to avoid doing in the event of an emergency.

Similarly, Fire Safe Marin, a non-profit organization dedicated to reducing fire hazards, promotes fire safety awareness and helps residents prepare for wildfires in Marin County. Their Safe Evacuation Routes program aims to create safe evacuation routes for residents and emergency responders by investing in fuel reduction in Central Marin and Ross Valley. The Central Marin and Ross Valley Wildfire Access/Egress Fuel Reduction Program was initiated to reduce vegetation fuels adjacent to primary ingress and egress evacuation route roadways in central Marin County. The project heightens the safety of evacuating residents and provides alternate or improved means of access and egress for responding fire apparatus.

In addition, Marin County has developed AlertMarin which is the county's system used for

notification when there is some sort of imminent threat (wildfire, flooding, criminal activity) and residents need to take some sort of protective action (evacuate, shelter in place). Residents can register to receive emergency alerts sent by call, text, email, or smartphone application from the County of Marin. The associated Marin County Public Information Map displays information useful during emergency situations, such as evacuation zones and zone status and major incidents such as wildfires, controlled burns, and road closures. The Marin Sheriff's Office of Emergency Services (OES) and other public safety agencies aim to always keep this information current.

The Marin County Multi-Jurisdictional LHMP also details emergency response and evacuation preparations to minimize risks of fire danger. Such mitigation strategies include planning for appropriate access and evacuation in hillside WUI areas, addressing structural ignitability, and promoting fuel reduction strategies through vegetation management programs.

In total, development associated with the Proposed Project would house additional residents in the Planning Area which would make it necessary to evacuate more people in the event of a wildfire. Proposed sites for housing development consist of infill development on underutilized commercial sites in the Town Center area, as well as ADUs, low impact clustered residential development, and single-family housing throughout the rest of town. Development will be dispersed throughout Fairfax's nine zones, each with designated routes that lead to Sir Francis Drake Blvd, the Town's primary evacuation route. Further, there are numerous robust strategies in place from regional and local planning efforts to facilitate emergency response and evacuation plans. Therefore, housing development associated with the Proposed Project would not impede the implementation of emergency response and evacuation plans and this impact would be less than significant. (Draft EIR, pp. 3.15-14 – 3.15-15)

2. **Pollutant Concentrations**

Threshold: Due to slope, prevailing winds, and other factors, would the Project exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of wildfire?

Finding: Less than significant. (Draft EIR, pp. 3.15-17 – 3.15-18)

Explanation:

As shown in Figure 3.15-2, much of Fairfax is located in a High Fire Hazard Severity Zone as mapped by CAL FIRE. There is extensive existing development within the HFHSZ in Fairfax, consisting primarily of low-density single-family homes, small-scale commercial development downtown, and public and institutional uses in the Town Center area, including the Fairfax Post Office, Fairfax Library, and other educational facilities.

As noted in the Attorney General's report, *Best Practices for Analyzing and Mitigating Wildfire Impacts of Development Projects Under the California Environmental Quality Act*, fire spread and structure loss is more likely to occur in low- to intermediate-density developments. Given that the majority of proposed development includes infill

development on underutilized commercial sites and ADUs, this higher density development will help reduce the project's impact on ignition risk, the likelihood of fire spread, and the extent of wildfire risk exposure. However, the remainder of sites identified for development would be comprised of clustered low impact residential development and single-family housing on larger lots outside of the Town Center area. Given that the project proposes low density and hillside development and the extent of which HFHSZs exist in and around Fairfax, buildout of the Proposed Project could increase the risk of loss and damage due to wildfire, resulting in potentially significant impacts.

However, all new construction under the Proposed Project would be subject to the California Fire Code, which include safety measures to minimize the threat of fire, including ignition-resistant construction with exterior walls of noncombustible or ignition resistant material from the surface of the ground to the roof system and sealing any gaps around doors, windows, eaves, and vents to prevent intrusion by flame or embers. A Fire Protection Plan would be required for construction and development in areas designated as Wildland-Urban Interface (WUI), and/or Moderate, High, or Very High Fire Hazard Severity Zone per the Town Code's Fire Code (Chapter 8.04). Such plans describe ways to minimize and mitigate potential for loss from wildfire exposure. Construction would also be required to meet CBC requirements, including CCR Title 24, Part 2, which includes specific requirements related to exterior wildfire exposure. The Board of Forestry, via CCR Title 14, sets forth the minimum development standards for emergency access, fuel modification, setback, signage, and water supply, which help prevent loss of structures or life by reducing wildfire hazards.

Further, water is delivered through distribution mains in most of the major streets within the Planning Area. Developments pursuant to the Proposed Project would be required to install new water mains within the street network to serve fire and domestic water needs. Final sizing of any particular line will be subject to modeling of the system that must rely on water use parameters of any particular project or group of projects once those details are known. In addition, Section 16.24.130 of the Town Code requires the subdivider to provide a water connection for each lot and fire hydrants at such intervals as may be required by the Town and the Ross Valley Fire District. See also Section 3.14: Utilities and Service Systems for more information regarding water supply and infrastructure improvements. The Proposed Project will ensure that adequate water capacity and pressures are maintained to help with firefighting. Adherence to these codes and regulations would reduce the risk of loss, injury, or death from wildfire for new developments encouraged by the Proposed Project.

As such, compliance with existing State and local codes, plans, and regulations would reduce impacts to the maximum extent practicable and, therefore, impacts related to exacerbated wildfire risks, increased exposure to pollutant concentrations from a wildfire, and uncontrolled spread of wildfire resulting from implementation of the Proposed Project would be less than significant. (Draft EIR, pp. 3.15-17 – 3.15-18)

3. **Infrastructure Risks**

Threshold: Would the Project require the installation or maintenance of associated infrastructure (such a roads, fuel breaks, emergency water sources, power

lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?

Finding: Less than significant. (Draft EIR, p. 3.15-18)

Explanation:

As noted above, implementation of the Proposed Project would primarily involve facilitation of infill development on underutilized commercial sites and ADUs, with the remainder of sites comprised of low impact clustered residential development and single-family housing. Given that development under the Proposed Project would occur largely on infill sites that are already served by local stormwater drainage, energy, and telecommunications systems, most sites would not need an expansion of existing systems or the construction of new systems. However, there are a few vacant sites located on steeper terrain where extension of associated infrastructure, such as new utility lines, that could result in a potentially significant exacerbation of wildfire risk.

However, as described under Impact 3.15-2 above, compliance with existing State and local codes and regulations would help mitigate these wildfire risks from new construction and associated infrastructure. Further, as noted in Section 16.24.090 of the Town Code, all utility distribution facilities (including, but not limited to electric, communication and cable television lines) installed in and for the purpose of supplying service to any new residential subdivision shall be placed underground. As such, compliance with existing State and local codes and regulations would reduce impacts to a less-than-significant level related wildfire risks from associated infrastructure. (Draft EIR, p. 3.15-18)

4. **Runoff Risks**

Threshold: Would the project expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?

Finding: Less than significant. (Draft EIR, pp. 3.15-18 – 3.15-19)

Explanation:

Fairfax is located in a valley with steep, wooded hillsides on the southern and western edges of the Planning Area boundary, with small pockets of landslide risk also evident in the northern hills and eastern boundary. The risk of landslides in the hilly terrain could be exacerbated if existing vegetation is substantially removed during a wildfire event. As described above, the MWPA is implementing a shaded fuel break project around structures in the wildland-urban interface (WUI) at the periphery of communities adjacent to undeveloped open spaces, including Fairfax. Project implementation began in summer 2022 and is expected to continue through 2024. The shaded fuel break will create and maintain a continuous reduced-fuel and forest-health-restoration zone intended to reduce wildfire intensity and rate of spread as well as to provide strategic and safer locations for firefighters and emergency personnel to fight a wildfire in the event of ignition. As such,

the shaded fuel break project will help to limit the potential for wildfire in wooded areas of Fairfax.

Buildout of the Housing Element inventory would involve development of sites downslope of steep hillside terrain, and as such, development in these locations could expose people and structure to risk in the event of flooding or landslides following a wildfire event. However, as described in Section 3.6 (Geology and Soils) of this Draft EIR, development in areas of steeper terrain under the Proposed Project would be required to comply with the provisions of Chapter 17.072 of the Town Code, which contains hillside lot regulations and standards, as well as with NPDES stormwater requirements for erosion control. General Plan Policy OS-4.1.1 also requires areas that are prone to landslides be developed with adequate engineering to mitigate the hazard. Further, the provisions of Chapter 8.32 of the Town Code require implementation of stormwater and sediment controls. Future development in a flood hazard area would also be required to comply with the Town's floodplain management standards in Town Code Chapter 17.068, which provides standards of construction to protect human life and health as well as minimize public and private losses due to flood conditions.

Therefore, the risk of landslides and flooding would be reduced to the maximum extent practicable with compliance with existing regulations related to hillside construction, stormwater management, and flood and erosion control. Accordingly, impacts related to post-fire hazards would be less than significant. (Draft EIR, pp. 3.15-18 – 3.15-19)

SECTION III.
IMPACTS THAT ARE LESS THAN SIGNIFICANT WITH MITIGATION INCORPORATED

The Town Council hereby finds that Mitigation Measures have been identified in the EIR and these Findings that will avoid or substantially lessen the following potentially significant environmental impacts to a less than significant level. The potentially significant impacts, and the Mitigation Measures that will reduce them to a less than significant level, are as follows:

A. AIR QUALITY

1. Cumulatively Considerable Pollutant Emissions

Threshold: Would the Project result in cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?

Finding: Less than significant with mitigation. (Draft EIR, pp. 3.2-36 – 3.2-41)

Explanation:

Construction

Construction associated with new land use developments under the Proposed Project would result in the temporary generation of ozone precursors (ROG, NO_X), CO, and particulate matter emissions that could result in short-term impacts on ambient air quality within the

Planning Area. Emissions would originate from mobile and stationary construction equipment exhaust, employee and haul truck vehicle exhaust, fugitive dust emissions from land clearing, soil movement, and demolition, and off-gassing emissions from architectural coatings and asphalt paving. Construction-related emissions would vary substantially depending on the level of activity, length of the construction period, specific construction operations, types of equipment, number of personnel, wind and precipitation conditions, and soil moisture content.

By its nature as a housing element, the Proposed Project does not propose any specific development. Construction of land use developments allowable under the Proposed Project would occur intermittently within the Planning Area throughout the course of the eight-year buildout period. As the timing and intensity of future development projects is not known at this time, the precise effects of construction activities associated with buildout of the Proposed Project cannot be accurately quantified at this time. Project-specific details of future development within the Planning Area are currently unknown, development would be driven by market conditions, site constraints, land availability, and property owner interest. It is assumed that implementation of the Proposed Project ultimately could result in the development of up to 598 housing units. As such, it is anticipated that in any given year, multiple land use development projects would be constructed within the Planning Area.

As noted previously, the BAAQMD's project-level thresholds were developed to analyze emissions generated by a single project. Although the construction emission impacts associated with each new individual development would be short-term in nature and limited to the period of time when construction activity is taking place for that particular development, the concurrent construction of a multitude of individual development projects that could occur at any one time in the Planning Area under the Proposed Project would generate combined criteria pollutant emissions on a daily basis that would exceed the BAAQMD's project-level thresholds. In addition, depending on the size and scale of an individual development project, along with its construction schedule and other parameters, there may also be instances where the daily construction emissions generated by a single development project within the Planning Area could also exceed the BAAQMD's criteria pollutant thresholds. These emissions could contribute to ozone formation and other air pollution in the SFBAAB, which at certain concentrations, can contribute to short- and long-term human health effects.

To reduce construction-related emissions of future development projects within the Planning Area, future development would be required to comply with the Town's General Plan Program CON-2.1.2.1, which requires new uses and development projects that generate significant toxic air contaminants, particulates, or odors to include adequate buffer zones, setbacks, or other mitigation measures to protect existing or future sensitive receptors. Further, Program CON-2.1.2.2 requires projects to implement dust control measures consistent with the "Feasible Control Measures for Construction Emissions of PM10" of the BAAQMD CEQA Guidelines, or its successor document. Program CON-2.1.2.4 also requires emission control measures for construction equipment that are appropriate to the specifics of the project and as recommended by the BAAQMD. The extent to which these measures would reduce emissions is unknown. As such, construction

emissions generated in the Planning Area by implementation of the Proposed Project would result in a potentially significant impact on air quality and mitigation would be required.

Due to uncertainty related to where development activities would occur within the Planning Area, it is not possible at this time to identify project-specific impacts that could occur under implementation of the Proposed Project; however, it is anticipated some of, if not all, development projects over the next eight years would require the utilization of project-specific mitigation measures. To ensure projects achieve consistency with the BAAQMD's construction screening criteria or, if consistency with the construction screening criteria cannot be demonstrated, the Town is incorporating **Mitigation Measure AQ-1 and AQ-2** into future project development projects. MM AQ-1 requires future project development projects to implement the BAAQMD's Basic Construction Measures to control fugitive dust emissions generated during construction activities. MM AQ-2 requires future projects that cannot meet construction screening criteria to prepare a detailed construction air quality impact assessment to: 1) estimate potential project construction emissions; 2) compare potential project construction emissions against BAAQMD project-level construction thresholds of significance; and 3) incorporate measures to reduce construction emission impacts to levels below the BAAQMD's construction thresholds of significance for criteria air pollutants and TACs. As such, this impact would be less than significant with mitigation.

Operations

Assuming full buildout of the Proposed Project, long term occupancy (i.e., operations) has the potential to result in air quality impacts from area, energy, and mobile sources. Long-term emissions of criteria air pollutants and precursors, including mobile-, energy-, and area-source emissions, were quantified for the Proposed Project. Table 3.2-7 summarizes the daily operational emissions associated with existing conditions in 2019 and the Proposed Project at full buildout in 2031.

As shown in DEIR Table 3.2-7, the Proposed Project's net operational emissions would not exceed the BAAQMD's significance thresholds for any of the pollutants. The increase in ROG emissions is primarily attributed to consumer product use in residential land uses, while mobile source emissions contribute a majority of NO_X, PM_{10}, and $PM_{2.5}$ emissions. Given that the operation of the Proposed Project would not exceed BAAQMD's significance thresholds, operational air quality impacts are less than significant**.**

Mitigation Measures

MM-AQ-1: Implement BAAQMD Basic Construction Mitigation Measures. The Town shall require new project development projects to implement the BAAQMD's Basic Control Mitigation Measures to address fugitive dust emissions that would occur during earthmoving activities associated with project construction. These measures include:

a) All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.

b) All haul trucks transporting soil, sand, or other loose material off-site shall be

covered.

c) All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.

d) All vehicle speeds on unpaved roads shall be limited to 15 mph.

e) All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.

f) Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.

g) All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.

h) Post a publicly visible sign with the telephone number and person to contact at the Town regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

MM-AQ-2: Prepare Project-level Construction Emissions Assessment. The Town shall require new development projects to submit a quantitative project-level construction criteria air pollutant and toxic air contaminant emissions analysis prior to the start of construction activities that shows project construction activities would not exceed BAAQMD project-level thresholds of significance. The analysis may rely on BAAQMD construction screening criteria to demonstrate that a detailed assessment of criteria air pollutant and toxic air contaminant construction emissions is not required for the project. If the project does not satisfy all BAAQMD construction screening criteria, the analysis shall estimate and compare construction criteria air pollutant and toxic air contaminant emissions against the project-level thresholds of significance maintained by BAAQMD and, if emissions are shown to be above BAAQMD thresholds, then the project must implement measures to reduce emissions below BAAQMD thresholds. Mitigation measures to reduce emissions could include, but are not limited to:

a) Watering exposed surfaces at a frequency adequate to maintain a minimum soil moisture content of 12 percent, as verified by moisture probe or lab sampling;

b) Suspending excavation, grading, and/or demolition activities when average wind speeds exceed 20 miles per hour;

c) Selection of specific construction equipment (e.g., specialized pieces of equipment with smaller engines or equipment that will be more efficient and reduce engine runtime);

d) Installing wind breaks that have a maximum 50 percent air porosity;

e) Restoring disturbed areas with vegetative ground cover as soon as possible;

f) Limiting simultaneous ground-disturbing activities in the same area at any one time (e.g., excavation and grading);

g) Scheduling/phasing activities to reduce the amount of disturbed surface area at any one time;

h) Installing wheel washers to wash truck and equipment tires prior to leaving the site;

i) Minimizing idling time of diesel-powered construction equipment to no more than two minutes or the shortest time interval permitted by manufacturer's specifications and specific working conditions;

j) Requiring equipment to use alternative fuel sources (e.g., electric-powered and liquefied or compressed natural gas), meet cleaner emission standards (e.g., U.S. EPA Tier IV Final emissions standards for equipment greater than 50-horsepower), and/or utilizing added exhaust devices (e.g., Level 3 Diesel Particular Filter);

k) Requiring that all construction equipment, diesel trucks, and generators be equipped with Best Available Control Technology for emission reductions of NOx and PM;

l) Requiring all contractors use equipment that meets CARB's most recent certification standard for off-road heavy-duty diesel engines; and

m) Applying coatings with a volatile organic compound (VOC) that exceeds the current regulatory requirements set forth in BAAQMD regulation 8, Rule 3 (Architectural Coatings).

Significance after mitigation: Less than significant. (Draft EIR, pp. 3.2-36 – 3.2-41)

2. **Sensitive Receptors**

Threshold: Would the Project expose sensitive receptors to substantial pollutant concentrations?

Finding: Less than significant with mitigation. (Draft EIR, 3.2-40 – 3.2-43)

Explanation:

Sensitive land uses are generally considered to include those uses where an exposure to pollutants could result in health-related risks for individuals. Per the BAAQMD, typical sensitive receptors are residences, hospitals, and schools. Parks and playgrounds where sensitive receptors (e.g., children and seniors) are present would also be considered sensitive receptors.[25] Sensitive receptors are located throughout the Planning Area at residences, schools, and parks (see Figure 3.2-1). Development of the Proposed Project has the potential to expose sensitive receptors to health effects from regional criteria pollutants, localized concentrations of CO, airborne dust containing asbestos, DPM, and $PM_{2.5}$. These pollutant emissions via Proposed Project construction and operations are discussed below.

Construction TAC Emissions

Future development pursuant to the Project would result in short-term construction-related emissions. Some of these construction emissions would be TACs, which could have an adverse effect on receptors who are exposed to them. Specifically, heavy-duty off-road construction equipment, as well as haul trucks for any soil import / export, would generate exhaust PM2.5, with a portion of the exhaust PM2.5 consisting of DPM, which is a TAC.

