

Town of Fairfax Housing Element Update Project

Town Council Hearing on Draft Housing Element
December 13, 2023



Process Recap

- Statutory deadline for adoption of Housing Element (past due) **Jan 31, 2023**
- Public Review Draft Housing Element Released **Mar 31, 2023**
- 90-Day HCD Review Complete **Aug 11, 2023**
- Draft EIR Released **Sept 26, 2023**
- EIR Public Review Period Ends **Nov 13, 2023**
- Revised Draft Housing Element Released **Nov 28, 2023**
- Public Hearings on Draft Housing Element and EIR **Nov and Dec 2023**
- Statutory deadline for adoption of zoning amendments **Jan 31, 2024**

Presentation Outline

- Housing Element Overview
 - Legal Requirements
 - Sites and Strategies
- Environmental Impact Report
 - Purpose and Need
 - CEQA Requirements
 - EIR Process
 - Overview of Impacts and Mitigation
 - Summary of Public Comments
- Conduct Public Hearing
- Commission deliberation and recommendations

Meeting Objectives

1. *Provide overview of Housing Element and EIR*
2. *Hear public comments*
3. *Town Council actions, if appropriate:*
 - *Certification of the EIR; and*
 - *Adoption of the Housing Element*

Housing Element Overview

What is a Housing Element?



- State-mandated element
- Town's plan for addressing local housing needs
- Updated on an 8-year cycle
- Subject to statutory requirements
- Mandatory review by Dept. Housing & Community Development (HCD)

Key Housing Element Components

- Inventory of available sites for housing
- Projection of realistic capacity
- Assessment of housing needs, constraints, and “fair housing” issues
- Action Plan of implementing programs



2023 - 2031 RHNA Allocations

- Fifth Cycle RHNA was lower than previous cycles, accounting for Great Recession
- Sixth Cycle RHNA significantly higher due to new State laws

Jurisdiction	VERY LOW INCOME (<50% of Area Median Income)	LOW INCOME (50-80% of Area Median Income)	MODERATE INCOME (80-120% of Area Median Income)	ABOVE MODERATE INCOME (>120% of Area Median Income)	TOTAL
MARIN COUNTY					
Belvedere	49	28	23	60	160
Corte Madera	213	123	108	281	725
Fairfax	149	86	71	184	490
Larkspur	291	168	145	375	979
Mill Valley	262	151	126	326	865
Novato	570	328	332	860	2,090
Ross	34	20	16	41	111
San Anselmo	253	145	121	314	833
San Rafael	857	492	521	1,350	3,220
Sausalito	200	115	114	295	724
Tiburon	193	110	93	243	639
Unincorporated Marin	1,100	634	512	1,323	3,569

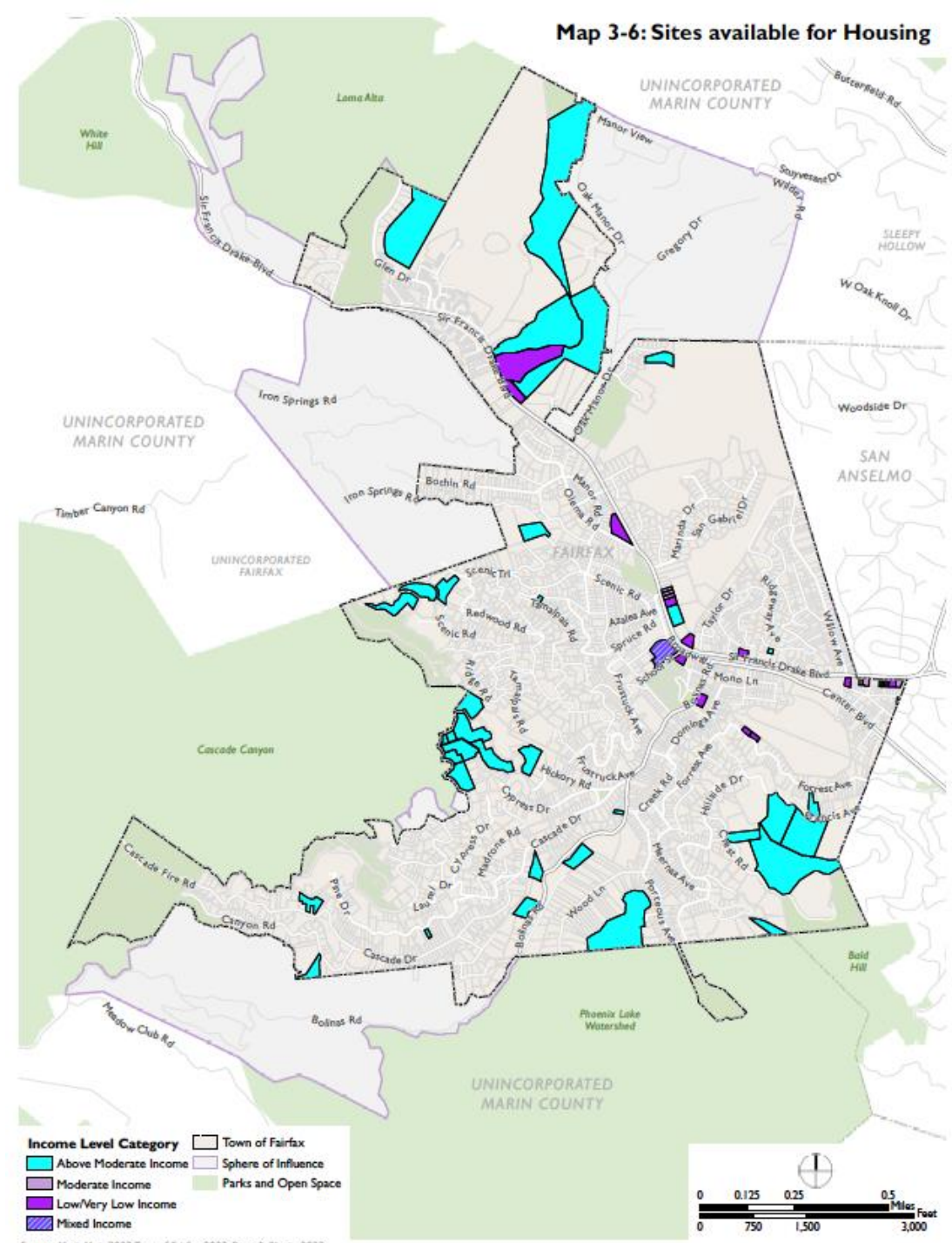
Penalties for Non-Compliance

- Town is legally required to adopt a Housing Element that complies with State law
- Failure to do so can result in lawsuits, fines and penalties:
 - Limited access to State funding, including for local roadway maintenance and capital improvements
 - Court imposed fines of up to \$600,000 per month
 - Court mandated compliance
 - Court suspension of local control on building matters
 - Court approval of housing developments, with payment of plaintiff attorney fees mandated