Although site-specific details of future projects in the Planning Area are not known at this time, it is reasonable to assume that construction TAC emissions associated with one or more projects developed under implementation of the Proposed Project could have the potential to expose sensitive receptors to substantial TAC concentrations. For example, several sites proposed for development would be located in proximity of existing residential receptors, and exposing these existing sensitive receptors to DPM emissions could have the potential to exceed the BAAQMD's cancer and non-cancer thresholds of significance.

Based on the preceding discussion and analysis, implementation of the Proposed Project could have a potentially significant impact with regard to construction TAC emissions that would be generated during construction, which requires mitigation. Accordingly, the Town would implement **Mitigation Measure AQ-1 and AQ-2** into future project development projects. MM AQ-1 requires future project development projects to implement the BAAQMD's Basic Construction Measures to control fugitive dust emissions generated during construction activities. MM AQ-2 requires future projects that cannot meet construction screening criteria to prepare a detailed construction air quality impact assessment to: 1) estimate potential project construction emissions; 2) compare potential project construction emissions against BAAQMD project-level construction thresholds of significance; and 3) incorporate measures to reduce construction emission impacts to levels below the BAAQMD's construction thresholds of significance for criteria air pollutants and TACs.

In addition, **Mitigation Measure AQ-3** would require individual developments to review and identify permitted stationary sources within 1,000 feet of the project that may result in risks and hazards to new receptors. If screening-level information indicates potential

[25] Bay Area Air Quality Management District. 2017. *California Environmental Quality Act, Air Quality Guidelines.* May. Available: https://www.baaqmd.gov/~/media/files/planning-and-research/ceqa/ceqa_guidelines_may2017-pdf.pdf?la=en. Accessed: July 1, 2021.

stationary source risks and hazards would exceed the BAAQMD's thresholds, the project applicant shall: 1) incorporate site and building design measures into the project that reduce exposure to pollutants; or 2) conduct refined, site-specific modeling, using the latest information and guidance from the BAAQMD, demonstrating sources risks and hazards would not exceed BAAQMD thresholds for new receptors. Therefore, with the implementation of Mitigation Measures AQ-1 through AQ-3, TAC construction emissions associated with the Proposed Project would not result in significant adverse health risks at receptor locations. This impact would be less than significant with mitigation.

Operational TAC Emissions

The residential land uses under the Proposed Project would not include operational sources of TAC emissions such that significant exposures could occur. This impact would be less than significant, because the Proposed Project does not propose land uses that support large stationary sources or that support the types of mobile sources that generate large amounts of TACs. Proposed land uses may include emergency diesel back-up generators or natural gas-fueled boilers that would require permitting by BAAQMD. These types of sources of air pollution would operate in accordance with BAAQMD rules and regulations and not cause significant exposure for on- or off-site sensitive receptors pursuant to BAAQMD permitting requirements.

Therefore, the operational TACs emitted by developments facilitated under implementation of the Proposed Project would not exacerbate existing health risks in the Planning Area, because the Proposed Project does not propose large stationary sources (e.g., industrial sources) or land uses involving the types or quantities of mobile sources that would have the potential to expose receptors to concentrations of TACs that would result in significant health risks. This impact would be less than significant.

Localized Carbon Monoxide Hot Spots

Continuous engine exhaust may elevate localized CO concentrations, resulting in hot spots. Receptors exposed to CO hot spots may have a greater likelihood of developing adverse health effects. CO hot spots are typically observed at heavily congested intersections where a substantial number of gasoline-powered vehicles idle for prolonged durations.

Maximum traffic volumes along Sir Francis Drake Boulevard (SFD Blvd), the town's major arterial, would be less than the BAAQMD's recommended screening criterion of 44,000 vehicles per hour.[26] Also, intersection traffic volumes would not exceed the screening criterion of 24,000 vehicles per hour that the BAAQMD recommends for areas where vertical and/or horizontal mixing is substantially limited. The Proposed Project would not result in, or contribute to, a localized concentration of CO that would exceed the applicable NAAQS or CAAQS. This impact would be less than significant.

Mitigation Measures

[26] According to analysis conducted by the Proposed Project's traffic engineers, Fehr and Peers, existing weekday ADT for SFD Blvd between Butterfield Road and Willow Avenue is 19,400 and is projected to be 21,700 with implementation of the Proposed Project.

MM-AQ-1: Implement BAAQMD Basic Construction Mitigation Measures.

MM-AQ-2: Prepare Project-level Construction Emissions Assessment.

MM-AQ-3: Review Air Quality Risks to New Housing Sites. The Town shall require new project residential development projects to review and identify, using the BAAQMD's publicly available Stationary Source Screening Map or another standard methodology (e.g., BAAQMD public records request), permitted stationary sources within 1,000 feet of the project that may result in risks and hazards to new receptors. If screening-level information indicates potential stationary source risks and hazards would exceed the BAAQMD's thresholds, the project applicant shall: 1) incorporate site and building design measures into the project that reduce exposure to pollutants; or 2) conduct refined, site-specific modeling, using the latest information and guidance from the BAAQMD, demonstrating sources risks and hazards would not exceed BAAQMD thresholds for new receptors. Site and building design measures that may reduce potential exposure to pollutants would include, but are not limited to, buffering/increasing the distance between sources and receptors, designing the site to limit exposure to the highest pollutant concentrations, and incorporating enhanced filter systems into heating, ventilation, and air conditioning equipment.

Significance after mitigation: Less than significant. (Draft EIR, 3.2-40 – 3.2-43)

B. BIOLOGICAL RESOURCES

1. Sensitive Species

Threshold: Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?

Finding: Less than significant with mitigation. (Draft EIR, pp. 3.3-14 – 3.3-19)

Explanation:

A range of special-status species have been documented in and around the Planning Area, as described above in the Environmental Setting. The extent of existing development and human activity within the Town limits and the Planning Area limits the potential for special-status species occurrence. In general, areas that provide habitat for special-status species are located primarily in open space and undeveloped habitat types, including in riparian, woodland, and grassland/agricultural areas.

As shown in DEIR Tables 3.3-1 and 3.3-2, there are 41 special-status plant species and 19 special-status wildlife species with potential to occur within a five-mile radius of the Planning Area. However, buildout of the Proposed Project would occur within the town limits and primarily consist of infill development on underutilized commercial sites and ADUs and on existing single family residential lots. The majority of these special-status

species, including 33 plant species and 17 animal species, have not been documented on or near the Proposed Project's sites identified for housing development. These species include the Marin manzanita, Thurber's reed grass, Mason's ceanothus, San Francisco Bay spineflower, Mt. Tamalpais thistle, silverskin lichen, western leatherwood, Marin checker lily, congested-headed hayfield tarplant, Marin western flax, thin-lobed horkelia, small groundcone, marsh microseris, Marin County navarretia, white-rayed pentachaeta, Tamalpais oak, Marin checkerbloom, Tamalpais jewelflower, two-fork clover, coastal marsh milk-vetch, seaside bittercress, Lyngbye's sedge, Point Reyes salty bird's-beak, round-headed Chinese-houses, Koch's cord moss, minute pocket moss, blue coast gilia, dark-eyed gilia, Diablo helianthella, elongate copper moss, North Coast semaphore grass, Marin knotweed, Santa Cruz microseris, green sturgeon, Point Reyes mountain beaver, burrowing owl, pallid bat, western bumble bee, California giant salamander, western pond turtle, tidewater goby, southern coastal roach, California black rail, San Pablo song sparrow, coho salmon, steelhead, California Ridgway's rail, salt-marsh harvest mouse, Northern spotted owl, and Townsend's big-eared bat.

As shown in DEIR Figure 3.3-1, only a select number of special-status species have been documented within or near the town limits, as opposed to species that occur within a five-mile radius of the Planning Area as shown in DEIR Tables 3.3-1 and 3.3-2. The Bent-flowered fiddleneck, Mt. Tamalpais bristly jewelflower, Mt. Tamalpais manzanita, Tamalpais lessingia, Tiburon buckwheat, and Santa Cruz tarplant are mostly found west and south of the Planning Area, and do not overlap with any proposed sites for housing development.

However, the foothill yellow-legged frog is associated with waterways and wetlands in the Planning Area and thus has the greatest potential to occur on sites near Bothin Creek, Fairfax Creek and San Anselmo Creek. The Napa false indigo has the potential to overlap with sites along Scenic Road in the western part of the Planning Area. The Point Reyes checkerbloom overlaps with most sites west of Center Boulevard in the Planning Area. The obscure bumble bee is found almost everywhere in the Planning Area and thus faces the potential to overlap with all the larger scale housing development sites associated with the Proposed Project.

Development under the Proposed Project would largely involve facilitation of housing within urbanized areas and on existing single family residential lots, limiting the potential for significant adverse impacts on special-status species and sensitive natural communities. Pursuant to CEQA Section 15303, the State has determined that small scale residential projects, such as those involving one single-family home, an accessory dwelling unit in a residential zone, and duplexes and multi-family developments of six units or fewer, would not have a significant effect on the environment. However, given the extent of biological resources throughout the community, future development under the Proposed Project could have a significant direct or indirect impact on special-status species if it would result in the removal or degradation of the species or suitable habitat. Housing sites identified in the Proposed Project do occur along riparian areas near Bothin, San Anselmo, and Fairfax Creeks; the construction of which could potentially adversely affect several special-status species.

If future development were to substantially degrade or remove suitable habitat for special-

status species or result in adverse impacts on special-status individuals, there could be significant impacts on special-status species. This could occur because of construction activities or from ongoing operation and/or maintenance of a project. General Plan Policies CON-5.2, CON-6.1, CON-6.2, and CON-6.3 require the protection of threatened and endangered species and habitat, riparian vegetation, and tree canopies. As stated in CON 5.2, the Town will maintain and restore native vegetation where appropriate for habitat value, aesthetics, reference habitat, and riparian habitat. Policies CON-6.1 and CON-6.2 call for the Town to identify and protect special-status species and resident and migrant wildlife, and their habitats within the Fairfax Planning Area. Further, Chapter 17.040.040 of the Fairfax Town Code establishes that no building, accessory building, structure or swimming pool shall be constructed closer to the top of the stream bank of the Fairfax and San Anselmo creeks than 20 feet or two times the average depth of the bank, whichever is greater, without authorization by variance, except for retaining walls and bulkheads which replace failing structures and which do not increase the height, width, length or configuration of the original structure. These policies and regulations would reduce impacts on special-status species and their habitats by limiting development in certain areas.

Impacts would be further reduced through **Mitigation Measure BIO-1**, which would require site assessments by a qualified professional for development applications that may adversely affect sensitive biological resources. **Mitigation Measure BIO-2** would require implementation of a worker environmental awareness training program to train construction staff on the needs of protecting sensitive biological resources and the ramifications for not complying with applicable laws. **Mitigation Measure BIO-3** would require the installation of temporary flagging or barrier fencing to protect sensitive biological resources adjacent to the work area. Further, **Mitigation Measures BIO-4 through BIO-6** outline additional construction requirements to ensure the protection of special-status plant species, the obscure bumble bee, and the foothill yellow-legged frog. In addition, individual developments pursuant to the Proposed Project are required to complete a Project-Specific Analysis (PSA) checklist, located in Appendix G of the DEIR, to determine whether the development qualifies as within the scope of this DEIR or requires additional environmental documentation or its own independent environmental review. Such evaluations will ascertain whether the development project's effects on the environment were covered in the DEIR. (FEIR, p. 3-13.)

Therefore, with implementation of **Mitigation Measures BIO-1 through BIO-6** and adherence to existing policies and local regulations, as discussed above, the impacts of future development under the Proposed Project on special-status species would be less than significant.

Mitigation Measures

MM-BIO-1: Conduct Preconstruction Surveys for Special Status Species. Prior to ground-disturbing activities and during the appropriate identification periods for special-status plants and wildlife listed in DEIR Tables 3.3-1 and 3.3-2, project applicants proposing development on sites with the potential for special-status species to occur shall engage a qualified biologist with adequate prior experience (ex: at least 2 years for pallid bat) conducting surveys and using relevant survey equipment for subject species in Marin

County to conduct field surveys within work areas and the immediately adjacent areas to determine the presence of habitat for special-status plant and wildlife species. Surveys for northern spotted owl habitat shall identify the type and quality of potential habitat as described in the U.S. Fish and Wildlife Service (USFWS) Protocol for Surveying Proposed Management Activities that may impact northern spotted owls. The field surveys are to be conducted when special-status species that could occur in the area are evident and identifiable, generally during the blooming or breeding period. Roosting Bat habitat assessment shall be conducted a minimum of 30 to 90 days prior to the beginning of Project activities. One of more surveys shall be conducted as needed to account for different special-status species identification periods. The results of field surveys shall be summarized in an accompanying report documenting all proposed work areas and the presence or absence of any sensitive resources that could be affected by development. Additionally, the report shall outline where species and/or habitat-specific mitigation measures (required under Mitigation Measures BIO-2 through BIO-6) are required. This report shall be submitted to CDFW for review and will provide the basis for any applicable permit applications and consultations with regulatory agencies where incidental take may occur. Project applicants shall obtain CDFW's written approval of the assessment prior to commencement of Project activities. (FEIR, pp. 3-2 – 3-3.)

MM-BIO-2: Worker Environmental Awareness Training Program. If it is established pursuant to Mitigation Measure BIO-1 that special status species occur on the site, prior to the issuance of grading or building permits, and for the duration of construction activities, the project proponent shall demonstrate that it has in place a Construction Worker Environmental Awareness Training Program for all construction workers at the project site. All construction workers shall attend the Program prior to participating in construction activities. The Program shall be developed and conducted by a qualified biologist with experience in Marin County. The training may be presented in video form. The Program shall include:

- Information on the life history of wildlife and plant species that may be encountered during construction activities and legal protection status of each species;
- The definition of "take" under the Federal Endangered Species Act and the California Endangered Species Act;
- Measures the project proponent/operator is implementing to protect the species; and
- Specific measures that each worker shall employ to avoid take of wildlife species, and penalties for violation of the Federal Endangered Species Act or California Endangered Species Act. (FEIR, p. 3-2 to 3-3)

MM-BIO-3: Install Temporary Flagging or Barrier Fencing to Protect Sensitive Biological Resources Adjacent to the Work Area. If required pursuant to Mitigation Measure BIO-1, a qualified biologist with prior experience for subject species in Marin County shall identify and flag or fence sensitive biological habitat onsite to ensure it is avoided during construction and pre-construction activities. Flagging or fencing shall be

installed prior to the site of site preparation activities remain in place for the duration of construction activities.

Additional requirements for northern spotted owl: No Project activities within 0.25 miles of potential northern spotted owl nesting habitat shall occur between February 1 and July 31 unless a qualified biologist approved in writing by CDFW conducts northern spotted owl surveys following the USFWS survey protocol listed in MM BIO-1 for disturbance-only projects. If breeding northern spotted owl are detected during surveys, a 0.25 mile no-disturbance buffer zone shall be implemented around the nest until the end of the breeding season, or a qualified biologist determines that the nest no longer active, unless otherwise approved in writing by CDFW. The Project shall obtain CDFW's written acceptance of the qualified biologist and survey report prior to Project construction occurring between February 1 and July 31 each year. If nesting or foraging habitat for northern spotted owls is identified on-site and will be removed, compensatory mitigation for loss of habitat approved in writing by CDFW shall be completed prior to Project activities. Habitat compensation shall not be less than 1:1 for low quality habitat and shall be at least 3:1 for moderate to high quality habitat, unless otherwise required or approved by CDFW in writing. If nesting habitat will be removed by the Project between February 1 and July 31, two years of protocol surveys shall be conducted by a qualified biologist approved in writing by CDFW pursuant to the above USFWS survey protocol for habitat removal projects prior to Project activities, unless otherwise approved in writing by CDFW. Alternate buffer zones may be proposed to CDFW after conducting an auditory and visual disturbance analysis following the USFWS guidance, Estimating the Effects of Auditory and Visual Disturbance to Northern Spotted Owls and Marbled Murrelets in Northwestern California, dated October 1, 2020. Alternative buffers must be approved in writing by CDFW. If take of northern spotted owl cannot be avoided, the Project shall consult with CDFW pursuant to CESA and obtain an ITP, and also consult with USFWS pursuant to the federal ESA.

Additional requirements for roosting bats: If roosting bats are detected, a bat avoidance and exclusion plan shall be implemented. The plan shall recognize that both maternity and winter roosting seasons are vulnerable times for bats and require exclusion outside of these times, generally between March 1 and April 15 or September 1 and October 15 when temperatures are sufficiently warm. Work operations shall cease if bats are found roosting within the Project area and CDFW shall be consulted. Trees shall be removed only if: a) presence of bats is presumed, or documented during the surveys described below, in trees with suitable habitat, and removal using the two-step removal process detailed below occurs only during seasonal periods of bat activity, from approximately March 1 through April 15 and September 1 through October 15, or b) after a qualified biologist conducts night emergence surveys or completes visual examination of roost features that establish absence of roosting bats. Two-step tree removal shall be conducted over two consecutive days, as follows: 1) the first day (in the afternoon), under the direct supervision and instruction by a qualified biologist with experience conducting two-step tree removal, limbs and branches shall be removed by a tree cutter using chainsaws only. Limbs with cavities, crevices, or deep bark fissures shall be avoided, and 2) the second day the entire tree shall be removed. (FEIR, pp. 3-4 – 3-6.)

MM-BIO-4: Avoid and Minimize Disturbance to Special-Status Plant Species. If necessary pursuant to the results of surveys conducted under Mitigation Measure BIO-1, the work area shall be modified to the extent feasible to avoid indirect or direct impacts on special-status plants. If complete avoidance of special-status plants is not feasible, at a minimum the special-status plant species shall be relocated on-site, at least 20 feet away from construction directly relating to the project. All site preparation, seed/cutting/root collection, grow-out, and plant installation shall be conducted by a landscape company approved by the Town of Fairfax with experience working on restoration projects and within the habitats present on-site. Following the relocation, the plantings/seedings shall be monitored annually for five years or longer by a botanist paid for and hired by the Project proponent to determine the success of the relocation. For individual plants, success criteria is the establishment of new viable occurrences equal to or greater in number than the number of plants impacted, for at least three years without supplemental care such as watering. On-site maintenance of the relocated plants shall be contracted to a landscaping company which will also be paid for and hired by the Project proponent. An annual report by a botanist detailing the success of the relocation shall be drafted and submitted to all responsible agencies (e.g., CDFW, USFWS) for their review. If success criteria are not met, management of the relocated plants will be modified as needed, but management and reporting shall continue until success criteria are met. (FEIR, p. 3-7.)

MM-BIO-5: Disturbance to Obscure Bumble Bee. If required pursuant to Mitigation Measure BIO-1, in order to minimize disturbance to the obscure bumble bee, a qualified entomologist paid for and hired by the applicant shall conduct a take avoidance survey for active bumblebee colony nesting sites in any previously undisturbed area no more than 14 days prior to each phase of construction, if the work will occur during the flying season, generally between March 1 and September 1.

The surveys shall occur when temperatures are above 60 degrees Fahrenheit (°F), on sunny days with wind speeds below 8 miles per hour, and at least 2 hours after sunrise and 3 hours before sunset. Surveyors shall conduct transect surveys focusing on detection of foraging bumble bees and underground nests using visual aids such as binoculars. If no obscure bumble bees or potential obscure bumble bees are detected, no further mitigation is required. If potential obscure bumble bees are seen but cannot be identified, the applicant shall obtain authorization from CDFW within 14 days prior to groundbreaking to use nonlethal netting methods to capture bumble bees to identify them to species. If protected bumble bee nests are found, they shall be protected in place until they are no longer active as determined by a qualified entomologist. Survey results, including negative findings, shall be submitted to CDFW and the Town prior to groundbreaking within 14 days of completing the take avoidance survey. (FEIR, pp. 3-7 to 3-8.)

MM-BIO-6: Disturbance to Foothill Yellow-Legged Frog (FYLF). If required pursuant to Mitigation Measure BIO-1, in order to minimize disturbance to dispersing or foraging FYLF, all grading activity within 100 feet of aquatic habitat shall be conducted during the dry season, generally between May 1 and October 15, or before the onset of the rainy season,[27] whichever occurs first, unless exclusion fencing is utilized. Construction

[27] The rainy season includes periods when a ½-inch of rain or more is predicted within a 24-hour period and is generally between October and April.

that commences in the dry season may continue into the rainy season if exclusion fencing is placed between the construction site and Bothin Creek, Fairfax Creek, or San Anselmo Creek, and includes drainage features to keep the frog from entering the construction area. Additionally, the following measures shall be implemented to lessen impacts to FYLF:

a) Prior to building permit issuance the applicant shall submit evidence to the building department to demonstrate that they have retained a qualified biologist with experience with FYLF to implement each of the following measures.

b) No more than 14 days before the start of ground disturbance activities, pre-construction surveys for FYLF shall be conducted by a qualified biologist and shall cover the project site, access areas, and aquatic features within 200 feet of the project site. Additionally, for construction activity within 100 feet of Bothin Creek, Fairfax Creek or San Anselmo Creek, a survey shall be conducted by a qualified biologist every morning before construction activities commence for the day to ensure that no FYLF are present in the construction area. If FYLF are observed in the construction area or access areas, all work in the vicinity of the FYLF shall be stopped and the USFWS shall be consulted immediately. The biologist shall submit a summary of their surveyed findings to the town planner by email within 14 days prior to groundbreaking.

c) Exclusion fencing shall be installed around any work area within 100 feet of a drainage, wetland, or Bothin Creek, Fairfax Creek or San Anselmo Creek, unless construction activity will be completed in one day or less at that location. A qualified biologist shall be present to monitor the installation of the exclusion fence.

d) Because dusk and dawn are often the times when FYLF are most actively foraging, all construction activities shall cease one half hour before sunset and shall not begin prior to one half hour before sunrise. Construction activities shall not occur during rain events, which are any occurrences of rain that result in an accumulation of 0.1 inches or more in 24 hours, unless a survey is conducted by a qualified biologist each day prior to the start of construction activities and one-half hour before sunset to ensure that no FYLF are observed in the construction area or access areas.

e) Any open holes or trenches shall be covered using timber mats or an equally effective material at the end of each working day to prevent FYLF from becoming entrapped.

f) A Spill Prevention and Control Plan shall be created and made part of the plans for the building permit application. The plan shall outline equipment and procedures to prevent and respond to a spill. Containers (tanks, drums, totes) are required to have sized secondary containment and overfill prevention. The plan and materials necessary to implement it shall be accessible on-site. Heavy equipment shall be checked daily for leaks. Equipment with leaks shall not be used until leaks are fixed. Refueling shall occur at designated sites outside of active stream channels or above the ordinary high water mark.

g) Any disturbed ground shall receive erosion control treatment pursuant to Chapter 8.32 of the Town Code and native seed mix within seven days following completion of construction or within seven days following a seasonal stoppage of construction.

h) All workers shall ensure that food scraps, paper wrappers, food containers, cans, bottles, and other trash from the construction area are deposited in covered or closed trash containers. The trash containers shall not be left open and unattended overnight. (FEIR, pp. 3.8 – 3.10.)

Significance after mitigation: Less than significant. (Draft EIR, pp. 3.3-14 – 3.3-19)

C. CULTURAL RESOURCES

1. Historical Resources

Threshold: Would the Project cause a substantial adverse change in the significance of a historical resource pursuant to State CEQA Guidelines, section 15064.5?

Finding: Less than significant with mitigation. (Draft EIR, pp. 3.4-15 – 3.4-17)

Explanation:

Implementation of the Proposed Project could result in substantial adverse changes to historical resources through demolition, alterations, changes in ownership, and accidents caused by construction activities. The goals, policies, and programs of the Proposed Project facilitate the development of 598 housing units, primarily consisting of infill development on underutilized commercial sites and ADUs, with the remainder of sites comprised of low impact clustered residential development and single-family housing. The Proposed Project provides a framework for increasing the range of housing options in the community, removing barriers and constraints to housing construction, ensuring the continued maintenance of existing housing, and providing equal access housing opportunities and services for all who live and work in Fairfax. These goals and policies do not explicitly prohibit projects that could affect cultural resources through the physical demolition, destruction, relocation, or alteration of a resource or its immediate surroundings.

As shown on DEIR Figure 3.4-1 and described in the Environmental Setting, there are several documented historic buildings and structures located throughout the Planning Area. In addition, there are several age-eligible homes older than 45 years in the Planning area that have yet to be evaluated. There are 11 bridges and 12 buildings listed as potentially historic structures by the California Historical Resources Information System (CHRIS). All 11 bridges were identified in Reconnaissance Level Survey and not evaluated for their historic status. Although 12 buildings were identified as historic by CHRIS, four were found ineligible for national register, California register or Local designation through survey evaluation. The other eight buildings are either on the California Register of Historic Places, determined eligible for both the National Register of Historic Places or the

California Register, or not evaluated for National Register of Historic Places or California Register.

Most of these documented historic structures are bridges located on Azalea Avenue, Bolinas Road, Meadow Way, Merwin Avenue, Spruce Road, Deer Park, and Pacheo Avenue, and in addition, eight buildings are identified as historic resources. The Fairfax Theater, which is eligible for listing on both the National Register and California Register of Historical Resources, is located downtown and is not identified as a site for development. The home of Charles Snowden Fairfax, which qualifies as a historical resource under CEQA because it is listed on the California Register of Historical Resources, is located one block south of the Pastori Avenue and Belmont Avenue intersection. The Alpine Building, Cinema West Theater, Fairfax Youth Center, Children Center and Acquisition Building and four residential buildings have not been evaluated. None of these structures are identified as potential development sites.

The Proposed Project identifies an inventory of sites available for housing development and properties. None of these properties contain or are adjacent to historic buildings or structures as identified by NWIC. Thus, the significance of a historic resource would not be materially impaired as defined by CEQA Guidelines Section 15064.5.

As noted above, there are properties more than 45 years old in the Planning Area that have not yet been evaluated for historic significance and may be eligible for listing on local, State, or national registers. The Town Code includes regulations that can reduce impacts on potential resources, such as Chapter 15.04.010. These regulations require development to preserve buildings and areas with historic or aesthetic value and maintain the historic integrity and scale of heritage resources. Further, **Mitigation Measure CUL-1** requires that project sponsors proposing development on a property with structures more than 45 years old be evaluated for historic significance. Proposed development projects shall then be evaluated for potential direct and/or indirect effects on the identified historic resource(s) per CEQA Guidelines Section 15364, and **Mitigation Measure CUL-2**, requiring avoidance or minimization of impacts to historic structures, shall be implemented as appropriate.

Therefore, with compliance of existing regulations and proposed mitigation measures, the impact of implementation of the Proposed Project on historical resources would be less than significant.

Mitigation Measures

MM-CUL-1: Evaluate Age-Eligible Properties That Have Not Previously Been Evaluated Prior to Development Projects to Identify Historic Resources. As a condition of project approval for a development project proposed on a parcel within the Planning Area that includes a building, structure, or landscape more than 45 years old (typical age threshold applied by the California Office of Historic Preservation) and that has not previously been evaluated for potential historic significance, the Town shall require the project applicant shall retain a professional who meets the Secretary of the of the Interior's Professional Qualifications Standards for architectural history or history (as appropriate), to conduct an evaluation of historic significance and eligibility for listing on

local, State, or national registers.

The evaluation shall be completed prior to project approval and shall include a field survey, archival research, and preparation of a historic resource evaluation report. The report shall include documentation of methodology and the findings of the historic evaluation, including a determination of historic significance and eligibility for listing on local, state, or national registers on the basis of this evaluation, if it is determined that the subject property contains an historic resource, Mitigation Measure CUL-2 shall be implemented.

MM-CUL-2: Avoidance or Minimization of Effects on Identified Historic Resources. The project applicant shall consult with Town staff to determine whether a project can be feasibly redesigned or revised to avoid significant adverse impacts on listed and identified eligible historic resource(s), including historic districts. If a local landmark or historic district is part of a proposed development, the project's Historic Application must be reviewed by the Town's Planning Commission. If avoidance of historic resource(s) is not feasible, where feasibility is defined as "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors," the project sponsor shall seek to reduce the effect on historic resource(s) to a less-than-significant level pursuant to CEQA Guidelines Section 15364. Projects that conform to the Secretary of the Interior's Standards for the Treatment of Historic Properties are considered to have a less-than-significant effect on historic architectural resources.

Significance After Mitigation: Less than Significant. (Draft EIR, pp. 3.4-15 – 3.4-17)

2. **Archaeological Resources**

Threshold: Would the Project cause a substantial adverse change in the significance of an archaeological resource pursuant to State CEQA Guidelines, section 15064.5?

Finding: Less than significant with mitigation. (Draft EIR, pp. 3.4-17 – 3.3-18)

Explanation:

There are known prehistoric and historic archaeological resources in and around the Planning Area. Fairfax is located at the northern portion of Ross Valley and is bisected by Fairfax Creek, San Anselmo Creek, and Deer Park Creek which tend to be associated with precontact archaeological resources. Based on these factors, the Planning Area has a high potential for encountering deposits associated with known resources or as-yet undocumented resources.

Future development projects or public works activities allowed under the Proposed Project may involve grading, excavation, overland vehicle travel, or other ground-disturbing activities, or could facilitate public access to archaeological sites, which could disturb or damage unknown archaeological resources. The impact of such activities would be considered significant if they were to cause a substantial adverse change to the archaeological resources as defined by CEQA Guidelines Section 15064.5.

Although implementation of the Proposed Project may result in actions that could adversely affect archaeological resources, State regulations would minimize or avoid impacts by requiring the protection and preservation of such resources. The PRC Section 21083.2 and CEQA Guidelines Section 15064.5(f) recognize that historical or unique archaeological resources may be accidentally discovered during project construction. According to PRC Section 21083.2, a lead agency may make provisions for archaeological sites accidentally discovered during construction. These provisions may include an immediate evaluation of the find. If the find is determined to be a unique archaeological resource, contingency funding and a time allotment sufficient to allow recovering an archaeological sample or to employ one of the avoidance measures may be required under the provisions set forth in this section. Construction work may continue on other parts of the building site while archaeological mitigation takes place. If the resource does meet the CEQA definition of a historical or unique archaeological resource, then it shall be avoided to the extent feasible by project construction activities.

If avoidance is not feasible, then adverse effects to the deposit shall be mitigated as specified by PRC Section 21083.2 and CEQA Guidelines Sections 21083.2 (c) through 21083.2 (f). This mitigation enforced by the Town may include, but is not limited to, deeding archaeological sites into permanent conservation easements, capping or covering archaeological sites, planning open space to incorporate archaeological sites, or conducing excavation as mitigation. All such recommendations shall also be in accordance with section 5097.98 of the California Public Resources Code, and section 7050.5 of the California Health and Safety Code, as applicable.

In addition, **Mitigation Measure CUL-3** requires construction personnel to receive cultural awareness training on existing regulations and unanticipated discovery protocol for developments that have a high potential for uncovering archaeological deposits. Therefore, at the program level, the impact of implementation of the Proposed Project on archaeological resources would be less than significant, with implementation of existing State regulations and the following mitigation measure.

Mitigation Measures

MM-CUL-3: Conduct Cultural Resources Awareness Training. Prior to the start of any ground disturbance or construction activities, developers of projects within 50 feet of a creek or within 50 feet of recorded archaeological resources or tribal cultural resources in the Planning Area shall retain a qualified professional archaeologist to conduct cultural resource awareness training for construction personnel. This training shall include an overview of what cultural resources are and why they are important, archaeological terms (such as site, feature, deposit), project site history, types of cultural resources likely to be uncovered during excavation, laws that protect cultural resources, and the unanticipated discovery protocol per the PRC Section 21083.

Significance After Mitigation: Less than significant. (Draft EIR, pp. 3.4-17 – 3.3-18)

3. **Human Remains**

Threshold: Would the Project disturb any human remains, including those interred outside of dedicated cemeteries?

Finding: Less than significant with mitigation. (Draft EIR, pp. 3.4-18 – 3.4-19)

Explanation:

Human remains, particularly those interred outside of formal cemeteries, could be disturbed during grading, excavation, or other ground-disturbing activities associated with future development or redevelopment projects allowed under the Proposed Project. No human remains or cemeteries are known to exist within or near the sites identified under the Proposed Project or the surrounding areas. However, there is always the possibility that subsurface construction activities associated with the Proposed Project, such as trenching and grading, could potentially damage or destroy previously undiscovered human remains. In the event of the accidental discovery or recognition of any human remains, CEQA Guidelines Section 15064.5, Health and Safety Code Section 7050.5, and Public Resources Code Section 5097.94 and Section 5097.98 must be followed. Implementation of **Mitigation Measure CUL-3** would also reduce any potential impact on archaeological resources, including human remains, through cultural awareness training for construction personnel on unanticipated discover protocol. At the program level, the impact of implementation of the Proposed Project on human remains would therefore be less than significant with implementation of existing regulations and policies.

Mitigation Measures

MM-CUL-3: Conduct Cultural Resources Awareness Training.

Significance After Mitigation: Less than significant. (Draft EIR, pp. 3.4-18 – 3.4-19)

D. TRIBAL CULTURAL RESOURCES

1. Tribal Cultural Resources

Threshold: Would the Project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is: (i) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k); or (ii) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in Public Resources Code section 5024.1?

Finding: Less than significant with mitigation. (Draft EIR, pp. 3.4-19 – 3.4-20)

Explanation:

The Proposed Project would not impact any tribal cultural resources because no known tribal cultural resources are located on sites where construction activity is proposed. Candidate housing sites have been screened to confirm they do not contain known historic or tribal cultural resources based on information available to the Town. Further, all development under the Proposed Project would be required to comply with existing regulations, including CEQA Guidelines Section 15064.5, Health and Safety Code Section 7050.5, and Public Resources Code Section 5097.94, Section 5097.98, Section 21083.2, and provisions of the Town Code which stipulate protocols that must be followed in the event of discovery of archaeological resources, tribal cultural resources, and human remains.

Nevertheless, Northwest Information Center (NWIC) records search results indicate that there is a high potential for unrecorded Native American resources to be within the Town limits, especially in the vicinity of Fairfax Creek and San Anselmo Creek. Therefore, future development or redevelopment projects allowed under the Proposed Project could result in indirect impacts through grading, overland construction vehicle travel, or other ground-disturbing activities, or through facilitation of public access to culturally significant sites. The impact of such activities would be considered significant if they were to cause a substantial adverse change to the resources as defined by Public Resource Code (PRC) Section 21074. As previously discussed, the response from the Native American Heritage Commission (NAHC) stated that a search of the Sacred Lands File to identify sacred lands in the Planning Area was negative. However, according to the NWIC records search, the Town of Fairfax contains three recorded Native American archaeological resources. While the exact location of these resources is not public information, consultation with the tribes per SB 18 and AB 52 provides the opportunity for Native American tribes to identify if known resources could be compromised by implementation of the Proposed Project. Such consultation is also intended to arrive at consensus regarding mitigation measures or ways to avoid a significant effect on tribal cultural resources. One response and formal request for tribal consultation has been received by the Federated Indians of Graton Rancheria. Multiple attempts have been made by phone to contact the Federated Indians of Graton Rancheria to continue the consultation process, but no response has been received as documented in supporting materials and correspondence located in Appendix C of the DEIR.

In addition to consultation with tribes required by State law, and in accordance with PRC Section 21083.2 and CEQA Guidelines Section 15064.5(f), which recognize that historical or unique archaeological resources may be accidentally discovered during project construction, the Town may make provisions for archaeological sites accidentally discovered during construction. These provisions may include an immediate evaluation of the find. If the find is determined to be a unique archaeological resource, contingency funding and a time allotment sufficient to allow recovering an archaeological sample or to employ one of the avoidance or mitigation measures may be required under the provisions set forth Section 21083.2. In addition, **Mitigation Measure CUL-3** requires developers proposing to construct in areas of high sensitivity for cultural and tribal cultural resources to conduct cultural resource awareness training prior to project-related ground disturbance for developments that have a high potential to uncover archaeological or tribal cultural resources.

At the program level, the impact of implementation of the Proposed Project on tribal cultural resources would therefore be less than significant with implementation of existing State regulations as well as mitigation actions within the Proposed Project.

Mitigation Measures

MM-CUL-3: Conduct Cultural Resources Awareness Training.