Revised Sites Inventory

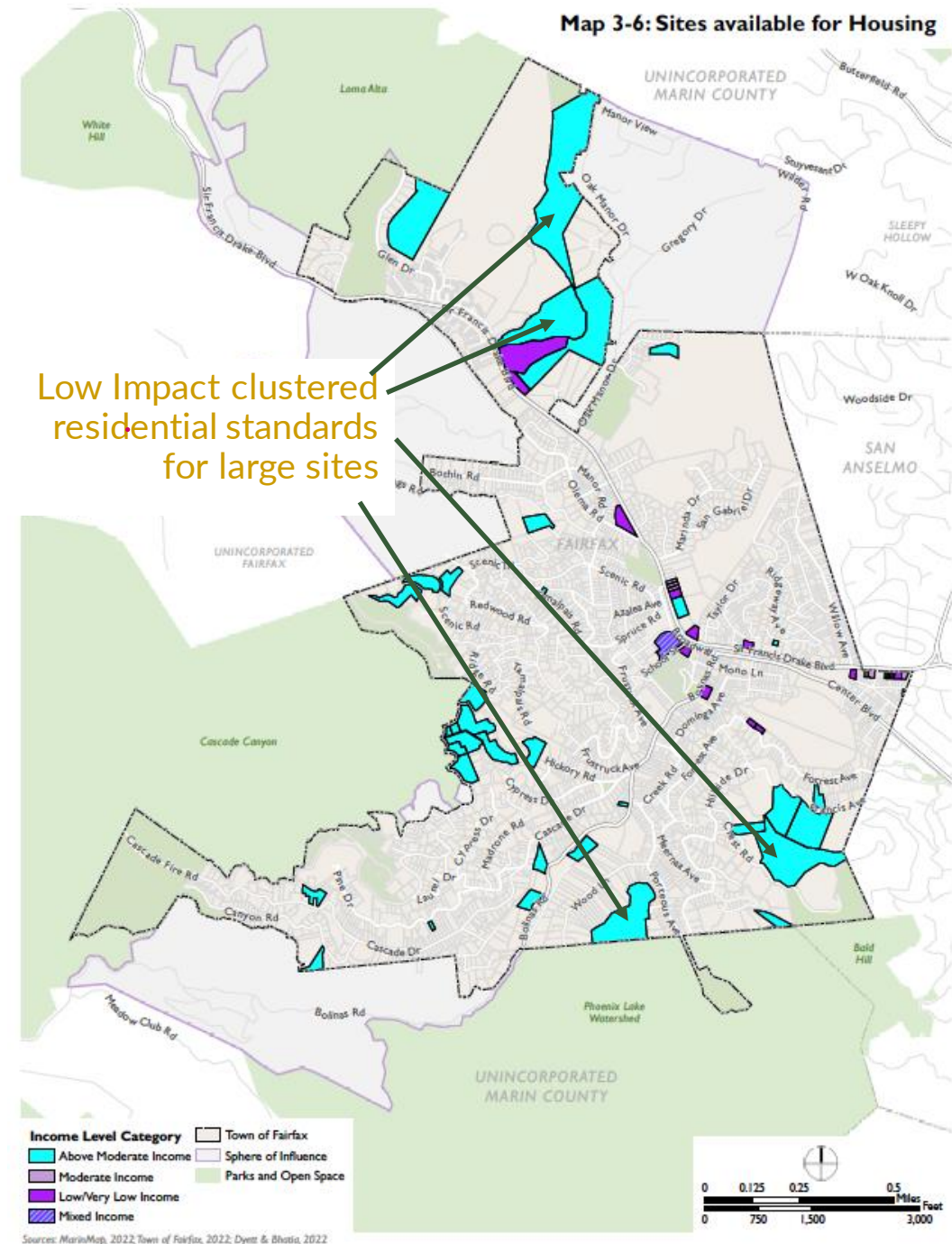
	Total Units	Low/Very Low	Moderate	Above Moderate
Vacant Single-Family Sites	46			46
Pipeline Projects				
School Street Plaza	175	35		140
Fairfax Market	8			8
Various Single Family	11			11
Town-Owned Sites (002-123-17/144-01)	10	10		
Underutilized Commercial Sites	188	137	52	
ADU/JADU Projection (@20/yr)	160	96	48	16
Total	598	278	100	221
RHNA	490	235	71	184
Buffer	108	43	29	37

- Inventory demonstrates capacity for 598 new housing units
- Sufficient to meet RHNA with a 22% buffer
- Buffer needed to ensure compliance with “no net loss” provisions of State law



Vacant Residential Parcels

- Projected capacity for 57 new single-family homes on vacant residentially zoned parcels
- 11 pipeline projects currently under review or recently approved
- Develop and adopt standards to permit low impact clustered housing on large sites while preserving large areas of open space and protecting ridgelines (Program 2-D)
- Draft Element does not propose any change to land use designation or increase in permitted density on large single-family lots



Pipeline Projects

- 11 single-family residential projects currently under review or recently approved
- 8 multi-family apartments on northern portion of the Fairfax Market site
- 175 multi-family units on School Street Plaza site
- Program 1-B: School Street
 - Establish objective design and development standards
 - Meet quarterly with the property owner
 - Work with the property owner to identify incentives for affordable housing onsite
 - Accommodations for residents of existing live/work units



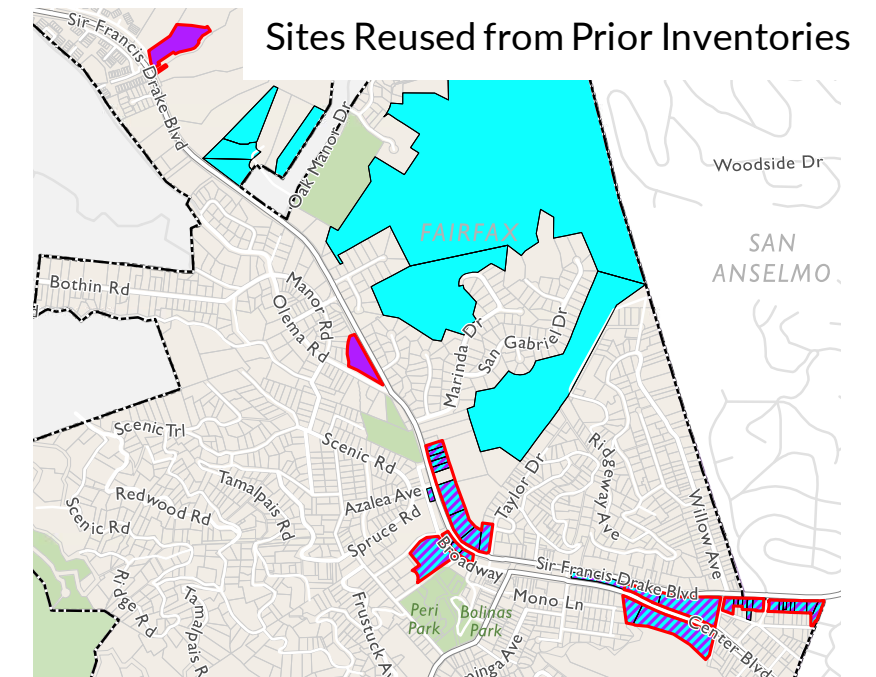
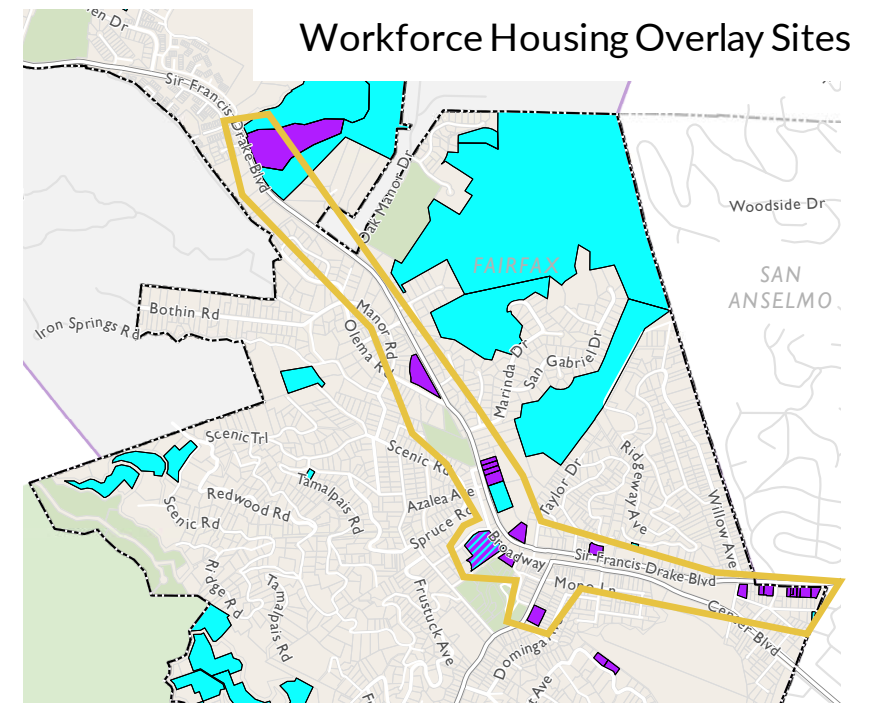
Accessory Dwelling Units (ADUs)

- ADUs and JADUs can count toward RHNA
- State guidance allows projection based on the annual rate of permits issued since 2018
- Projections are not site specific
- Town has permitted 11 units/year since 2018 on average
- With a strong suite of programs in the Action Plan, projection of 20 ADUs and JADUs per year through 2031