Significance After Mitigation: Less than significant. (Draft EIR, pp. 3.4-19 – 3.4-20)

SECTION IV.
IMPACTS THAN CANNOT BE FULLY MITIGATED TO A LESS THAN SIGNIFICANT LEVEL

The Town Council hereby finds that, despite the incorporation of Mitigation Measures identified in the EIR and in these Findings, the following environmental impacts cannot be fully mitigated to a less than significant level and a Statement of Overriding Considerations is therefore included herein:

E. GREENHOUSE GAS EMISSIONS

1. Emissions Generation

Threshold: Would the Project generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?

Finding: Significant and Unavoidable. (Draft EIR, pp. 3.7-26 – 3.7-30)

Explanation:

Construction

Construction associated with new land use developments under the Proposed Project would result in the temporary generation of GHG emissions within the Planning Area. Emissions would originate from mobile and stationary construction equipment, worker and haul truck trips traveling to and from project sites, and electricity consumption. Construction-related GHG emissions would vary substantially depending on the level of activity, length of the construction period, specific construction operations, types of equipment, and number of personnel.

By its nature as a specific plan, the Proposed Project does not propose any specific development except those projects currently under environmental review or approved, but not yet constructed. Construction of land use developments allowable under the Proposed Project would occur intermittently within the Planning Area throughout the course of the eight-year buildout period. As the timing and intensity of future development projects is not known at this time, the precise effects of construction activities associated with buildout of the Proposed Project cannot be quantified at this time. Project-specific details of future development within the Planning Area are currently unknown because development would be driven by market conditions, site constraints, land availability, and property owner

interest. It is assumed that implementation of the Proposed Project ultimately could result in the development of up to 598 housing units, primarily consisting of infill development on underutilized commercial sites and ADUs, with the remainder of sites comprised of low impact clustered residential development and single-family housing. As such, it is anticipated that in any given year, multiple land use development projects will be constructed within the Planning Area.

As noted previously, BAAQMD has not established a quantitative threshold for assessing construction-related GHG emissions. Rather, the air district recommends evaluating whether construction activities would conflict with statewide emission reduction goals and implement feasible BMPs. Therefore, construction-related GHG emissions from the Proposed Project would be required to comply with **Mitigation Measure GHG-1** which would reduce construction emissions consistent with BAAQMD guidance and statewide emission reduction goals. In accordance with California's Green Building Standards Code (CAlGreen), the Town of Fairfax currently requires construction and demolition projects to recycle at least 70 percent of the local construction and demolition debris generated by a project. Project applicants must complete a Construction and Demolition (C&D) waste diversion report, and no building permit shall be issued by the Town unless the applicant submits the C&D diversion report. **Mitigation Measure GHG-1** would build on this policy to require compliance with other BAAQMD best management practices for building with local material and using alternative-fueled construction vehicles. Accordingly, this impact would be less than significant with the incorporation of mitigation.

Operation

Operation of land uses supported by the Proposed Project would generate direct and indirect GHG emissions. Sources of direct emissions include mobile vehicle trips, natural gas combustion, and landscaping activities. Indirect emissions would be generated by electricity generation and consumption, waste and wastewater generation, solid waste, and water use. Operational emissions for existing baseline and 2040 future conditions are summarized in Table 3.7-3. The modeled emissions for the Proposed Project are a conservative estimate of the Proposed Project's impact on GHGs. While the Proposed Project would achieve additional GHG reductions through voluntary sustainability features, such as VMT reduction measures, the quantified reductions in GHGs from these strategies are currently unknown.

As shown in Table 3.7-3, operational emissions generated by the Project would still result in a net increase in annual emissions of 1,552 $MTCO_2e$ compared to existing conditions. As seen in Table 3.7-3, there is a substantial increase in emissions from energy sources due to greater natural gas and electricity consumption, and a slight increase in emissions from area, mobile, waste, water, and refrigerant or refrigeration sources. These increases reflect the increase from existing conditions in population and number of housing units enabled by the Proposed Project.

Table 3.7-4 compares the annual GHG emissions efficiency metrics achieved under the Proposed Project in comparison to the GHG emissions efficiency metrics established by the California Air Resources Board (CARB). In line with SB 32, CARB recommends an efficiency metric of no more than 6.0 $MTCO_2e$ per capita by 2030 and 2.0 $MTCO_2e$ per

capita by 2050. As seen in Table 3.7-4, future conditions under the Proposed Project in 2040 would result in 2.99 $MTCO_2e$ per capita per year, which is below the 2030 threshold but still exceeds the 2050 threshold. In addition, the Fairfax community's goal as outlined in the Town's CAP is a 100 percent GHG emissions reduction target by the year 2030 from a 2005 baseline. Future conditions under the Proposed Project would exceed this net-zero emission community threshold.

It is noted that the Proposed Project has a horizon year of 2031, which is well before the 2050 target used to determine the State-recommended efficiency metric of 2.0 $MTCO_2e$ per capita. Considering the State's goal to achieve carbon neutrality by 2045, reducing GHG emissions to achieve the 2050 threshold will be a coordinated statewide effort involving multiple sectors and factors outside of the Proposed Project's scope and buildout timeframe. However, the Proposed Project would achieve a net per capita reduction in GHG emissions over existing conditions and the State's 2030 efficiency metric of 6.0 $MTCO_2e$ per capita, which shows a decline consistent with the State's GHG reduction objectives.

Even so, the Fairfax CAP GHG outlines local mitigation measures to reduce greenhouse gas emissions to achieve net zero emissions in the community by 2030, which is not consistent with projected emissions for the Proposed Project as shown in Table 3.7-3. The plan's forecast of future emissions in 2030 were estimated using projections developed by the Association of Bay Area Governments (ABAG), the Metropolitan Transportation Commission (MTC), and the California Department of Finance. However, the growth facilitated by adoption of the Proposed Project is greater than the amount of growth assumed in the 2030 CAP. **Mitigation Measure GHG-2** would require the Town to update its CAP to reach carbon neutrality by 2045, consistent with Executive Order B-55-18. The updated CAP shall include community emission forecasts that incorporate the changes in population and number of households anticipated under the Proposed Project.

The Town of Fairfax Climate Action Plan (CAP) establishes a target of net zero emissions by 2030 and Executive Order B-55-18 establishes a statewide target of carbon neutrality by 2045. While buildout of the inventory would result in emissions per service population below the Statewide target for 2030, emissions resulting from buildout would exceed the targets established in the Fairfax CAP and Executive Order B-55-18. The DEIR recommends a **Mitigation Measure GHG-2** pursuant to which the Town will update the CAP to identify measures necessary for compliance with State target; however, as this update has not yet been completed and the specific measures have not yet been identified, the DEIR conservatively concludes that the associated impact would remain significant and unavoidable even after implementation of this mitigation measure.

Mitigation Measures

MM-GHG-1: Require Implementation of BAAQMD-recommended BMPs. All applicants within the Planning Area shall require their contractors, as a condition of contract, to reduce construction-related GHG emissions by implementing BAAQMD's recommended best management practices, including (but not limited to) the following measures (based on BAAQMD's CEQA Guidelines):

- Ensure alternative fueled (e.g., biodiesel, electric) construction vehicles/equipment make up at least 15 percent of the fleet.

- Use local building materials of at least 10 percent (sourced from within 100 miles of the Planning Area).

MM-GHG-2: Update the Fairfax Climate Action Plan 2030. The Town will update its CAP to reach carbon neutrality by 2045, consistent with Executive Order B-55-18. The updated CAP shall include community emission forecasts that incorporate the changes in population and number of households anticipated under the Proposed Project.

Significance After Mitigation: Significant and Unavoidable. (Draft EIR, pp. 3.7-26 – 3.7-30)

2. **Emission Reduction Plans**

Threshold: Would the Project conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emission of greenhouse gases?

Finding: Significant and Unavoidable. (Draft EIR, pp. 3.7-30 – 3.7- 3.7-34)

Explanation:

AB 32, SB 32, EO-S-3-05, and EO B-55-18

AB 32 and SB 32 outline the State's GHG emissions reduction targets for 2020 and 2030, respectively. While not legislatively adopted, EO S-03-05 establishes the State's long-term goal to reduce GHG emissions 80 percent from 1990 levels by 2050. EO B-55-18 sets a more ambitious State goal of net zero GHG emissions by 2045.

In 2008 and 2014, CARB adopted the Scoping Plan and First Update, respectively, as a framework for achieving AB 32. The Scoping Plan and First Update outline a series of technologically feasible and cost-effective measures to reduce statewide GHG emissions. CARB adopted the Climate Change Scoping Plan in November 2017 as a framework to achieve the 2030 GHG reduction goal described in SB 32. In addition, CARB's 2022 Scoping Plan for Achieving Carbon Neutrality was adopted in November and extends and expands upon these earlier plans with a target of reducing anthropogenic emissions to 85 percent below 1990 levels by 2045.

CARB's 2022 Scoping Plan identifies a technologically feasible and cost-effective path to achieve carbon neutrality by 2045 while also assessing the progress California is making toward reducing its GHG emissions by at least 40 percent below 1990 levels by 2030, as called for in SB 32 and laid out in the 2017 Scoping Plan. The 2022 Scoping Plan reinforces that meeting these targets will require effective State regulations, including Cap-and-Trade, the requirement for increased renewable energy sources in California's energy supply, updates to Title 24, and increased emission reduction requirements for mobile sources. The 2022 Scoping Plan indicates that reductions would need to come in the form of changes pertaining to vehicle emissions and mileage standards, changes pertaining to sources of

electricity and increased energy efficiency at existing facilities, and State and local plans, policies, or regulations that will lower GHG emissions relative to business-as-usual conditions. The 2022 Scoping Plan carries forward GHG reduction measures from previous plans, as well as new potential measures to help achieve the State's 2030 and 2045 targets across all sectors of the California economy, including transportation, energy, and industry.

Construction

Construction activities for future development within the Planning Area would result in the temporary generation of GHG emissions. Emissions would originate from the exhaust of both mobile and stationary construction equipment as well as exhaust from employees' vehicles and haul trucks, and electricity. Construction-related GHG emissions from each specific source would vary substantially, depending on the level of activity, length of the construction period for each development, specific construction operations, types of equipment, and number of personnel. GHG emissions generated by the construction activities would be short term and would cease once construction is complete.

As described above, BAAQMD has not established a quantitative threshold for assessing construction-related GHG emissions. Rather, BAAQMD recommends evaluating whether construction activities would conflict with statewide emission reduction goals, based on whether feasible BMPs for reducing GHG emissions would be implemented. If a project fails to implement feasible BMPs identified by BAAQMD, its GHG emissions could conflict with statewide emission goals and represent a cumulatively considerable contribution to climate change, which would be a potentially significant impact. Construction-related GHG emissions from the Proposed Project would be required to comply with **Mitigation Measure GHG-1**, which would reduce construction emissions consistent with BAAQMD guidance and statewide emission reduction goals. Implementation of **Mitigation Measure GHG-1** would require future development projects to implement BAAQMD-recommended BMPs which would reduce the level of GHGs associated with construction of the future projects and avoid any conflict with statewide GHG reduction goals, thereby reducing this impact to less than significant with mitigation**.**

Operations

Emissions from area and energy sources would conflict with the Town's adopted CAP and with the Statewide 2050 GHG reduction targets, since implementation of the Proposed Project would not result in carbon neutrality by 2030 as envisioned in the CAP. However, development associated with the Proposed Project would be required to comply with Chapter 15.05 of the Town Code which requires that newly constructed buildings be all-electric buildings. The intent of this chapter of the Town Code is to eliminate natural gas infrastructure and associated greenhouse gas emissions in new buildings where all-electric infrastructure can be most practicably integrated. As such, compliance with the Town Code would reduce operational emissions from area and energy sources through prohibiting permanent natural gas infrastructure, thereby reducing this impact to a less than significant level.

However, as discussed in Chapter 3.13, Transportation*,* the Proposed Project would not

achieve the 15 percent VMT per capita reduction target under buildout conditions. Given the level of VMT reduction that would need to occur with a small number of housing units and the lack of feasible VMT reduction measures, the Town will not achieve the overall VMT threshold reduction level. Therefore, the Proposed Project's mobile-source GHG emissions would conflict with SB 743. Because a reduction in GHG emissions from passenger vehicles is one of the objectives of SB 743 and one of the overarching strategies of the 2022 Scoping Plan, operation of the Proposed Project would conflict with the statewide GHG target for 2030 mandated by SB 32. Overall, the Proposed Project would be consistent with policies and plans that encourage energy conservation, energy efficiency, and sustainability, however, GHG emissions from mobile sources would conflict with goals of SB 743, therefore, the Proposed Project would have a significant and unavoidable impact.

SB 375 and Plan Bay Area

Environment and transportation are two of four elements that are the focus of the Bay Area Metropolitan Transportation Commission (MTC)'s Plan Bay Area 2050. Plan Bay Area 2050 is the MTC's regional transportation plan and provides a long-range framework to minimize transportation impacts on the environment, improve regional air quality, protect natural resources, and reduce GHG emissions. The plan promotes infill development, and proactively links land use, air quality, and transportation needs in the region. Plan Bay Area is consistent with SB 375, which requires MTC to adopt a Sustainable Communities Strategy (SCS) that outlines policies to reduce per service population GHG emissions from automobiles and light trucks. As noted in the Regulatory Setting, for the San Francisco Bay Area, the per capita GHG emissions reduction target for automobiles and light trucks is 19 percent by 2035, relative to 2005 emissions. The SCS policies include a mix of strategies that encourage compact growth patterns, mixed-use design, alternative transportation, transit, mobility and access, network expansion, and transportation investment.

Implementation of the SCS is intended to improve the efficiency of the transportation system and achieve a variety of land use types throughout the Bay Area that meet market demands in a balanced and sustainable manner. The Proposed Project's guiding principles are built around the concept of creating a community that promotes sustainability and self-sufficiency for residents, workers, and visitors. Implementation of the Proposed Project would result in the development of 598 housing units, primarily comprised of higher density housing within urbanized areas downtown and on existing single family residential lots. Thus, mixed-use development would be promoted through the location of the proposed housing sites.

The Proposed Project would allow development that helps accommodate forecasted growth within the Planning Area. Consistent with MTC goals, the Proposed Project encourages higher-density and infill developments where appropriate, connectivity between neighborhoods, and walkable design that compliments the existing natural and built environment to reduce VMT. The Proposed Project further provides the policy framework to guide future development toward land use patterns that support walking, and biking (Policy 1-3, and programs 1-A, 1-B, 1-D, 1-E, and 2-A).

These policies would support alternative modes of travel within the Planning Area, which could help reduce per service population GHG emissions from passenger vehicles consistent with Plan Bay Area. Thus, the Proposed Project would be consistent with the goals of SB 375 and Plan Bay Area, and this impact would be less than significant.

Town of Fairfax Climate Action Plan 2030 (CAP)

As described under Impact 3.7-1, the CAP includes strategies with quantifiable GHG emission reductions to reach carbon neutrality by 2030. The additional housing units and population analyzed for the Proposed Project would increase emissions from electricity and natural gas consumption, mobile source emissions, and the other emission sectors listed in Table 3.7-3. Many of the existing measures and implementing actions contained in the Town's CAP would have beneficial and appreciable GHG reduction benefits for the residential units that would be facilitated by adoption of the Proposed Project. However, the growth facilitated by adoption of the Housing Element Update is greater than the amount of growth assumed in the 2030 CAP.

As such, **Mitigation Measure GHG-2** would require the Town to update its CAP to reach carbon neutrality by 2045, consistent with Executive Order B-55-18. The updated CAP shall include community emission forecasts that incorporate the changes in population and number of households anticipated under the Proposed Project. Although future development projects would be accounted for in the Town's updated CAP as required by Mitigation Measure GHG-2, it is not known at this time whether all future development facilitated by the Project would be able to reduce emissions to levels that are below the current community threshold. Therefore, even with implementation of Mitigation Measure GHG-2, it is conservatively assumed that the Proposed Project may generate greenhouse gas emissions in exceedance of current thresholds which is inconsistent with the CAP. This impact would be significant and unavoidable.

Consistency with Other State Regulations

As discussed above, systemic changes will be required at the state level to achieve California's future GHG reduction goals. Regulations, such as future amendments to the Low Carbon Fuel Standard (LCFS) and future updates to the State's Title 24 standards and implementation of the State's Short-live Climate Pollutants (SLCP) Reduction Strategy, including forthcoming regulations for composting and organics diversion, will be necessary to attain the magnitude of reductions required for the State's goals. The Proposed Project would be required to comply with these regulations in new construction (in the case of updated Title 24 standards) or would be directly affected by the outcomes (vehicle trips and energy consumption would be less carbon intensive due to statewide compliance with future low carbon fuel standard amendments and increasingly stringent RPS). Thus, for the foreseeable future, the Proposed Project would not conflict with any other State-level regulations pertaining to GHGs in the post-2020 era and this impact would be less than significant.

Mitigation Measures

Implementation of **Mitigation Measure GHG-1** would require future development

projects to implement BAAQMD-recommended BMPs which would reduce the level of GHGs associated with construction of the future projects and avoid any conflict with statewide GHG reduction goals, thereby reducing this impact to less than significant with mitigation. However, GHG emissions from mobile sources would conflict with the goals of SB 743. Further, **Mitigation Measure GHG-2** would require the Town to update its CAP to reach carbon neutrality by 2045, consistent with Executive Order B-55-18. However, it is conservatively assumed that the Proposed Project may generate greenhouse gas emissions in exceedance of current CAP thresholds. Therefore, the Proposed Project would result in a significant and unavoidable impact related to GHG plan/policy consistency.

MM-GHG-1: Require Implementation of BAAQMD-recommended BMPs.

MM-GHG-2: Update the Fairfax Climate Action Plan 2030.

Significance After Mitigation: Significant and Unavoidable. (Draft EIR, pp. 3.7-30 – 3.7-3.7-34)

F. TRANSPORTATION

1. VMT

Threshold: Would the Project conflict or be inconsistent with CEQA Guidelines sections 15064.3, subdivision (b)?

Finding: Significant and Unavoidable. (Draft EIR, pp. 3.13-15 – 3.13-19)

Explanation:

CEQA Guidelines Section 15064.3 implements SB 743, stipulating that the congestion metric Level of Service (LOS) cannot be used for evaluating environmental impacts. Governor's Office of Planning and Research (OPR)'s Technical Advisory provides further guidance for implementing Section 15064.3 of the CEQA Guidelines related to VMT. For residential projects, OPR recommends that VMT per capita should be used as the metric to determine whether a proposed project may cause a significant transportation impact. For the purposes of this EIR, based on CEQA and OPR guidance, VMT impacts would be significant if new residential development would exceed the following threshold:

- Future (2040) Home-based VMT per capita exceeds 15 percent below baseline (2019) Aggregate Town VMT per resident

Table 3.13-2 provides a summary of the cumulative VMT forecast for buildout of the Proposed Project in 2031. The threshold recommended by OPR for residential uses involves comparing the project VMT per capita to the baseline Town VMT per capita. A significant impact would occur if a proposed project VMT per capita exceeds a level of 15 percent below existing baseline Town VMT per capita. The VMT forecasts indicate that the proposed residential uses would result in a Home-Based VMT per capita that is 10.4 percent below the baseline 2019 Town VMT per capita. While this indicated that buildout of the proposed Project would result

in an improvement in per capita VMT, the reduction would still exceed the threshold. This is considered a significant impact prior to mitigation.

Strategies in the *Handbook for Analyzing Greenhouse Gas Emission Reductions, Assessing Climate Vulnerabilities, and Advancing Health and Equity*, California Air Pollution Control Officers Association (CAPCOA), December 2021, could potentially serve as mitigation measures. This handbook is intended to quantify the effect of GHG and VMT reduction practices for local governments, communities, and private developers. CAPCOA identifies strategies related to: infill intensification, employment-based transportation demand management (TDM), parking demand management, non-motorized transportation incentives, and transit service enhancements. Relevant mitigation measures, types of actions involved, and quantified VMT reduction potential for each group of strategies are detailed in Table 3.13-3.

The Proposed Project incorporates infill intensification strategies intended to promote development of 371 units (or 61 percent of total proposed units) in the Town Center area. Infill intensification strategies include implementation of a workforce housing overlay for site in the Town Center area and along Sir Francis Drake Boulevard that provides an "as of right" base density between 20-40 du/ac and a sliding scale that provides bonus density in exchange for a greater commitment to affordability (Program 2-A); zoning amendments to incentivize shopkeeper housing above ground floor retail in in all commercial districts (Program 1-D); and zoning amendments to facilitate live/work units in all commercial districts (Program 1-E). Implementation of these infill strategies has been accounted for in VMT forecasts produced with the TAMDM model forecasts described earlier.

Employer-based transportation demand management (TDM) strategies, which reduce reliance on single-occupancy vehicles by encouraging alternative modes of travel, can be effective in reducing VMT because the commute to work is a significant contributor to home-based VMT. Employer-based TDM programs are often are the most effective means of reducing trips, while area-wide programs are less likely to result in large reductions in commute trips because they must accommodate greater diversity in the factors that influence commuters' choice of travel mode.[28] Examples of employer-based TDM strategies include promoting carpooling and ride sharing; providing employee shuttles; providing amenities such as showers, lockers, and bicycle racks to encourage cycling; offering transit incentives; and permitting compressed work schedules and telecommuting. Nearly 93 percent of employed Fairfax residents commute to jobs in other communities, including San Rafael (12 percent), San Anselmo (8 percent), Novato (6 percent), Petaluma (5.7 percent), Rohnert Park (3.4 percent), San Francisco (3 percent), Richmond (2.9 percent), and Santa Rosa (2.2 percent).[29] However, since employers are predominantly located outside of Fairfax, the Town does not have the legal authority to require employer-based TDM programs. Further, given that employer residents of Fairfax commute to many different communities for work, the effectiveness of many of the employer-based TDM strategies described above would be limited. Therefore, employer-based TDM

[28] Federal Highway Administration, Office of Traffic Management IVHS (HTV-31), "A Guidance Manual for Implementing Effective Employer-based Travel Demand Management Programs," accessed on September 8, 2023 at https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwjFyPT076OBAxVAhu4BHSWvBhMQFnoECBIQAQ&url=https%3A%2F%2Frosap.ntl.bts.gov%2Fview%2Fdot%2F2641%2Fdot_2641_DS1.pdf&usg=AOvVaw3UQaamXg5AMYzPqpW-3MqI&opi=89978449

[29] U.S. Census, On the Map, accessed on September 1, 2023 at https://onthemap.ces.census.gov

strategies do not represent a feasible mitigation option.

Parking demand management strategies, which involve reducing or eliminating parking requirements or increasing the cost of parking as a way of shifting trips away from vehicles to other modes of travel, can also be effective in reducing VMT; however, such strategies are typically most effective in dense, urban areas with a range of multi-modal transportation options that offer viable alternatives to vehicle trips. The Proposed Project includes implementing programs such as Program 1-B (School Street Plaza), Program 1-D (Shopkeeper Housing), Program 1-E (Live-Work Units), and Program 2-E (Affordable Housing Density Bonus), which provide parking reductions for certain projects and the projected increase in housing units in the Town Center area within easy walking distance of shops, restaurants, and services will help increase the share of non-motorized trips in Fairfax, but overall, the lack of frequent transit service to major regional destinations means that current and future residents will need to rely on vehicles for a large portion of trips to and from Fairfax. As such, mitigation involving additional parking demand management strategies would not substantially reduce per capita VMT. Similarly, VMT reduction strategies involving physical improvements to the transportation network, such as improving street connectivity or enhancing the pedestrian network would also not substantially reduce per capita VMT in Fairfax for the same reason. Under State law (§ 21002; Guidelines, § 15021, subd. (a)(2).), a lead agency's duty to "condition project approval on incorporation of feasible mitigation measures only exists when such measures would 'substantially lessen' a significant environmental effect. Therefore, parking demand management strategies and infrastructure construction do not represent feasible mitigation options.

As described above, provide transit service in Fairfax. As such, the Town does not have the legal authority to implement strategies that involve transit service enhancements, including increasing transit frequency, providing transit discounts to incentivize ridership, extending transit hours, and reducing transit fares. Further, even with the addition of new housing as envisioned under the Proposed Project, densities in Fairfax would not be sufficient to support frequent transit service and transit discounts and reduced fares would not likely result in substantial VMT reduction. Therefore, transit service enhancements do not represent a feasible mitigation option.

Consequently, overall, while implementation of the Proposed Project would result in a 10.4 percent reduction in per capita home-based VMT in 2031, there are no feasible mitigation measures available to further reduce VMT and achieve a 15 percent reduction over existing Townwide VMT. As such, Proposed Project VMT would remain significant and unavoidable. This significant and unavoidable program-level VMT impact does not preclude the finding of less-than-significant impact for future development projects that achieve VMT below the applicable thresholds of significance. Considering that the implementation of the Proposed Project could result in home-based VMT per capita lower than the townwide averages, and many proposed developments would meet VMT screening thresholds, it is expected that many future developments would achieve the applicable VMT thresholds of significance. (Draft EIR, pp. 3.13-15 – 3.13-19)

SECTION V.
CUMULATIVE IMPACTS

Regarding the Project's potential to result in cumulative impacts, the Town hereby finds as follows:

A. AESTHETICS

The cumulative geographic context for aesthetics is the Planning Area as well as view corridors, view sheds, or scenic resources in the immediate vicinity and visible from the Planning Area.

The scenic resources in the Planning Area and immediate vicinity are the views of the valleys, canyons, and forested hills with largely undeveloped ridgelines in the Ross Valley. A significant cumulative impact would result if development facilitated in the Planning Area in combination with other development in the vicinity blocked these views. Development in the Planning Area would occur within the town limits and would be regulated by the Town of Fairfax General Plan. The Town's Open Space Committee is tasked with evaluating and prioritizing parcels in the Visually Significant Areas inventory based on established criteria and becoming involved in the formal review of any development projects concerning these parcels. Other General Plan programs support the identification of Visually Significant Areas that characterize the appearance of the town and establish design guidelines for development within these areas. Policy LU-1.2.2 requires new or renewed development in Visually Significant Areas to be designed and sited to have the least visual impact as seen from the majority of the Town.

Therefore, foreseeable developments in these areas are not likely to result in structures tall enough to block scenic views and vistas. Individual developments pursuant to the Proposed Project may be located in areas with visual resources, as identified in the General Plan. However, the Proposed Project would be required to comply with all General Plan policies and Town Code regulations that are designed to mitigate development impacts on scenic vistas. Further, Mitigation Measure AES-1 requires project applicants pursuing construction on sites with known visual resources as identified in the General Plan, to observe at least a 500-foot setback from ridgelines and plant trees and landscaping to help screen new homes from view to the maximum extent feasible. As such, adherence to local regulations, policies, Proposed Project programs, and Mitigation Measure AES-1 would mitigate the Proposed Project's potentially substantial adverse effects on scenic vistas to a less-than-significant level.

Implementation of the Proposed Project in combination with other development in the vicinity would introduce new sources of light within the cumulative geographic context, including light spillover from buildings, outdoor security lights, lighted signs, streetlights, and vehicle headlights, in addition to glare produced by reflective surfaces and unshielded equipment. A significant impact would occur if these new sources of light had an adverse impact on day and nighttime views in the area. Future development within the Planning Area would be within a developed area that already has sources of light and glare. All new development would be required to comply with Town of Fairfax regulations, including the Town's Objective Design and Development Standards, which are integrated with Title 17 (Zoning) of the Town Code. Given that the Proposed Project would not substantially increase the amount of nighttime lighting or glare in the already built environment, and that all development in the area would be regulated by design standards and code

restrictions, the cumulative impact of the Proposed Project on light and glare would be less than significant.

There are no state scenic highways within or visible from the Planning Area, and therefore the Proposed Project would have no cumulative impact on the destruction of resources along a scenic highway.

Development under the Proposed Project would be consistent with applicable policies and standards for new development as well as regulations governing scenic quality in the already developed area, including the Zoning Ordinance and General Plan. Impacts from the Proposed Project, in conjunction with other plans and projects in the region, that could conflict with existing zoning or other regulations which govern scenic quality are not cumulative in nature. (DEIR, pp. 5-5 – 5.6)

B. AIR QUALITY

As discussed in Section 3.2, Air Quality, the BAAQMD has identified project-level thresholds to evaluate criteria pollutant impacts (Table 3.2-5). In developing these thresholds, the BAAQMD considers levels at which project emissions are cumulatively considerable. As noted in the BAAQMD's guidelines,

In developing thresholds of significance for air pollutants, BAAQMD considered the emission levels for which a project's individual emissions would be cumulatively considerable. If a project exceeds the identified significance thresholds, its emissions would be cumulatively considerable, resulting in significant adverse air quality impacts to the region's existing air quality conditions. Therefore, additional analysis to assess cumulative impacts is unnecessary.

Consequently, exceedances of project-level thresholds would be cumulatively considerable.

As discussed above, the BAAQMD's project-level thresholds do not lend themselves well to the analysis of specific plans. Rather, it is more appropriate to evaluate planning-level documents for their consistency with the most recently adopted attainment plan, which is the 2017 Clean Air Plan for the SFBAAB. As discussed under Impact 3.2-1, the Proposed Project would support the goals of the BAAQMD's 2017 Clean Air Plan, include all applicable control measures, and would not conflict with its implementation. The Proposed Project's objectives and principles would ultimately reduce the severity of growth-oriented criteria pollutants, relative to conditions without the Proposed Project.

Further, to ensure projects achieve consistency with the BAAQMD's construction screening criteria or, if consistency with the construction screening criteria cannot be demonstrated, the Town is incorporating Mitigation Measure AQ-1 and AQ-2 into future project development projects. MM AQ-1 requires future project development projects to implement the BAAQMD's Basic Construction Measures to control fugitive dust emissions generated during construction activities. MM AQ-2 requires future projects that cannot meet construction screening criteria to prepare a detailed construction air quality impact assessment to: 1) estimate potential project construction emissions; 2) compare

potential project construction emissions against BAAQMD project-level construction thresholds of significance; and 3) incorporate measures to reduce construction emission impacts to levels below the BAAQMD's construction thresholds of significance for criteria air pollutants and TACs. As such, this impact would be less than significant with mitigation.

According to the BAAQMD's guidelines, combined risk levels should be determined from all nearby DPM sources within 1,000 feet of a project site, and these combined risk levels should be compared to the BAAQMD's cumulative health risk thresholds. Mitigation Measure AQ-3 would require individual developments to review and identify permitted stationary sources within 1,000 feet of the project that may result in risks and hazards to new receptors. If screening-level information indicates potential stationary source risks and hazards would exceed the BAAQMD's thresholds, the project applicant shall: 1) incorporate site and building design measures into the project that reduce exposure to pollutants; or 2) conduct refined, site-specific modeling, using the latest information and guidance from the BAAQMD, demonstrating sources risks and hazards would not exceed BAAQMD thresholds for new receptors. This impact would be less than significant with mitigation.

As discussed under Impact 3.2-3, a quantitative evaluation of potential health risk impacts for the Proposed Project is not possible. However, mitigation measures AQ-1 through AQ-3 would ensure that future projects assess potential air quality impacts and reduce potential TAC construction emissions below BAAQMD thresholds. Therefore, the Proposed Project's contribution to cumulative air quality impacts would be less than cumulatively considerable. (DEIR, pp. 5-7 – 5-8)

C. BIOLOGICAL RESOURCES

Development associated with the Proposed Project through the horizon year of 2031 could contribute to the loss of natural lands in the Planning Area, with potential effects on special-status species, sensitive natural communities, federally protected wetlands, wildlife and fish movement corridors, and invasive species.

As described above, the Planning Area is largely developed and located entirely within the town limit, in the highly urbanized context of the San Francisco Bay Area. However, the Town of Fairfax contains a wide variety of natural and biological resources, including trees, hillsides, ridgelines, and creeks. The Town's location in a valley between wooded hillsides provides a natural habitat for flora and fauna, including some endangered and threatened plant and wildlife species, while the riparian corridors along the creeks provide habitat and movement corridors for wildlife.

Thus, future development within the Planning Area has the potential to have significant impacts on biological resources. In particular, there are several special-status species known to occur throughout the Planning Area that could be impacted by housing development. Impacts would be further reduced through Mitigation Measure BIO-1, which would require site assessments by a qualified professional for development applications that may adversely affect sensitive biological resources. Mitigation Measure BIO-2 would require implementation of a worker environmental awareness training program to train

construction staff on the needs of protecting sensitive biological resources and the ramifications for not complying with applicable laws. Mitigation Measure BIO-3would require the installation of temporary flagging or barrier fencing to protect sensitive biological resources adjacent to the work area. Further, Mitigation Measures BIO-4 through BIO-6 outline additional construction requirements to ensure the protection of special-status plant species, the obscure bumble bee, and the foothill yellow-legged frog. In addition, individual developments pursuant to the Proposed Project are required to complete a Project-Specific Analysis (PSA) checklist, located in Appendix G of the DEIR, to determine whether the development qualifies as within the scope of this DEIR or requires additional environmental documentation or its own independent environmental review. Such evaluations will ascertain whether the development project's effects on the environment were covered in the DEIR. (FEIR, p. 3-13.)

Development in the Planning Area would also be required to adhere to the existing Town of Fairfax Trees Ordinance (Chapter 8.36). This ordinance requires project applications to be reviewed by the Tree Committee when tree removals or alterations are proposed. The chapter also outlines what is required to obtain a tree removal permit, such as a tree protection plan. Additionally, development resulting from the Proposed Project, as well as future development projects that could occur within the Planning Area or in the vicinity of the Planning Area, would be subject to the requirements of biological resource protection laws, including FESA, CESA, MBTA, and the California Fish and Game Code, as well as protection policies and provisions in the Town's General Plan and Town Code.

With implementation of Mitigation Measures BIO-1 through BIO-6 and compliance with federal, state, and local regulations, the Proposed Project's contribution to cumulative biological resources impacts would be less than cumulatively considerable. (DEIR, pp. 5-8)

D. CULTURAL/TRIBAL RESOURCES

The cumulative geographic context for cultural, historic, and tribal cultural resources is the Town of Fairfax. If the Proposed Project, in combination with other past, present, and reasonably foreseeable projects in Fairfax, would result in the loss of or adverse changes to multiple historic or cultural resources a significant cumulative impact could result. However, as described in Section 3.4 of this Draft EIR, the Town of Fairfax General Plan and the Town Code provide a framework for the preservation of cultural and historic resources. At the time development or redevelopment projects are proposed, any project-level CEQA document would need to identify potential impacts on known or potential historic sites and structures. Such project-level review in combination with the Mitigation Measure CUL-1, which requires that all proposed development within the Planning Area undergo additional investigation to determine the project-level impact on the built environment's historical resources, would ensure that the Proposed Project's incremental contribution to this impact would not be cumulatively considerable.

There are known prehistoric and historic archaeological resources in and around the Town of Fairfax. The Planning Area has a high potential for encountering deposits associated with known resources or as-yet undocumented resources. Anticipated development projects under the Proposed Project may involve grading, excavation, or other ground-

disturbing activities, which could have a cumulative impact on unknown archaeological resources. Mitigation Measure CUL-3 would ensure that developers in the Planning Area receive cultural resources awareness training and half work if cultural resources are encountered. Further, any adverse effects to archaeological resources shall be mitigated as specified by PRC Section 21083.2 Thus, compliance with mitigation measures and General Plan policies, as well as applicable local, State, and federal laws, would ensure that the Proposed Project's contribution to this impact would not be cumulatively considerable.

All development projects allowed under the Proposed Project would be required to comply with State laws pertaining to the discovery of human remains and disposition of Native American burials; therefore, the Proposed Project would result in a less than cumulatively considerable contribution to impacts related to human burials.

There are known Native American tribal cultural resources within the Planning Area, and development projects allowed under the Proposed Project may result in the identification of unrecorded tribal cultural resources given the historic occupation of the area. Future projects that would not otherwise qualify for an exemption under CEQA would be required to comply with the provisions of AB 52 to incorporate tribal consultation into the CEQA process. Therefore, the Proposed Project's contribution to this impact would not be cumulatively considerable. (DEIR, p. 5-9)

E. ENERGY

Construction and operation of the Proposed Project would result in the consumption of energy resources. However, as discussed in Impact 3.5-1, implementation of the Proposed Project would result in direct and indirect energy conservation, such as encouraging green building techniques, water conservation, and waste reduction, would promote greater energy efficiency in municipal and community operations and development. Furthermore, the Proposed Project contains a land-use strategy that actively promotes infill mixed-use development where appropriate, which would result in greater energy efficiency overall for Planning Area residents and operations.