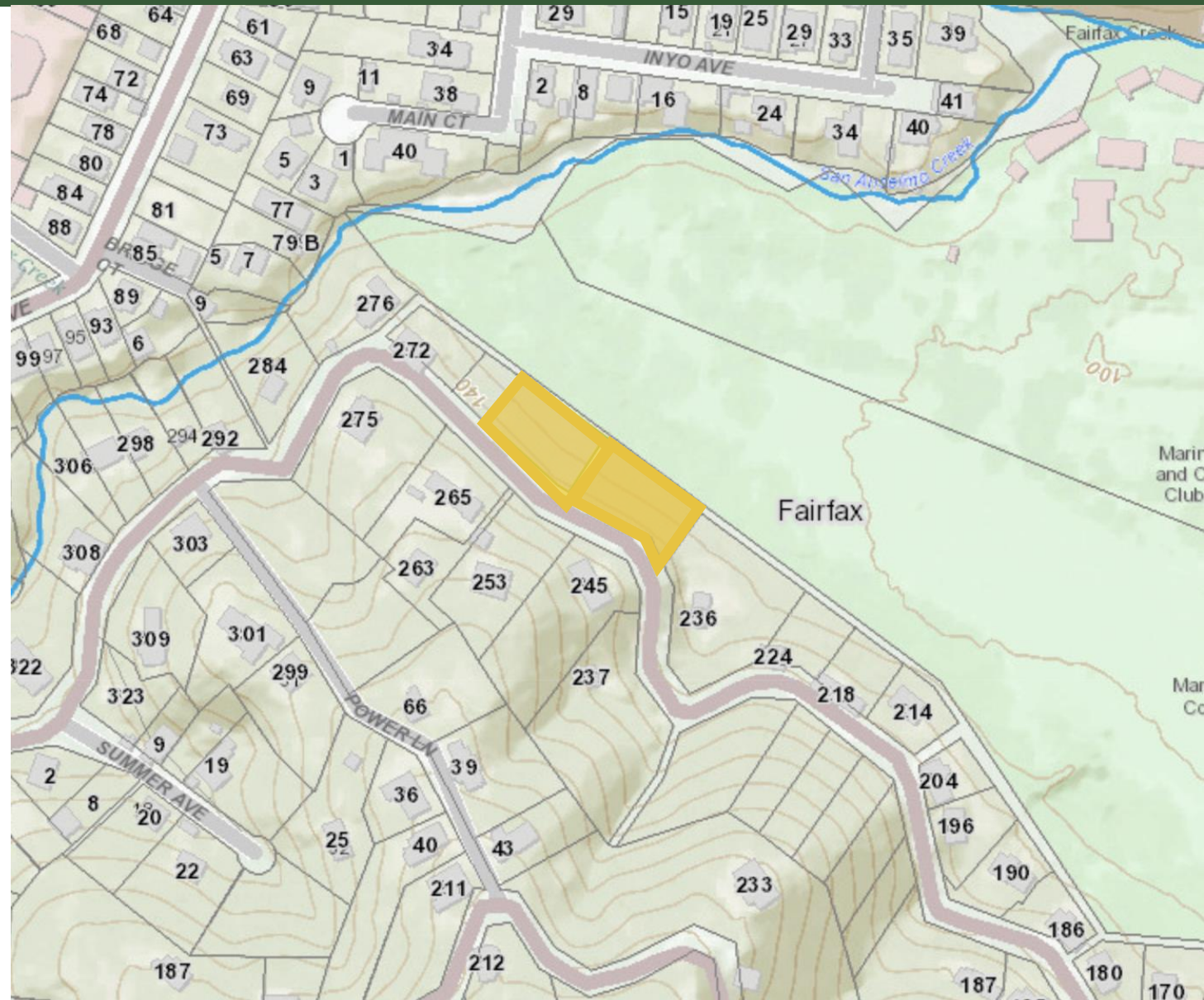
Underutilized Commercial Properties

- Projected capacity for 371 multi-family homes on underutilized sites, primarily in Town Center and along Sir Francis Drake
- Sites in locations with good access to transit and services per State law
- New State law (AB2011/SB6) already allows for housing development on commercial and office sites, subject to design standards set by the State
- Program 2-A would create a Workforce Housing Overlay to provide the option to develop with multi-family housing
- Because certain sites must be reused from 2015 Housing Element, they must be rezoned to allow housing "by right"



Workforce Housing on Town-Owned Sites

- Two adjacent Town-owned sites identified for workforce housing (APNs 002-123-17; 002-144-01)
- Total site size: 0.5 acres
- Current zoning: RS-6 Single Family Residential
- Objective: provide housing for restaurant employees, service workers, teachers, public servants and others who work in Fairfax and earn less than 80% AMI
- Program 1-C: Partner with a non-profit developer to build 10 units



Housing Action Plan – Goals

1. Increase the range of housing options to meet the housing needs for all economic segments of the community.
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, marital status, ancestry, national origin, color, or ability.
5. Monitor the effectiveness of housing programs to ensure that they respond to housing needs.

EIR Overview

What is an EIR?

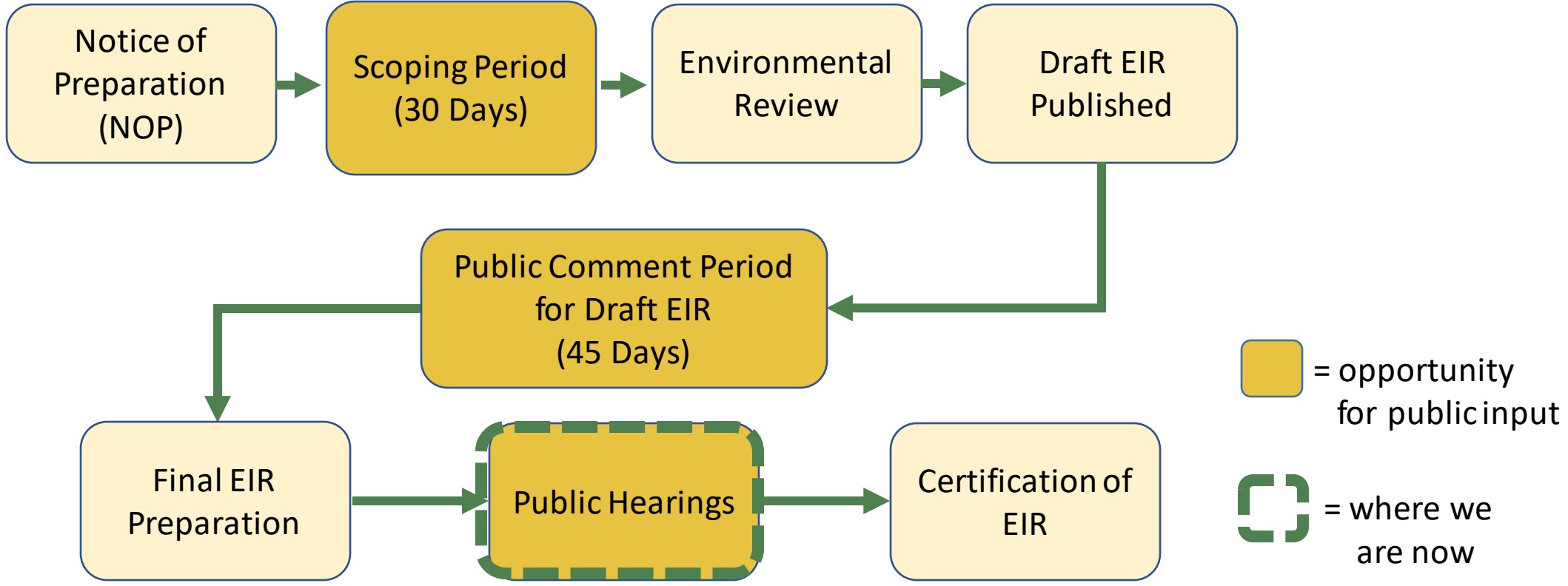
- Environmental Impact Report
 - Informs public and decision-makers of significant environmental effects of proposed plans
 - Identifies ways to minimize those effects
 - Describes reasonable alternatives to those projects
- Housing Element EIR is programmatic = evaluates the broad policy direction of a planning document, but not potential site-specific impacts