In addition, development under the Proposed Project would be subject to increasingly robust regulations to meet the State's renewable energy mandates and would be required to comply with Title 24 standards and CALGreen requirements. As discussed in Impact 3.5-2, the Proposed Project would thus support and reflect the increasingly stringent State and local goals and regulations that seek to increase energy efficiency, reduce energy consumption, and prioritize renewable energy – reinforcing that the Proposed Project would not result in cumulatively considerable impact with respect to wasteful, inefficient, or unnecessary consumption of energy resources. (DEIR, pp. 5-9 – 5-10)

F. GEOLOGY AND SOILS

The cumulative geographic context for geology and soils consists of sites within the Planning Area and nearby properties in the immediate vicinity. Although regional geographies can be similar, in general, geology and soils impacts do not typically combine such that a larger geographic context would be involved. Depending on subsurface conditions, slopes, and other factors, each cumulative project would require different levels

of grading, cut-and-fill, and excavation. In addition, each cumulative project would be required to comply with the General Plan, Town Code, Proposed Project, and California Building Standards Code requirements. The standards presented in these documents require that a site-specific geotechnical investigation be prepared which would include design recommendations to reduce each cumulative project's impacts. Similar seismic safety standards would apply to the cumulative projects. For these reasons, project building under the Proposed Project, in combination with other past, present, and reasonably foreseeable future projects, would not result in a significant cumulative impact on geology and soils. Therefore, no significant cumulative impact exists in the geographic context for geology, soils, and seismicity.

All significant paleontological resources are unique and nonrenewable resources. Unlike archaeological resources, which are site-specific, paleontological resources can occur throughout a sensitive geologic unit, regardless of location. Therefore, the geographic context for paleontological resources encompasses the complete extent of geologic units with high or undetermined paleontological sensitivity that underlie the Planning Area. Although not anticipated, sub-surface construction activities, such as grading or trenching, could result in a significant impact to paleontological resources, if encountered. However, Public Resources Code Section 5097.5 specifies the procedures to be followed in the event of the unexpected discovery of paleontological resources. Therefore, a cumulative impact on paleontological resources in the geographic context exists.

As noted in Section 3.6, paleontological resources have been documented about 20 miles north of the Planning Area. While the Proposed Project would not directly involve ground-disturbing activities that could damage or destroy unique paleontological resources, it would enable development that would involve ground disturbance. This future development, in combination with other foreseeable development in the identified geographic context, has the potential to encounter and damage or destroy previously unknown paleontological resources during both construction and operation. However, Public Resources Code Section 5097.5 specifies the procedures to be followed in the event of the unexpected discovery of paleontological resources. Therefore, the contribution of the Proposed Project to the cumulative impact on paleontological resources would not be cumulatively considerable. (DEIR, p. 5-10)

G. GREENHOUSE GAS EMISSIONS

By their nature, the greenhouse gas emissions impacts analyzed in Chapter 3 represent a cumulative analysis, because the effects specific to the Proposed Project cannot reasonably be differentiated from the broader effects of regional growth and development. Thus, analyses for these topics reflect not just growth in the Planning Area, but growth elsewhere in the region as well. Please see Section 3.7 for a discussion of cumulative impacts associated with GHG emissions. (DEIR, p. 5-11)

H. HAZARDS AND HAZARDOUS MATERIALS

The cumulative geographic context for hazards and hazardous materials consists of sites within the Planning Area and nearby properties in the immediate vicinity. In general, only projects occurring in the immediate vicinity to the Planning Area are considered due to the

limited potential impact area associated with the release of hazardous materials into the environment. Similar to sites within the Planning Area, reasonably foreseeable developments in the Proposed Project's surroundings could result in construction impacts related to the routine transport, disposal, or handling of hazardous materials; intermittent use and transport of petroleum-based lubricants, solvents, and fuels; and transport of affected soil to and from sites. However, the handling and transportation of hazardous materials by all projects (including projects within the Planning Area) would be regulated under federal, State, and local authority and no significant cumulative impact would occur. Furthermore, hazardous waste generated during construction of any project would be collected, properly characterized for disposal, and transported in compliance with regulations such as the ones described under the Regulatory Setting in Section 3.8. In addition, impacted sites under development would undergo remediation under oversight of applicable state and local agencies, effectively reducing the amount of contaminants found in the cumulative project area. Hazardous materials are strictly regulated by local, state, and federal laws. Specifically, these laws are designed to ensure that hazardous materials do not result in a gradual increase in toxins in the environment. For each of the reasonably foreseeable projects under consideration, various project-specific measures (such as the ones identified for the Proposed Project) would be implemented as a condition of development approval to mitigate risks associated with exposure to hazardous materials. For these reasons, the Proposed Project, in combination with other past, present, and reasonably foreseeable future projects, would not result in a significant cumulative hazards or hazardous materials impact. Cumulative impacts related to the hazard of wildfire are addressed in the Wildfire section below. (DEIR, p. 5-11)

I. HYDROLOGY AND WATER QUALITY

The context for surface hydrology and water quality is the San Francisco Bay Hydrologic Region. The context for groundwater hydrology is the four groundwater basins in Marin County. Thus, overall, the cumulative geographic context for cumulative hydrology and water quality impacts is geographic and a function of whether impacts could affect surface water features/watersheds, the Town's storm drainage system, or groundwater resources, each of which has its own physical boundary. Future development in the geographic context for hydrology and water quality would be required to comply with regulations and policies including NPDES Construction General Permit adopted by the SWRCB; San Francisco Bay RWQCB's NPDES permit and Waste Discharge Requirements for MS4 discharges; Sustainable Groundwater Management Act; and local municipal codes. For these reasons, under the Proposed Project, in combination with other past, present, and reasonably foreseeable future projects, would not result in a significant cumulative impact on hydrology and water quality.

The Ross Valley watershed is predominantly built-out along the valley floor. Potential growth in the watershed would likely not degrade water quality as the Proposed Project primarily consists of infill development on underutilized commercial sites and ADUs. Town General Plan policies would also ensure that development protects and restores riparian habitat and ensure natural channel processes in the watershed. All new development is required to handle stormwater in a manner that ensures that flood flows will not increase or be redirected to other areas. Similar to the Proposed Project, all future

development in the geographic context for hydrology and water quality would be required to Marin County General Plan policies and local municipal codes related to protecting water resources. Therefore, the contribution of the Proposed Project to the cumulative impact on hydrology and water quality would not be cumulatively considerable. (DEIR, pp. 5-11 – 5-12)

J. LAND USE POPULATION AND HOUSING

The cumulative context for land use is the Town of Fairfax. The cumulative geographic context for population and housing is the regional Bay Area. Projects that could have the effect of physically dividing an established community—such as a major new road, highway, or similar infrastructure—tend to have a singular rather than cumulative impact. However, a significant impact could occur if new development in the Planning Area in combination with foreseeable development in town physically divided an established community. The Proposed Project does not involve the construction of a linear feature or other barrier as described above and would not remove any means of access or impact mobility. Implementation of the Proposed Project would facilitate residential development required to meet the Town's RHNA allocation, consisting primarily of infill development on underutilized commercial sites and ADUs, with the remainder of sites comprised of low impact clustered residential development and single-family housing. Therefore, the cumulative impact of the Proposed Project on the division of an existing community would be less than significant.

Impacts from plans and projects in the region that could conflict with existing plans, including the Town of Fairfax General Plan, are not cumulative in nature. The Proposed Project is consistent with the General Plan's goals for the Planning Area and includes provisions to amend the Town Code in order to ensure consistency. Therefore, the contribution of the Proposed Project to the cumulative impact on land use and planning would not be cumulatively considerable. (DEIR, p. 5-12)

K. NOISE

The cumulative geographic context for noise and vibration is the Planning Area and the immediate vicinity. The noise analysis represents cumulative analyses of issues through the Proposed Project because it combines the anticipated effects of the Proposed Project with anticipated effects of growth and development within the town and the Bay Area region through 2031. By its nature, the noise analysis represents a cumulative analysis, because it accounts for the contribution that citywide and regional growth will make to the noise environment within the Planning Area through modeling that factors in road and construction traffic generated from projects throughout the wider region. Consequently, the impact significance conclusions discussed in Section 3.11 are representative of cumulative impacts.

The Proposed Project would result in both short-term and long-term changes to the existing noise environment in the Planning Area. Construction activities, including traffic, demolition, and reconstruction, would generate ambient and groundborne noise. However, there are a variety of policies, codes, and regulations in place to prevent substantially adverse impacts, particularly to sensitive land uses. The Town of Fairfax General Plan

policies and Chapter 8.20 of the Town Code establish noise/land use compatibility standards as well as exterior and interior noise standards. In addition, policies require mitigation of construction and traffic noise impacts in town. All new construction would also be required to comply with noise restrictions which regulate the time and intensity of construction in the Fairfax Town Code as well as requirements from the California Building Code and CalGreen Code.

Together, these policies, regulations, and noise level restrictions would ensure that cumulative adverse noise and vibration impacts associated with construction be attenuated to a less than significant impact. The Proposed Project would result in no impact from airport noise, and therefore, its impact on noise and vibration would result in a less than cumulatively considerable impact. (DEIR, pp. 5-12 – 5-13)

L. PUBLIC SERVICES AND RECREATION

The geographic context for all police and park services is the Town of Fairfax and the geographic context for fire services is the Ross Valley Fire Department (RVFD) service area, which includes Ross, San Anselmo, Sleepy Hollow, and Fairfax. The geographic context for school services is the Ross Valley School District (RVSD) service area, which includes Fairfax and San Anselmo.

Implementation of the Proposed Project would involve construction of up to 598 housing units and accommodate up to 1,171 new residents throughout the town. The Fairfax Police Department (FPD) has not established service ratios or response time goals at this time. However, the increased local population generated by implementation of the Proposed Project may increase the need for police services. In consultation between the Town and the FPD Chief of Police , the department has no plans to increase staffing/equipment levels of construct new facilities between 2023 and 2031. The FPD does not anticipate the need to construct new facilities to serve the Town of Fairfax in 2031, assuming the construction of up to 598 housing units occurs. The additional residential units can still be adequately served by the existing staffing of two officers on duty 24/7. However, the FPD plans to reinstate a currently frozen position to allow for consistently having two officers on duty 24/7 when vacations, training, sick time off are taken into account from existing staffing. As such, this impact would be less than significant.

In Fairfax, fire protection services are provided by the Ross Valley Fire Department (RVFD). The increased local projected population would likely result in a subsequent increase in fire and emergency medical service calls to the service area compared to existing conditions. In order to maintain standards of response coverage benchmarks, Fire Station 19 and 21 will experience an increase in minimum staffing from two firefighters to three firefighters due to the closure of Station 18 on July 1, 2025. Stations 20 and 21 are currently in the beginning stages of a remodel to help accommodate the projected increased staffing in July 2025. In consultation between the Town and the RVFD Interim Fire Chief , the department does not anticipate a need to construct or expand their station facilities as a result of the projected increase in population in the service area. Therefore, this impact would be less than significant.

Public schools are provided by school districts to areas within their jurisdictions. While

districts may have cross jurisdictional boundaries, school services are still provided at the local, rather than regional, level. Project applicants for development under the Proposed Plan would be required to comply with SB 50, which mandates statutory school facilities fees for residential and commercial developments. Compliance with SB 50 would financially offset impacts on the Ross Valley School District (RVSD) capacity and would provide funding for potential future school facility development needs associated with the projected population increase. However, since White Hill Middle School also services San Anselmo students along with Fairfax students, growth planned in the Town of San Anselmo and County of Marin housing elements would further increase enrollment at White Hill Middle School. Therefore, the RVSD anticipates that there will be a need for new/expanded facilities at White Hill Middle School. The environmental impacts related to traffic, noise, air quality, and GHG emissions during construction and operation of the school facilities have been considered throughout this EIR. Detailed design of the new school facilities has not yet been completed, so site specific impacts cannot be evaluated at this time. However, construction of new school facilities would be subject to separate project-level CEQA review at the time the design is proposed in order to identify and mitigate project-specific impacts as appropriate. Future facilities will be able to tier from this EIR to identify and mitigate site specific impacts if and when design of those facilities is complete. Therefore, this impact would be less than significant.

Several agencies provide park and recreation services in the region, including counties, cities, and special districts. To ensure that park land and park access within Fairfax increase concurrently with population growth, Section 16.24.100 of the Town Code provides parkland dedication requirements for subdivisions. The payment of fees, or the dedication of land, or both, shall be in the proportionate amount necessary to provide five acres of property devoted to local park or recreational purposes for each 1,000 persons residing in the town. The Proposed Project would result in an incremental increase in population in the Planning Area over the next eight years, which would increase demand for parks and recreation facilities and therefore may require construction of new or physically altered facilities. Although no such facilities are directly proposed under the Proposed Project, the expansion of existing recreational facilities or the construction of new ones would be permitted. Given that the precise location and design of such facilities cannot be known at this time, potential environmental impacts cannot be determined. However, environmental impacts related to construction emissions, VMT, and biological resources associated with the construction or expansion of new public and recreational facilities are accounted for in technical modeling provided in other chapters of this EIR. Future facilities will be able to tier from this EIR to identify and mitigate site specific impacts if and when design of those facilities is complete.

Therefore, the contribution of the Proposed Project to the cumulative impact on public services and recreation would not be cumulatively considerable. (DEIR, pp. 5-13 – 5-14)

M. TRANSPORTATION

The geographic context for cumulative impacts related to transportation is the roadway network within the Planning Area and the regional roadway network with connections to the Planning Area. Buildout of the Proposed Project would result in increased development in the Planning Area and would generate additional vehicle trips on the local and regional

roadway network. The Town of Fairfax General Plan includes policies that seek to improve mode share and reduce the impact of new traffic on alternative transportation modes. Development under the Proposed Project would be consistent with such policies and regulations by increasing housing opportunities in already developed areas which is an integral part of VMT reduction and encouraging transportation alternatives, such as walking and biking. However, as outlined in Section 3.13, there are no feasible mitigation measures available to reduce VMT to a less-than-significant level. Given the lack of available VMT reduction measures, the Town will not achieve the overall VMT threshold reduction level. Impacts would be cumulatively considerable. (DEIR, p. 5-15)

N. UTILITIES AND SERVICE SYSTEMS

Future development anticipated by the Proposed Project would generate additional demand for water and wastewater, stormwater, solid waste services, power, and telecommunications services.

The cumulative effects on water supply and groundwater are discussed above in the Hydrology and Water Quality section; this evaluation focuses on impacts on the water treatment and distribution systems. Water to the Planning Area is supplied by the Marin Municipal Water District (Marin Water or MMWD), which also serves water to the populous eastern corridor of Marin County. According to MMWD's 2020 Urban Water Management Plan, the district expects the available supplies to be sufficient to meet projected demands in all hydrologic conditions, including for a normal, single dry, and multiple dry years through 2045, while considering the impacts of climate change. Further, MMWD's 2023 Strategic Water Supply Assessment (SWSA) assumes future water demands consistent with those presented in the UWMP with updates to reflect the Regional Housing Needs Assessment (RHNA) growth projections. According to the SWSA, Marin Water is faced with ample supply in most years but stressed during extended periods of drought. However, water management actions available to Marin Water provide sufficient capability to address historical and projected future droughts. Benefits will occur in non-extended drought years with more durable supply and increased storage to ensure a sufficient water supply is available to serve development under the Proposed Project during normal, dry, and multiple dry years. Therefore, the Proposed Project's contribution to this potentially significant cumulative impact is less than cumulatively considerable.

With regards to wastewater treatment and distribution, the Planning Area is served by the Central Marin Sanitation Agency (CMSA) which serves the central Marin County area. As detailed in Section 3.14, the agency's average daily dry weather flows have consistently been below the permitted dry weather treatment capacity. CMSA's Facilities Master Plan details a condition assessment of the Wastewater Treatment Plant (WWTP) at the agency. CMSA utilizes development projections contained in the general plans of the cities, towns, and unincorporated areas of Marin County to plan for future growth-related demand for wastewater treatment. Further, a regional capacity charge is paid for each new sewer connection or expansion of an existing connection's fixture units in the CMSA service area. As such, the agency plans for adequate capacity to serve the buildout population and the impact would not be cumulatively considerable.

Because the Town of Fairfax provides stormwater and flood management within its

borders, and owns and operates the stormwater drainage system, these systems are largely isolated from the rest of the region. Thus, the impacts on stormwater facilities are not cumulative in nature, and are less than cumulatively considerable.

Fairfax contracts with Marin Sanitary Service (MSS) for waste and recycling collection and handling. MSS transports the Town's non-recyclable waste to Redwood Landfill which has a maximum permit capacity of 19,100,000 cubic yards with a remaining capacity of 26 million cubic yards. The maximum permitted intake at the landfill is approximately 2,300 tons per day. The Proposed Project would generate approximately 0.01 percent of the permitted daily capacity of the landfill. Therefore, the Proposed Project's contribution to this potentially significant cumulative impact would not be cumulatively considerable.

Existing overhead and underground electrical lines extend throughout the Planning Area and were originally installed to serve the variety of existing land uses. Given that implementation of the Proposed Project would not significantly change the general types of land uses located within the Planning Area, the existing electricity infrastructure would be sufficient to serve new development. PG&E is expected to be able to meet overall demand for electricity and natural gas for all its customers, including Marin County, in the future. PG&E will continue to maintain and upgrade its electrical and natural gas distribution systems as needed based on future demand trends. For electricity, this includes local and regional distribution lines, undergrounding or poles where needed, and transformer stations. For natural gas, this includes local and regional pipelines and transmission stations. Therefore, the impact of the Proposed Project on power infrastructure would not be cumulatively considerable. (DEIR, pp. 5-15 – 5-16)

O. WILDFIRE

The cumulative geographic context for wildfire consists of sites within the Planning Area and nearby properties in the immediate vicinity. The Proposed Project would generate an increase in daily trips as detailed in Chapter 3.13 of this EIR, which may have an impact on emergency access and may conflict with the County's adopted emergency response and evacuation plans. However, any development must be constructed in accordance with federal, state, regional, and local requirements, which are intended to ensure the safety of county residents and structures to the extent feasible. Compliance with these standard regulations would be consistent with the County's Emergency Operations Plan. Further, development must adhere to the Town of Fairfax General Plan Safety Element update which will include policies associated with wildfire risk and evacuation. Thus, implementation of the Proposed Project would not impair an emergency response or emergency evacuation plan there would be no cumulatively considerable impact.

Further, while the projected population in the Planning Area would increase the number of people potentially exposed to impacts from wildfire, the Proposed Project would not induce substantial unplanned population growth in the Planning Area. New development would be subject to the California Fire Code, which includes safety measures to minimize the threat of fire. A Fire Protection Plan would be required for construction and development in areas designated as Wildland-Urban Interface (WUI), and/or Moderate, High, or Very High Fire Hazard Severity Zone per the Town Code's Fire Code (Chapter 8.04). Construction would also be required to meet CBC requirements, including CCR Title 24,

Part 2, which includes specific requirements related to exterior wildfire exposure. The Board of Forestry, via CCR Title 14, sets forth the minimum development standards for emergency access, fuel modification, setback, signage, and water supply, which help prevent loss of structures or life by reducing wildfire hazards.

Therefore, compliance with local and state regulations and plans pertaining to wildfire would help reduce impacts regionally; the Proposed Project's contribution to wildfire risks is not considered cumulatively considerable. (DEIR, pp. 5-16 – 5-17)

SECTION VI.
FINDINGS REGARDING SIGNIFICANT IRREVERSIBLE ENVIRONMENTAL CHANGES

Sections 15126(c) and 15126.2(c) of the CEQA Guidelines, require that an EIR address any significant irreversible environmental changes that would occur should the project be implemented. Generally, a project would result in significant irreversible environmental changes if any of the following would occur:

- The project would involve a large commitment of non-renewable resources;
- The primary and secondary impacts of the project would generally commit future generations to similar uses;
- The project involves uses in which irreversible damage could result from any potential environmental accidents; or
- The proposed consumption of resources is not justified.

SECTION VII.
GROWTH-INDUCING IMPACTS

Section 15126.2(e) of the State CEQA Guidelines requires a Draft EIR to discuss the ways the Project could foster economic or population growth or the construction of additional housing, directly or indirectly, in the surrounding environment. In accordance with State CEQA Guidelines Section 15126.2(e), a Project would be considered to have a growth-inducing effect if it would:

- Directly or indirectly foster economic or population growth, or the construction of additional housing in the surrounding environment;
- Remove obstacles to population growth (e.g., construction of an infrastructure expansion to allow for more construction in service areas);
- Tax existing community service facilities, requiring the construction of new facilities that could cause significant environmental effects; or
- Encourage and facilitate other activities that could significantly affect the environment, either individually or cumulatively.

In addition, CEQA Guidelines that that growth inducement must not be assumed.

SECTION VIII.
ALTERNATIVES

A. BACKGROUND

The Draft EIR analyzed three alternatives to the Project as proposed and evaluated these alternatives for their ability to avoid or reduce the Project's significant environmental effects while also meeting the majority of the Project's objectives. The Town finds that it has considered and rejected as infeasible the alternatives identified in the EIR and described below. This section sets forth the potential alternatives to the Project analyzed in the EIR and evaluates them in light of the Project objectives, as required by CEQA.

Where significant impacts are identified, section 15126.6 of the State CEQA Guidelines requires EIRs to consider and discuss alternatives to the proposed actions. Subsection (a) states:

> (a) An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision-making and public participation. An EIR is not required to consider alternatives which are infeasible. The lead agency is responsible for selecting a range of project alternatives for examination and must publicly disclose its reasoning for selecting those alternatives. There is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason.

Subsection 15126.6(b) states the purpose of the alternatives analysis:

> (b) Because an EIR must identify ways to mitigate or avoid the significant effects that a project may have on the environment (Public Resources Code Section 21002.1), the discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly.

In subsection 15126.6(c), the State CEQA Guidelines describe the selection process for a range of reasonable alternatives:

> (c) The range of potential alternatives to the proposed project shall include those that could feasibly accomplish most of the basic objectives of the Project and could avoid or substantially lessen one or more of the significant effects. The EIR should briefly describe the rationale for selecting the alternatives to be discussed. The EIR should also identify any alternatives that were considered by the lead agency but were rejected as infeasible during the scoping process and briefly explain the reasons underlying the lead agency's determination. Additional information explaining the choice of alternatives may be included in the administrative record. Among the factors that may be used to eliminate alternatives from detailed

consideration in an EIR are: (i) failure to meet most of the basic project objectives, (ii) infeasibility, or (iii) inability to avoid significant environmental impacts.

The range of alternatives required is governed by a "rule of reason" that requires the EIR to set forth only those alternatives necessary to permit a reasoned choice. The EIR shall include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed Project. Alternatives are limited to ones that would avoid or substantially lessen any of the significant effects of the Project. Of those alternatives, the EIR need examine in detail only the ones that the lead agency determines could feasibly attain most of the basic objectives of the Project.

B. PROJECT OBJECTIVES

The following objectives have been established for the Project (Draft EIR) :

- Increase and diversify the range of housing options available in Fairfax;
- Address housing affordability by addressing regulatory, process, and market factors that limit housing production and preservation in Fairfax;
- Promote suitable and affordable housing for special needs populations, including housing for lower income households, large families, single parent households, the disabled, older adults, and people experiencing homelessness;
- Foster equal housing opportunity for all residents of Fairfax, regardless of race, religion, sex, sexual orientation or identification, marital status, ancestry, national origin, color, or ability;
- Monitor the effectiveness of housing programs to ensure that they respond to housing needs; and
- Ensure compliance with State housing law(s).

C. ALTERNATIVES CONSIDERED BUT REJECTED FROM DETAILED ANALYSIS

Section 15126.6(c) of the State CEQA Guidelines specifies that an EIR should (1) identify alternatives that were considered by the lead agency but were eliminated from detailed consideration because they were determined to be infeasible during the scoping process; and (2) briefly explain the reasons underlying the lead agency's determination. Among the factors that may be used to eliminate alternatives from detailed consideration in an EIR are: (i) failure to meet most of the basic project objectives; (ii) infeasibility; and/or (iii) inability to avoid significant environmental impacts.

The following alternatives were considered but rejected as part of the environmental analysis for the Project:

- Reduced Development Alternative

Finding: The Town Council rejects the Reduced Development Alternative, on the following grounds, each of which individually provides sufficient justification for rejection of this alternative: (1) the alternatives do not avoid any significant and unavoidable impacts, (2) the alternatives would likely not further reduce any of the proposed project's significant impacts; and (3) the alternatives are technically, financially, and legally infeasible. Therefore, these alternatives are eliminated from further consideration.

D. EVALUATION OF ALTERNATIVES SELECTED FOR ANALYSIS

The alternatives selected for further detailed review within the EIR focus on alternatives that could the Project's significant environmental impacts, while still meeting most of the basic Project objectives. Those alternatives include:

- **Alternative 1: No Project/No Build Alternative (Draft EIR)**
- **Alternative 2: Mixed Use Development Alternative (Draft EIR)**

1. Alternative 1: No Project/No Build Alternative

Impacts:

Aesthetics

The No Project Alternative would result in fewer residential uses compared to the Proposed Project. While this Alternative would have less overall development, the development that does occur would differ in scale and density from the Proposed Project, with sites identified for single-family homes and low to medium density multifamily developments.

While the overall amount and location of development would differ from the Proposed Project, the design standards and guidelines that the Proposed Project would adhere to can be assumed to be similar. As with the Proposed Project, the Alternative would comply with the General Plan, Town Code, and the Town's Objective Design and Development Standards that regulate hillside development and enforce protection measures for scenic vistas. Overall, impacts related to aesthetics and visual resources would remain less than significant. Given that there would be a lesser amount of development under the No Project Alternative, overall aesthetic impacts would be lessened compared to the Proposed Project.

Air Quality

Impacts under the No Project Alternative related to air quality during construction would be similar to those of the Proposed Project but slightly reduced because the overall amount of development proposed would be reduced. This would result in a shorter duration for construction activities. As with the Proposed Project, it is likely that the No Project Alternative would incorporate applicable control measures of the 2017 Clean Air Plan and would not disrupt or hinder implementation of any of these control measures.

Similar to the Proposed Project, it is assumed that individual developments would implement similarly applicable mitigation measures presented in Chapter 3.2 of the EIR as necessary to reduce air quality impacts under the No Project Alternative. Future development projects would be required to implement the BAAQMD's Basic Construction Measures to control fugitive dust emissions generated during construction activities. In addition, future projects that cannot meet construction screening criteria must prepare a detailed construction air quality impact assessment to incorporate measures to reduce construction emission impacts to levels below the BAAQMD's construction thresholds of significance for criteria air pollutants and TACs. As such, construction TAC impacts would be less than significant.

During operations, emissions under the No Project Alternative from area and building energy sources would be similar to those of the Proposed Project but reduced because the number of housing units would be reduced. Because of this, the No Project Alternative would generate fewer vehicle trips compared with the Proposed Project. This would reduce aggregate operational emissions impacts, not necessarily on a per capita basis, but would not eliminate them. Air quality impacts under the No Project Alternative would be reduced from the Proposed Project and would very likely also result in a less than significant impact.

Biological Resources

Under the No Project Alternative, residential development in the Planning Area would proceed but at fewer sites and lower densities compared to the Proposed Project. Because the No Project Alternative would still allow development, including construction and demolition, the Alternative would have similar biological resources impacts compared to those of the Proposed Project. However, impacts would be slightly reduced given that less development would occur under this Alternative. As such, biological resource impacts under the No Project Alternative would result in less-than-significant impacts with mitigation related to special-status species and wildlife movement and a less than cumulatively considerable contribution to significant cumulative biological resources impacts. It is assumed that individual developments would implement similarly applicable mitigation measures presented in Chapter 3.3 of the EIR as necessary to reduce biological resources impacts under the No Project Alternative.

Cultural and Tribal Cultural Resources

Under the No Project Alternative, development in the Planning Area would proceed as envisioned under the Proposed Project. Excavation, grading, or demolition activities in the Planning Area would still occur, as such impacts would be roughly equivalent to the Proposed Project. It is assumed that individual developments would implement similarly applicable mitigation measures presented in Chapter 3.4 of the EIR as necessary to reduce cultural, tribal, and historic resources impacts to a less than significant level. In addition, applicable State and local regulations presented in Chapter 3.4 of this EIR would be implemented as necessary to reduce cultural, tribal, and historic resources impacts under the No Project Alternative.

Energy

Given the overall lower amount of development, it is likely that energy usage would be lower under the No Project Alternative compared to the Proposed Project. This Alternative would also likely implement mixed-use and transit-oriented development policies similar to the Proposed Project. However, the No Project Alternative would promote a land-use strategy that is lower density, which would result in reduced energy efficiency overall for Planning Area residents and operations as compared to the Proposed Project. Even so, overall impacts would be less than significant. Compared to the Proposed Project, the No Project Alternative, would have a lower degree of energy impacts.

Geology and Soils

Under the No Project Alternative, development in the Planning Area would proceed as envisioned under the Town's 2015-2013 Housing Element Update, with a RHNA assignment of 61 units, and an additional 80 units from the prior planning period (2007-2014). Excavation, grading, or demolition activities in the Planning Area would still occur at sites identified for development under the Proposed Project. Because the No Project Alternative envisions development at reduced intensities compared to the Proposed Project, the No Project Alternative would have reduced impacts related to landslides, soil erosion, and unstable soils compared with the Proposed Project. Buildout under the No Project Alternative would result in less-than-significant project-level impacts and a less than cumulatively considerable contribution to significant cumulative impacts with implementation of existing State and local regulations.

Greenhouse Gas Emissions

Under the No Project Alternative, development in the Planning Area would proceed as envisioned under the Town's 2015-2013 Housing Element Update, with a RHNA assignment of 61 units, and an additional 80 units from the prior planning period (2007-2014). Demolition and construction activities, as well as new operational sources of GHG emissions, would still occur throughout the Planning Area. Given the reduced amount of development compared to the Proposed Project, this Alternative would thus be expected to have a shorter duration for construction activities, which would result in reduced impacts from construction-related emissions. It is assumed that applicable mitigation measures presented in Chapter 3.7 of the EIR would be implemented as necessary to reduce construction-related GHG emissions impacts under the No Project Alternative.

Operation of land uses supported by the Alternative would generate direct and indirect GHG emissions similar to that of the Proposed Project. However, given there is significantly less development under this Alternative, GHG emissions would be reduced, but not necessarily on a per capita basis. Even so, the Fairfax CAP GHG outlines local mitigation measures to reduce greenhouse gas emissions to achieve net zero emissions in the community by 2030, which is consistent with the amount of development envisioned under the No Project Alternative. As such, this operational impact would be less than significant under the No Project Alternative, compared to the significant and unavoidable impact under the Proposed Project.

Overall, greenhouse gas impacts would be lessened compared to the Proposed Project. However, it is not possible to quantify the precise extent of reductions for the majority of the measures for a plan-level analysis. It is likely that GHG emissions from mobile sources would still conflict with goals of SB 743 under the No Project Alternative and it would have a significant and unavoidable impact.

Hazards and Hazardous Materials

Impacts related to hazards and hazardous materials under the No Project Alternative would be similar to those of the Proposed Project because construction would have similar risks, associated with the accidental release of hazardous materials, and would be subject to the same site remediation requirements as the Proposed Project. As with the Proposed Project, the construction and operation of housing generally does not involve the release -- accidental or otherwise -- of hazardous materials that would create a significant hazard to the public. Further, existing regulatory programs associated with handling hazardous materials during construction and operation of the site would decrease potential impacts. Therefore, compliance with the appropriate State and federal regulations on transportation and disposal of hazardous materials would lead to a less than significant impact, with impacts similar to the Proposed Project. Impacts related to the hazard of wildfire are addressed in the Wildfire section below.

Hydrology and Water Quality

Similar impacts on hydrology, drainage, and water quality would result from the No Project Alternative compared with the Proposed Project because excavation, grading, and demolition would still be required for demolition of existing buildings and new construction at the sites. Therefore, the potential impacts under the No Project Alternative on hydrology, drainage, and water quality would be similar or a bit reduced compared to those of the Proposed Project. With implementation of existing State and local regulations, project-level and cumulative impacts related to hydrology, drainage, and water quality under the No Project Alternative would be less than significant and less than impacts under the Proposed Project.

Land Use, Population, and Housing

Under the No Project Alternative, development in the Planning Area would proceed as envisioned under the Town's 2015 to 2023 Housing Element. The previously adopted Housing Element's goals include creating transit-oriented housing in the Town Center area and creating additional opportunities for the development of second units. Like the Proposed Project, this Alternative would support mixed-use, infill, and higher density development around the Town Center area. The No Project Alternative's vision for the Planning Area is consistent with the regional goals for transit-oriented development identified in Plan Bay Area 2050, the integrated land use/transportation plan for the nine-county San Francisco Bay Area region. Further, all future residential development occurring within the town under the No Project Alternative would be required to be evaluated in accordance with local regulations, including the General Plan and Town Code.

Neither the Proposed Project nor the No Project Alternative introduce physical barriers that would divide an established community. The Proposed Project and Alternative would not involve the construction of a linear feature or other barrier and would not remove any means of access or impact mobility. Implementation of the No Project Alternative would facilitate residential development consisting primarily of small scale, infill housing on previously developed lots within the Town limit; it would result in no impact with respect to physically dividing an existing community.

The implementation of both the Proposed Project and No Project Alternative would facilitate construction of new housing to meet the Town of Fairfax RHNA obligations and facilitate the provision of housing to meet the projected need at all income levels. As such, the resulting increase in population and housing units would not be considered substantial unplanned growth as it would be consistent with regional planning projections, and it would occur incrementally. Further, both the Proposed Project and No Project Alternative involve infill development within the town limit. Therefore, the Proposed Project would result in a less than significant impact associated with population growth, either directly or indirectly.

Because development of the same character would still occur in the Planning Area, although to a lesser extent, the No Project Alternative would have similar impact related to land use, population, and housing compared to the Proposed Project, which would result in less-than-significant project-level impacts and a less than cumulatively considerable contribution to significant cumulative impacts with implementation of existing State regulations as well as adherence to local policies and regulations.

Noise

Buildout of the No Project Alternative would result in significantly fewer housing units than the Proposed Project. Therefore, less construction and associated construction noise and vibration would result, meaning reduced impacts would occur under this Alternative as compared to the Proposed Project. This Alternative would include all Town of Fairfax General Plan policies and Town Code regulations to implement construction noise control measures. Average daily traffic volume on area roadways would be reduced under this Alternative as compared with the Proposed Project because this Alternative would result in fewer housing units. Overall, noise and vibration impacts under this Alternative would be less than significant with implementation of applicable local regulations and reduced compared to the Proposed Project.

Public Services and Recreation

Buildout of the No Project Alternative would accommodate fewer residents and housing units compared to the Proposed Project. Therefore, this Alternative would generate slightly reduced demand for fire, police, school, and library services compared to the Proposed Project. Impacts would be less than significant, as under the Proposed Project. Implementation of the No Project Alternative would not result in the construction of new neighborhood parks; however, the General Plan and Town Code have various goals and policies to ensure adequate park and recreational space is provided throughout the town. The Town Code requires developers to pay in-lieu fees or dedicate parkland which would

help ensure that population growth associated with the Proposed Project would not result in substantial physical deterioration of existing parks and recreation facilities. Therefore, impacts related to parks may be slightly reduced compared to the Proposed Project given the lower population under this Alternative and would be less than significant.

Transportation

The No Project Alternative would result in similar impacts on transportation compared to the Proposed Project. This Alternative would accommodate significantly fewer residents in the Planning Area. Since the Alternative would have lower development densities than the Proposed Project, it is estimated that it would result in slightly higher VMT efficiency metrics (i.e., VMT per capita) compared to the Proposed Project. Although the goals and policies that would reduce VMT in General Plan and other planning documents would be implemented under the No Project Alternative, this alternative would not include the Proposed Project's higher density land use strategy designed to reduce vehicular mode of travel. Thus, similar to the Proposed Project, the impact on VMT would conservatively remain significant and unavoidable under the No Project Alternative.

The No Project Alternative impact on consistency with circulation system plans would remain less than significant, similar to the Proposed Project, because other planning documents, such as the General Plan and Town Objective Design and Development Standards, would continue to be applicable under this Alternative. Similarly, the impacts on transportation hazards, and emergency access would remain less than significant because the Planning Area would continue to be consistent with applicable codes.

Utilities and Service Systems

As discussed in Section 3.14, Utilities and Service Systems, there would be sufficient water supply, wastewater treatment capacity, and solid waste disposal capacity to serve development under the Proposed Project in 2031. As the No Project Alternative would involve less development than the Proposed Project, there would also be sufficient water supply, wastewater treatment capacity, and solid waste disposal capacity for development pursuant to this Alternative. Further, subsequent developments would still be required to comply with applicable State and local regulations as well as related General Plan policies, such as Policy CON-4.1.1 which requires water conservation policies and programs to cut water demand. Therefore, overall, this Alternative would result in a less than significant impact with respect to utilities and services systems and would have a reduced impact as compared to the Proposed Project, given the reduced amount of development involved.