CEQA Requirements: Resource Categories

- Aesthetics
- Agriculture and Forest Resources
- Air Quality
- Biological Resources
- Cultural Resources
- Energy
- Geology and Soils
- Greenhouse Gas Emissions
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use and Planning
- Mineral Resources
- Noise
- Population and Housing
- Public Services
- Recreation
- Transportation
- Tribal Cultural Resources
- Utilities and Service Systems
- Wildfire

Environmental Review Process



Summary of Draft EIR Findings

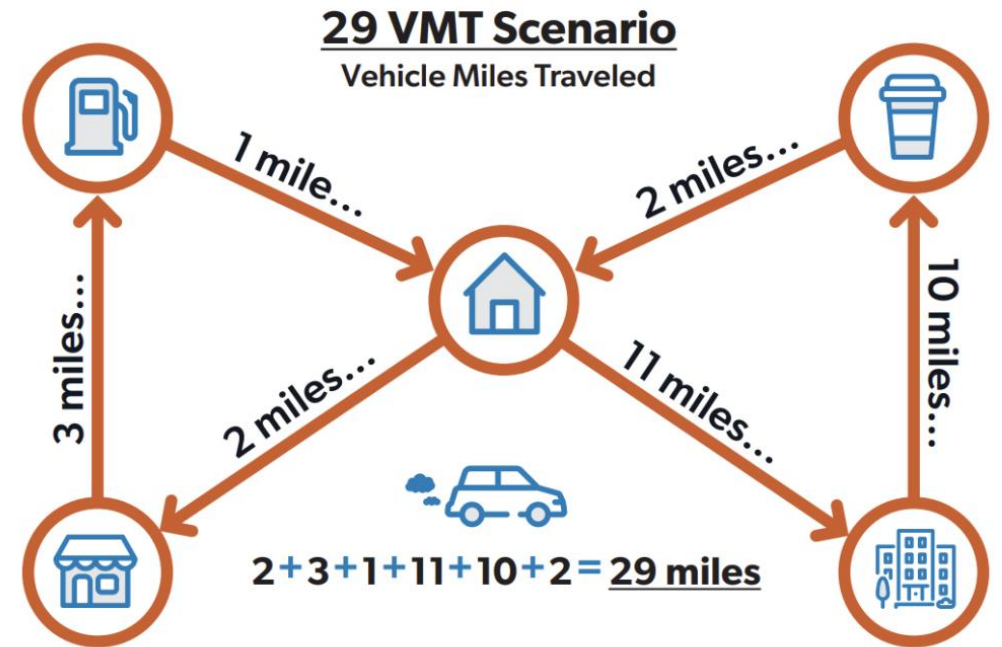
- Majority of impacts are less than significant
- Seven significant impacts under 4 categories would be reduced to less than significant with mitigation:
 - **Air Quality**
 - **Biological Resources**
 - **Cultural and Tribal Cultural Resources**
 - **GHG Emissions**
- Three impacts under 2 categories were significant and unavoidable
 - **GHG Emissions**
 - **Transportation**
- No cumulatively considerable impacts

Summary of Draft EIR Findings

- Even after all feasible mitigation, the Housing Element would result in significant and unavoidable impacts related to:
 - **GHG Emissions**
 - **Transportation**
- Not uncommon for a long-range development plan
- Town can approve the project based on overriding considerations, such as housing production and compliance with State law

VMT = Vehicle Miles Travelled

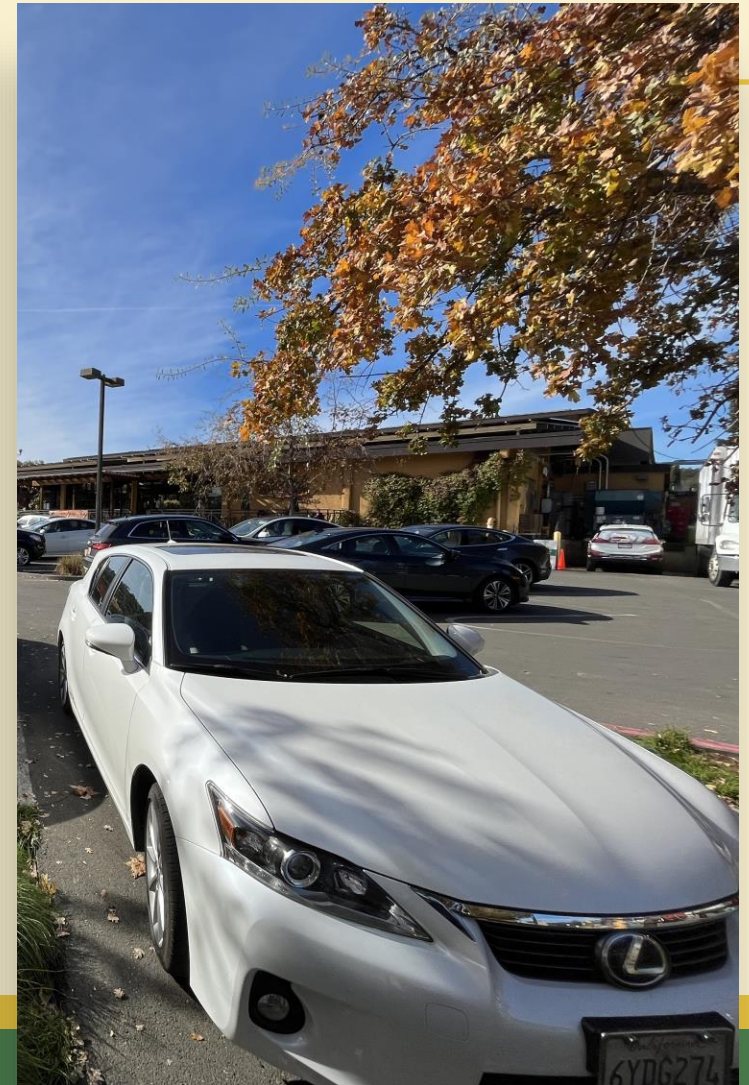
- VMT is total length of all trips, measured in miles
- Car dependency = high VMT
- Locating housing near jobs, shops and other destinations reduces VMT
- CEQA metric = per capita VMT



Impact: VMT

Housing Element would not achieve the 15% per capita reduction target for vehicle miles travelled under buildout conditions.