Wildfire

In comparison with the Proposed Project, the No Project Alternative has a reduced development footprint within the Planning Area, only needing sites to accommodate the Town's previous RHNA assignment of 61 units, and an additional 80 units from the prior planning period (2007-2014). As with the Proposed Project, the development under this Alternative would be required to adhere to State and local plans and regulations, including the Town's Safety Element policies. Compliance with these policies will

ensure that development in the Planning Area is resilient to the risk of a wildfire under the Alternative. As with the Proposed Project, impacts from wildfire are considered less than significant for the No Project Alternative. However, impacts would be further reduced under this Alternative since a smaller population under buildout would be less susceptible to wildfire risks and improve evacuation times. (DEIR, pp. 4-4 – 4-10)

Finding: The Town Council rejects Alternative 1: No Project/No Build Alternative, on the following grounds, each of which individually provides sufficient justification for rejection of this alternative: (1) the alternative fails to meet most of the Project objectives; (2) the alternative fails to avoid or reduce the Project's significant and unavoidable impacts relating to aesthetics and agriculture; (3) the alternative would result in increased impacts; and (4) the alternative is infeasible.

2. **Alternative 2: Mixed Use Development Alternative**

Impacts:

Aesthetics

The Mixed Use Development Alternative would result in 200 additional new housing units and 50,000 square feet of office and studio space compared to the Proposed Project. Outside of the MTCC site, the remainder of the proposed sites and residential units would remain the same as identified in the Proposed Project. While the overall amount of development would be greater than the Proposed Project, the design standards and guidelines that the Proposed Project would adhere to can be assumed to be similar. As with the Proposed Project, the Alternative would comply with the General Plan, Town Code, and the Town's Objective Design and Development Standards that regulate hillside development and enforce protection measures for scenic vistas. Overall, impacts related to aesthetics and visual resources would remain less than significant. Given that there is only one additional site identified for development in this Alternative, overall aesthetic impacts would be roughly equivalent to the Proposed Project.

Air Quality

Impacts under the Mixed Use Development Alternative related to air quality during construction would be similar to those of the Proposed Project but slightly greater because the overall amount of development proposed would be increased. This would result in a greater duration for construction activities. As with the Proposed Project, it is likely that the Mixed Use Development Alternative would incorporate applicable control measures of the 2017 Clean Air Plan and would not disrupt or hinder implementation of any of these control measures.

Similar to the Proposed Project, it is assumed that individual developments would implement similarly applicable mitigation measures presented in Chapter 3.2 of the EIR as necessary to reduce air quality impacts under the Alternative. Future development projects would be required to implement the BAAQMD's Basic Construction Measures to control fugitive dust emissions generated during construction activities. In addition, future projects that cannot meet construction screening criteria must prepare a detailed

construction air quality impact assessment to incorporate measures to reduce construction emission impacts to levels below the BAAQMD's construction thresholds of significance for criteria air pollutants and TACs. As such, construction TAC impacts would be less than significant, though slightly greater than the Proposed Project under this Alternative.

During operations, emissions under the Mixed Use Development Alternative from area and building energy sources would be similar to those of the Proposed Project but slightly greater because the number of housing units and office and studio space would be increased. Because of this, the Mixed Use Development Alternative could generate greater vehicle trips compared with the Proposed Project, but not necessarily on a per capita basis. Even so, as with the Proposed Project, it is unlikely that the net operational emissions would exceed the BAAQMD's significance thresholds for any of the pollutants under the Alternative. Operational air quality impacts under the Mixed Use Development Alternative would be slightly greater than the Proposed Project and would very likely also result in a less than significant impact.

Biological Resources

Under the Mixed Use Development Alternative, development in the Planning Area would involve additional housing units and office and studio space at the MTC site. Because the Mixed Use Development Alternative would still allow development, including construction and demolition, the Alternative would have similar biological resources impacts compared to those of the Proposed Project. However, since development is included on one additional site under the Alternative, impacts on special-status species that may reside near the Town Center would be slightly greater than that of the Proposed Project. As such, biological resource impacts under the Mixed Use Development Alternative would result in less-than-significant impacts with mitigation related to special-status species and wildlife movement and a less than cumulatively considerable contribution to significant cumulative biological resources impacts. Therefore, applicable mitigation measures presented in Chapter 3.3 of the EIR would be implemented as necessary to reduce biological resources impacts under the Mixed Use Development Alternative.

Cultural and Tribal Cultural Resources

Under the Mixed Use Development Alternative, development in the Planning Area would proceed with 200 additional new housing units and 50,000 square feet of office and studio space. Excavation, grading, or demolition activities in the Planning Area would still occur with only an additional site in the Town Center than the Proposed Project. As such, cultural resource impacts under the Mixed Use Development Alternative would result in less-than-significant impacts with mitigation and a less than cumulatively considerable contribution to significant cumulative cultural resources impacts. Therefore, applicable State and local regulations and mitigation measures presented in Chapter 3.4 of this EIR would be implemented as necessary to reduce cultural, tribal, and historic resources impacts under the Mixed Use Development Alternative.

Energy

Given the overall greater amount of development, it is likely that energy usage would increase under the Mixed Use Development Alternative compared to the Proposed Project. However, this Alternative would implement a similar land use strategy that promotes mixed use developments and higher density development in downtown Fairfax as a means for accommodating future growth. Furthermore, the Alternative contains a land-use strategy that actively promotes infill mixed-use development where appropriate, which would result in greater energy efficiency overall for Planning Area residents and operations. Therefore, while energy consumption in the Planning Area would increase with the operation of development under the Alternative compared to the Proposed Project, the Alternative would not result in wasteful, inefficient, or unnecessary consumption of energy. Therefore, this impact would be less than significant. Compared to the Proposed Project, the Mixed Use Development Alternative, would have a slightly greater degree of energy impacts.

Geology and Soils

Under the Mixed Use Development Alternative, development in the Planning Area would proceed as envisioned under the Proposed Project with an additional 200 new housing units and 50,000 square feet of office and studio space. Excavation, grading, or demolition activities in the Planning Area would still occur at sites identified for development under the Proposed Project. Because the Mixed Use Development Alternative envisions development at the same locations with only one additional site compared to the Proposed Project, the Mixed Use Development Alternative would have roughly equivalent impacts related to landslides, soil erosion, and unstable soils compared with the Proposed Project. Buildout under the Mixed Use Development Alternative would result in less-than-significant project-level impacts and a less than cumulatively considerable contribution to significant cumulative impacts with implementation of existing State and local regulations.

Greenhouse Gas Emissions

Under the Mixed Use Development Alternative, development in the Planning Area would proceed as envisioned under the Proposed Project with an additional 200 new housing units and 50,000 square feet of office and studio space. Demolition and construction activities, as well as new operational sources of GHG emissions, would still occur throughout the Planning Area. Given the greater amount of development compared to the Proposed Project, this Alternative would thus be expected to have a greater duration for construction activities, which would result in increased impacts from construction-related emissions. It is assumed that applicable mitigation measures presented in Chapter 3.7 of the EIR would be implemented as necessary to reduce construction-related GHG emissions impacts under the Mixed Use Development Alternative to a less-than-significant level.

Operation of land uses supported by the Alternative would generate direct and indirect GHG emissions similar to that of the Proposed Project. However, given that there is a greater density of development in the transit-oriented Town Center under this Alternative, GHG emissions per capita and transportation-related emissions would decrease. Even so, the Fairfax CAP GHG outlines local mitigation measures to reduce greenhouse gas

emissions to achieve net zero emissions in the community by 2030, which is not consistent with the amount of development envisioned under the Mixed Use Development Alternative. As such, this operational impact would remain significant and unavoidable under the Mixed Use Development Alternative.

Overall, greenhouse gas impacts would be reduced due to the Alternative's land use strategy that further promotes infill, mixed use, and transit-oriented development compared to the Proposed Project. However, it is not possible to quantify the precise extent of reductions for the majority of the measures for a plan-level analysis. It is likely that GHG emissions from mobile sources would still conflict with goals of SB 743 under the Mixed Use Development Alternative and it would have a significant and unavoidable impact.

Hazards and Hazardous Materials

Impacts related to hazards and hazardous materials under the Mixed Use Development Alternative would be similar to those of the Proposed Project because construction would have similar risks, associated with the accidental release of hazardous materials, and would be subject to the same site remediation requirements as the Proposed Project. As with the Proposed Project, the construction and operation of housing generally does not involve the release -- accidental or otherwise -- of hazardous materials that would create a significant hazard to the public. Further, existing regulatory programs associated with handling hazardous materials during construction and operation of the site would decrease potential impacts. Therefore, compliance with the appropriate State and federal regulations on transportation and disposal of hazardous materials would lead to a less than significant impact, with impacts similar to the Proposed Project. Impacts related to the hazard of wildfire are addressed in the Wildfire section below.

Hydrology and Water Quality

Similar impacts on hydrology, drainage, and water quality would result from the Mixed Use Development Alternative compared with the Proposed Project because excavation, grading, and demolition would still be required for demolition of existing buildings and new construction at the sites. Therefore, the potential impacts under the Mixed Use Development Alternative on hydrology, drainage, and water quality would be similar compared to those of the Proposed Project. With implementation of existing State and local regulations, project-level and cumulative impacts related to hydrology, drainage, and water quality under the Mixed Use Development Alternative would be less than significant and roughly equivalent impacts under the Proposed Project.

Land Use, Population, and Housing

Under the Mixed Use Development Alternative, development in the Planning Area would proceed as envisioned under the Proposed Project with an additional 200 new housing units and 50,000 square feet of office and studio space. Like the Proposed Project, this Alternative would support mixed-use, infill, and higher density development around the Town Center area. The Mixed Use Development Alternative's vision for the Planning Area is consistent with the regional goals for transit-oriented development identified in

Plan Bay Area 2050, the integrated land use/transportation plan for the nine-county San Francisco Bay Area region. Further, all future residential development occurring within the town under the Mixed Use Development Alternative would be required to be evaluated in accordance with local regulations, including the General Plan and Town Code.

Neither the Proposed Project nor the Mixed Use Development Alternative introduce physical barriers that would divide an established community. The Proposed Project and Alternative would not involve the construction of a linear feature or other barrier and would not remove any means of access or impact mobility. Implementation of the Mixed Use Development Alternative would facilitate residential and mixed-use development primarily consisting of infill development on underutilized commercial sites and ADUs within the Town limit; it would result in no impact with respect to physically dividing an existing community.

The implementation of both the Proposed Project and Mixed Use Development Alternative would facilitate construction of new housing to meet the Town of Fairfax RHNA obligations and facilitate the provision of housing to meet the projected need at all income levels. As such, the resulting increase in population and housing units would not be considered substantial unplanned growth as it would be consistent with regional planning projections, and it would occur incrementally. Further, both the Proposed Project and Mixed Use Development Alternative involve development within the town limits. Therefore, the Proposed Project and Alternative would result in a less than significant impact associated with population growth, either directly or indirectly.

Because development of the same character would still occur in the Planning Area, at a slightly greater density in the Town Center area, the Mixed Use Development Alternative would have a similar impact related to land use, population, and housing compared to the Proposed Project, which would result in less-than-significant project-level impacts and a less than cumulatively considerable contribution to significant cumulative impacts with implementation of existing State regulations as well as adherence to local policies and regulations.

Noise

Buildout of the Mixed Use Development Alternative would result in an additional 200 new housing units and 50,000 square feet of office and studio space compared to the Proposed Project. Therefore, more construction and associated construction noise and vibration would result, meaning slightly increased impacts would occur under this Alternative as compared to the Proposed Project. This Alternative would still adhere to all General Plan policies and Town Code regulations to which require developments to implement construction noise control measures. Average daily traffic volume on area roadways would be increased slightly under this Alternative as compared with the Proposed Project because this Alternative would result in a greater number of housing units. Overall, noise and vibration impacts under this Alternative would be less than significant with implementation of applicable local regulations and slightly increased compared to the Proposed Project.

Public Services and Recreation

Buildout of the Mixed Use Development Alternative would accommodate a greater number residents, housing units, and employees compared to the Proposed Project. Therefore, this Alternative would generate slightly greater demand for fire, police, school, and library services compared to the Proposed Project. Impacts would still be less than significant, as under the Proposed Project. Implementation of the Mixed Use Development Alternative would not result in the construction of new neighborhood parks; however, the General Plan and Town Code have various goals and policies to ensure adequate park and recreational space is provided throughout the town. The Town Code requires developers to pay in-lieu fees or dedicate parkland which would help ensure that population growth associated with the Proposed Project would not result in substantial physical deterioration of existing parks and recreation facilities. However, impacts related to parks may be slightly increased compared to the Proposed Project given the higher population under this Alternative, but impacts would still be less than significant.

Transportation

The Mixed Use Development Alternative would result in slightly reduced impacts on transportation compared to the Proposed Project. This Alternative would accommodate an additional 200 new housing units and 50,000 square feet of office and studio space on the MTCC site compared to the Proposed Project; as such, development would be more concentrated the Fairfax Town Center area. Since the Alternative would have higher development densities than the Proposed Project, it is estimated that it would result in slightly lower VMT efficiency metrics (i.e., VMT per capita) compared to the Proposed Project. Further, the goals and policies that would reduce VMT in the General Plan and other planning documents would be implemented under the Mixed Use Development Alternative. However, because the effectiveness of an individual project's VMT impact to a less than significant level cannot be determined in this analysis, the Mixed Use Development Alternative may not achieve the overall VMT threshold reduction level to result in a less-than-significant impact. Thus, similar to the Proposed Project, the impact on VMT would remain significant and unavoidable under the Mixed Use Development Alternative.

Under the Mixed Use Development Alternative, the impact on consistency with circulation system plans would remain less than significant, similar to the Proposed Project, with adherence to existing regulations and codes. Similarly, the impacts on transportation hazards and emergency access would remain less than significant because the Planning Area would continue to be consistent with applicable codes.

Utilities and Service Systems

As discussed in Section 3.14, Utilities and Service Systems, there would be sufficient water supply, wastewater treatment capacity, and solid waste disposal capacity to serve development under the Proposed Project in 2031. While the Mixed Use Development Alternative would involve more development than the Proposed Project, it is anticipated that there would also be sufficient water supply, wastewater treatment capacity, and solid

waste disposal capacity for development pursuant to this Alternative. Further, subsequent developments would still be required to comply with applicable State and local regulations as well as related General Plan policies, such as Policy CON-4.1.1 which requires water conservation policies and programs to cut water demand. Therefore, overall, this Alternative would result in a less than significant impact with respect to utilities and services systems and would have a slightly increased impact as compared to the Proposed Project, given the greater amount of development involved.

Wildfire

In comparison with the Proposed Project, the Mixed Use Development Alternative has an increased development footprint within the Planning Area, with additional housing and office space located at the MTCC site. As with the Proposed Project, the development under this Alternative would be required to adhere to State and local plans and regulations, including the Town's Safety Element policies. Compliance with these policies will ensure that development in the Planning Area is resilient to the risk of a wildfire under the Alternative. As with the Proposed Project, impacts from wildfire are considered less than significant for the Mixed Use Development Alternative. However, impacts would be slightly increased under this Alternative since a larger population under buildout would be more susceptible to wildfire risks and may further impair evacuation times. (DEIR, pp. 4-10 – 4-15)

Finding: The Town Council rejects Alternative 2: Mixed-Use Development, on the following grounds, each of which individually provides sufficient justification for rejection of this alternative: (1) the alternative fails to avoid the Project's significant and unavoidable impacts relating to transportation and GHG emissions; (2) the alternative would result in increased impacts related to air quality, energy, noise, utilities and service systems, and wildfire risk and evacuation; and (3) the alternative is infeasible.

E. ENVIRONMENTALLY SUPERIOR ALTERNATIVE

Section 15126.6(e)(2) of the State CEQA Guidelines indicates that an analysis of alternatives to a proposed Project shall identify an environmentally superior alternative among the alternatives evaluated in an EIR. Based on the alternatives analysis contained within the Draft EIR) the Mixed-Use Development alternative is identified as the Environmentally Superior Alternative.

SECTION IX.
ADOPTION OF STATEMENT OF OVERRIDING CONSIDERATIONS

Pursuant to State CEQA Guidelines Section 15093(a), the Town Council must balance, as applicable, the economic, legal, social, technological, or other benefits of the Project against its unavoidable environmental risks in determining whether to approve the project. If the specific benefits of the project outweigh the unavoidable adverse environmental effects, those environmental effects may be considered acceptable.

Having reduced the adverse significant environmental effects of the Project to the extent feasible by adopting the mitigation measures; having considered the entire administrative record

on the project; the Town Council has weighed the benefits of the Project against its unavoidable adverse impacts after mitigation in regards to aesthetics resources, agriculture and forestry resources, air quality – operations, and transportation/traffic. While recognizing that the unavoidable adverse impacts are significant under CEQA thresholds, the Town Council nonetheless finds that the unavoidable adverse impacts that will result from the Project are acceptable and outweighed by specific social, economic and other benefits of the Project.

In making this determination, the factors and public benefits specified below were considered. Any one of these reasons is sufficient to justify approval of the Project. Thus, even if a court were to conclude that not every reason is supported by substantial evidence, the Town Council would be able to stand by its determination that each individual reason is sufficient. The substantial evidence supporting the various benefits can be found in the preceding findings, which are incorporated by reference into this section, and in the documents found in the Records of Proceeding.

The Town Council therefore finds that for each of the significant impacts which are subject to a finding under CEQA Section 21081(a)(3), that each of the following social, economic, and environmental benefits of the Project, independent of the other benefits, outweigh the potential significant unavoidable adverse impacts and render acceptable each and every one of these unavoidable adverse environmental impacts:

1. Increase and diversify the range of housing options available in Fairfax;

2. Address housing affordability by addressing regulatory, process, and market factors that limit housing production and preservation in Fairfax;

3. Promote suitable and affordable housing for special needs populations, including housing for lower income households, large families, single parent households, the disabled, older adults, and people experiencing homelessness;

4. Foster equal housing opportunity for all residents of Fairfax, regardless of race, religion, sex, sexual orientation or identification, marital status, ancestry, national origin, color, or ability;

5. Monitor the effectiveness of housing programs to ensure that they respond to housing needs; and

6. Ensure compliance with State housing law(s).