- *Implementation would achieve approximately a 10.4% reduction in home-based VMT.*
- *While the Project would result in an improvement in per capita VMT, the reduction would still exceed the threshold.*



Mitigation: Transportation

- Potential measures available to reduce VMT include:
 - Infill intensification
 - Parking demand management
 - Employment-based transportation demand management
 - Non-motorized transportation incentives
 - Transit service enhancement
- The Project either already incorporates these strategies, they are not applicable, or they would not substantially lessen impacts in Fairfax.
- As such, there is no feasible mitigation available, and the impact is significant and unavoidable.

Impact: GHG Emissions

Fairfax Climate Action Plan (CAP) establishes a target of net zero emissions by 2030 and Governor's Executive Order N-82-20 establishes a statewide target of carbon neutrality by 2045

- *Compliance TC 15.05 would ensure that emissions from stationary sources would not conflict with targets*
- *However, total emissions would conflict with the statewide GHG targets for 2030 and 2050*



Mitigation: GHG Emissions

- **MM GHG-2:** Update the Fairfax Climate Action Plan 2030.
- The updated CAP shall include community emissions forecasts that incorporate the changes in population and number of households under the Project.
- However, as this update has not yet been completed and the specific measures have not yet been identified, the impact would conservatively remain significant and unavoidable.

Public Review of Draft EIR

- Public comment period ran from September 26 – November 13
- 14 comment letters and 167 unique comments
- Key themes:
 - Biological resources
 - VMT/Transportation
 - 615 Oak Manor Settlement Agreement
 - PCAs and hillside development
 - MTCC Site
 - Landslide risk
 - Wildfire and evacuation

Biological Resources

- CDFW requested a checklist for subsequent project review, and additional mitigation for northern spotted owls and bat species of special concern
 - *Project-specific analysis checklist as Appendix G to EIR*
 - *Mitigation measures BIO-1 and BIO-3 enhanced to strengthen protections for northern spotted owls and bat species of special concern*

Transportation

- Caltrans requested consideration of additional mitigation measures to reduce VMT.
 - *Draft EIR considered all potential mitigation strategies related to infill development, employment-based TDM, parking demand management, non-motorized transportation incentives, and transit service enhancements.*
 - *The Housing Element already incorporates infill strategies and other mitigation measures to do not represent a feasible option for the Town.*

615 Oak Manor Settlement Agreement

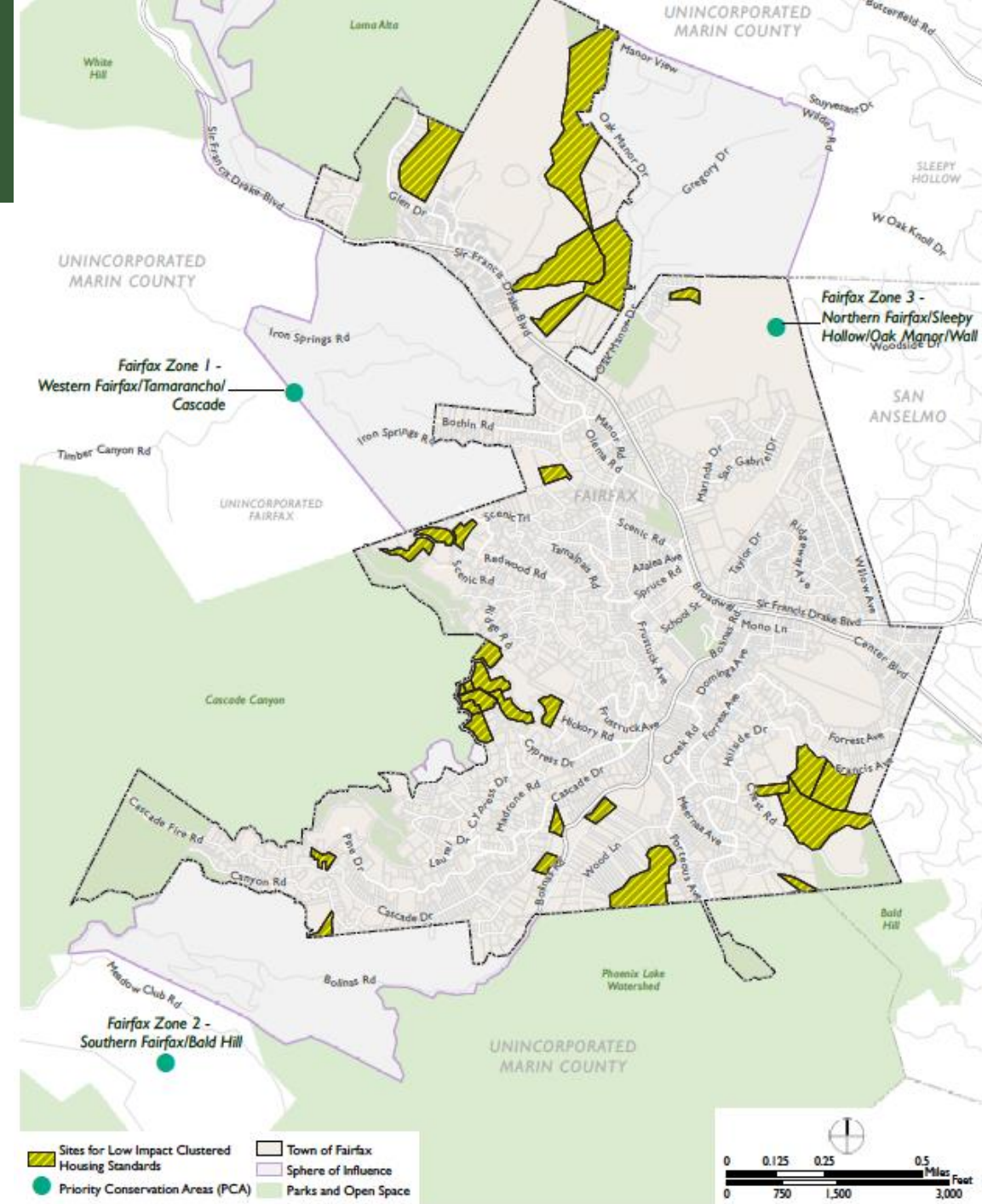
- Several comments question whether development is feasible at 615 Oak Manor given a settlement agreement for a 1991 lawsuit.
 - *Agreement established term of 2 years (until Sept 1990) for Phases A-C of the project and 3 additional years (to 1993) for Phase D, pursuant to Subdivision Map Act*
 - *Town would have had to approve a tentative vesting map within those terms if an application had been received*
 - *No application was received*
 - *No evidence of Town Ordinance extending the terms*

Open Space Preservation

- Several comments asserted that development would not be consistent with local open space regulations or would conflict with designated Priority Conservation Areas (PCAs).
 - *General Plan Land Use and Zoning permit housing on inventory sites*
 - *Housing Element Program 2-D: Low-Impact Clustered Residential Development*
 - *Would not increase base density, but allow for clustered development*
 - *Would require preservation of 75% of the site as open space*

Priority Conservation Area

- Plan Bay Area 2050 does not define boundaries of PCA in Fairfax
- 2016 TAM staff report states that no map of the PCAs existed at that time
- No regulation or easement in place that would preclude residential development on the privately-owned site
- Environmental and infrastructure constraints are the primary limiting factor



Marin Town & Country Club Site

- Several comments advocated for housing at the MTCC site and believe the Mixed Use Development Alternative should be identified as the environmentally superior alternative.
 - *No project alternative is the environmentally superior alternative because it would result in the fewest impacts; however, it would be infeasible*
 - *Mixed Use Alternative (MTCC site) is next choice, but it would slightly reduce significant unavoidable impacts; however, it would increase some impacts and be infeasible*
 - *Ballot measure needed to change zoning; uncertain that development at the site would result within planning period*

Landslide and Wildfire Risk

- Several comments were concerned about landslide risk and its impacts on new and existing developments.
 - *Compliance with the National Pollutant Discharge Elimination System (NPDES) permit requirements and local Town Code and General Plan regulations would reduce landslide impacts to the extent practicable.*
- Several comments questioned how construction would minimize wildfire risks and impact evacuation safety with an increased population.
 - *A Fire Protection Plan would be required for construction in fire hazard areas as well as compliance with CBC requirements which reduce wildfire hazards.*
 - *Increased development would increase traffic on SFD; however, there is a robust framework of emergency preparedness and evacuation actions in place to facilitate evacuation. Strategies range from local planning efforts to emergency response and evacuation plans.*

Planning Commission Summary

Planning Commission Questions

- Source of data for wildfire hazards
- Reference in State law regarding "default density"
- Source for in-commute data
- How property owner interest was confirmed
- Consequences for non-compliance with Housing Element law
- What project AQ mitigation applies to
- Timing for update to other General Plan elements

Planning Commission Comments

- Identified clerical errors that have been corrected
- Town needs to focus on implementing measures that can reduce VMT, such as those in the 2016 Bicycle and Pedestrian Plan

Next Steps

Timeline to Finalization

- PC Hearing on Draft Housing Element and EIR **Nov 28, 2023**
- Resubmit Housing Element to HCD **Dec 5, 2023**
- TC Hearing on Draft Housing Element and EIR **Dec 13, 2023**
- PC Hearing on Zoning Amendments (low impact clustered) **Dec 14, 2023**
- PC Hearing on Zoning Amendments (workforce overlay) **Jan 10, 2024**
- TC Hearing on Zoning Amendments **Jan 24, 2024**
- Statutory deadline for adoption of zoning amendments **Jan 31, 2024**
- Technical “clean up” in response to HCD, if any ***Administrative***

Recommended Order

1. Clarifying questions from Town Council
2. Public Testimony
3. Resolution 23-59. Town Council Certification of EIR
 - Questions / Comments / Discussion
 - Recommendation
4. Resolution 23-60. Town Council Adoption of a General Plan Amendment to Update the Housing Element for the Period of 2023-31
 - Questions / Comments / Discussion
 - Recommendation

Questions and Comments



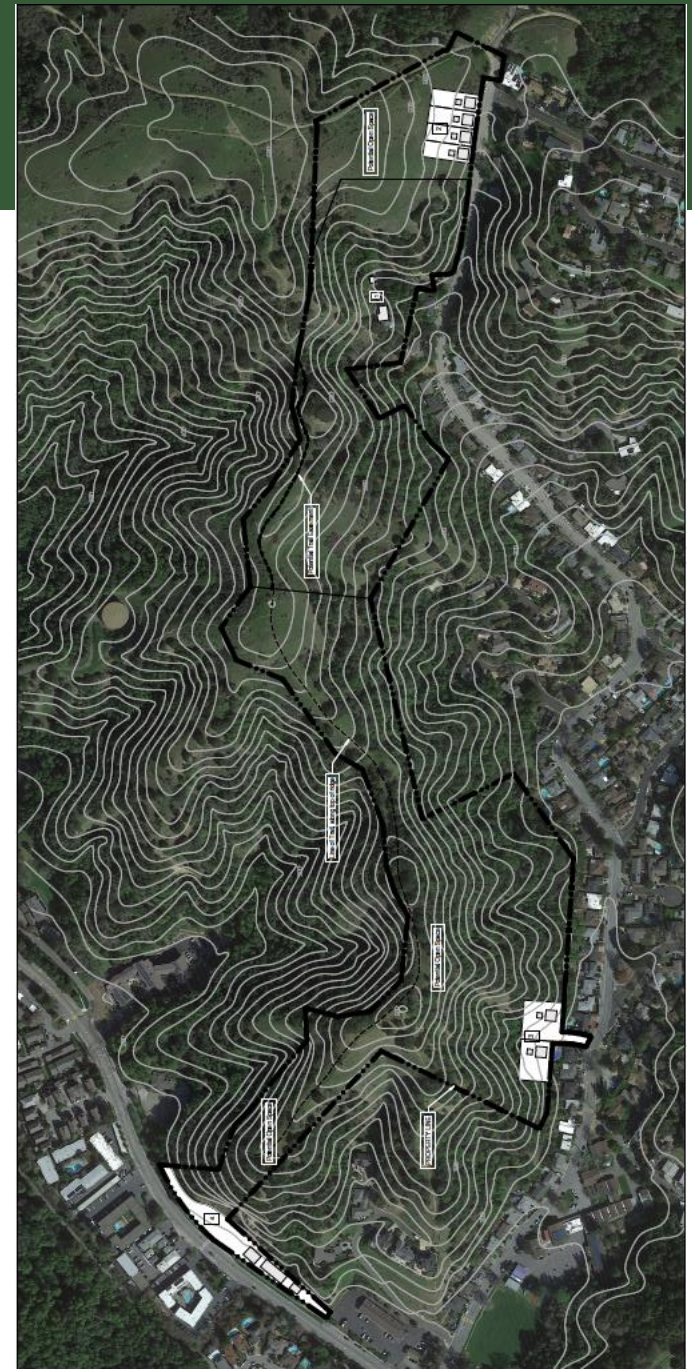
Back Up

615 Oak Manor Site

- Draft Element assumes 10 single-family homes, consistent with current zoning
- ADU projections are not site-specific, consistent with State law and HCD guidance
- Property owner submitted a concept diagram illustrating 7 single-family homes, 7 ADUs, and 20 multi-family apartments
- Property owner concept not permitted under current zoning

Staff response:

Site could be added as a "pipeline project" if the property owner provides a letter expressing intent to submit an application to subdivide the property and rezone a portion of the site along Sir Francis Drake for high density housing



Hillside Development and Open Space

- Commenters expressed concern for development on ridgelines and open space
- Pointed to community values enshrined in the General Plan

LAND USE ELEMENT

TOWN OF FAIRFAX 2010-2030 GENERAL PLAN

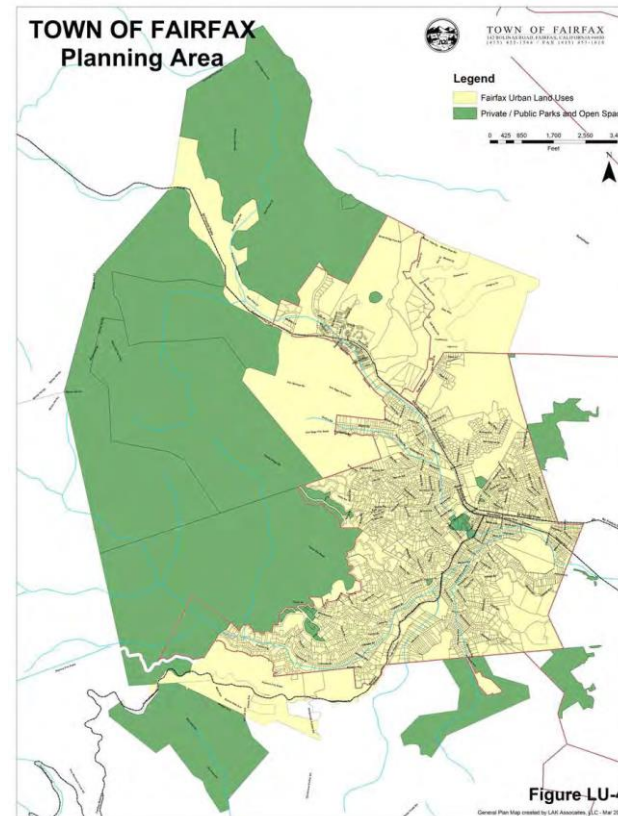


Figure LU-4 Fairfax Planning Area

OPEN SPACE ELEMENT

TOWN OF FAIRFAX 2010-2030 GENERAL PLAN

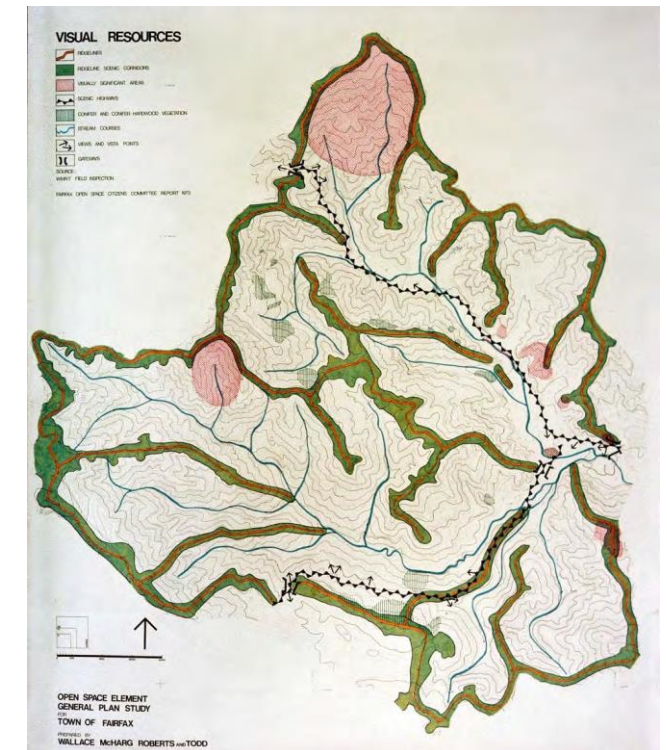


Figure OS-1 Map of Visual Resources