

## **RESOLUTION NO. 14586**

**RESOLUTION OF THE SAN RAFAEL CITY COUNCIL 1) ADOPTING CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS OF FACT, 2) ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS, AND 3) APPROVING THE MITIGATION MONITORING PROGRAM (MMRP) FOR THE KAISER PERMANENTE 1650 LOS GAMOS MEDICAL OFFICE BUILDING PROJECT TO ALLOW THE CONVERSION OF AN EXISTING OFFICE BUILDING TO MEDICAL OFFICE USES AND CONSTRUCTION OF A NEW 433-SPACE PARKING STRUCTURE ON THE WESTERN PARCEL  
1650 LOS GAMOS DRIVE KAISER (MEDICAL OFFICES)  
APNs: 165-220-12 & 165-220-13)**

**WHEREAS**, on February 21, 2017, Kaiser Foundation Health Plan (Kaiser or Kaiser Permanente) submitted project applications to the City of San Rafael Community Development Department for a Use Permit (UP17-005), an Environmental and Design Review Permit (ED17-001), a Zone Change (ZC17-001) to amend the existing Planned Development (PD)-1590 District for the Marin Commons, and a Sign Program Amendment (SP17-002) for the conversion of an existing approximately 148,000-square-foot office building to medical office uses and the construction of an up to 511-space parking structure (Project) on the western parcel of a 11.2-acre property at 1650 Los Gamos Drive; and

**WHEREAS**, on June 27, 2017, the Planning Commission (Commission) held an appropriately noticed public scoping hearing on the Notice of Preparation (NOP) for the preparation of an Environmental Impact Report (EIR) to assess the impacts of the Project. The Planning Commission directed staff to prepare an EIR for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) to address the following issues, Aesthetics, Air Quality, Greenhouse Gas Emissions, Land Use and Planning, Noise, Traffic and Transportation, and Project Alternatives, as per the Initial Study previously prepared for the Project on June 9, 2017; and

**WHEREAS**, on October 27, 2017, Kaiser Permanente submitted a Final Traffic Impact Analysis (FTIA), prepared by Fehr and Peers for the Project. The FTIA evaluated the Project's impacts on the local circulation network and identified a potential mitigation measure requiring signalization and other improvements to the Lucas Valley Rd/Los Gamos Drive intersection; and

**WHEREAS**, on April 13, 2018, Kaiser Permanente resubmitted a revised parking structure design proposing construction of a 473-space, three-level-plus-upper-ramp, parking structure at the same location as originally proposed; and

**WHEREAS**, the Draft EIR (DEIR) was prepared and circulated for a 45-day public review period beginning March 8, 2018 and ending April 23, 2018 (SCH # 2017062019). As part of this review, on April 24, 2018, the Planning Commission held a duly-noticed public hearing to consider and accept comments on the DEIR. The DEIR concluded that the Project would result in significant, unavoidable impacts associated with Transportation and Circulation. All other significant impacts identified in the DEIR were identified to be mitigated to less-than-significant levels with implementation of mitigation measures recommended in the DEIR; and

**WHEREAS**, based on written and oral comments received from the public on the DEIR and its own review of the DEIR, the Planning Commission directed staff to prepare a Final Environmental Impact Report (FEIR) and respond to comments received on the DEIR; and

**WHEREAS**, pursuant to Public Resources Code Section 21091(d)(2)(A) and CEQA Guidelines Sections 15088, 15089 and 15132, the City responded to all the environmental comments that were submitted on the DEIR during the public review period and a FEIR was completed. On August 10, 2018, a Notice of Availability for the FEIR/Response to Comments was mailed to interested persons and property owners and occupants within 500 feet of the Project property and to all responsible, trustee and other public agencies that commented on the DEIR; A notice of availability was also published in the Marin Independent Journal on August 11, 2018; and;

**WHEREAS**, consistent with the requirements of the CEQA Guidelines, a Mitigation Monitoring and Reporting Program (MMRP) has been prepared, which outlines the procedures and requirements for implementing all mitigation measures identified in the FEIR, and is provided in attached Exhibit A of this Resolution; and

**WHEREAS**, the FEIR concludes that all impacts identified in the FEIR have been or can be mitigated to a level of less-than-significant, except for four Transportation and Circulation impacts. The FEIR identifies significant and unavoidable Project-level impacts associated with the mitigation requirement to signalize and improve the intersections at Los Gamos Drive and Lucas Valley Road and mitigations to improve the intersection at Las Gallinas Drive and Lucas Valley Road. Although these impacts can be mitigated to less-than-significant levels through the implementation of identified mitigation measures, the intersections are outside of the City's jurisdiction and require authorization and permits by the County of Marin and the California Department of Transportation (CALTRANS). As such, since the City cannot legally implement mitigation measures outside of its jurisdiction, the impacts are identified in the FEIR as significant and unavoidable; and

**WHEREAS**, the FEIR identifies Alternative 4: "Applicant-Implemented Traffic Improvements" as the Environmentally Superior Alternative, which would commit Kaiser Permanente to providing upfront funding to the City above its fair-share contribution, to construct certain identified intersection improvements for the Los Gamos Drive/Lucas Valley Road intersection, as well as additional pacing and pedestrian and bicycle improvements. This Alternative would eliminate specific significant and unavoidable impacts, increase community benefits, and address transportation impacts not considered significant under CEQA thresholds by ensuring that suitable intersection/roadway improvements, or funding for such improvements are provided; and

**WHEREAS**, the FEIR concludes that implementation of Alternative 4, the Environmentally Superior Alternative, would further eliminate the Project's two significant and unavoidable impacts to the Los Gamos Drive / Lucas Valley Road intersection. However, adverse impacts to the Las Gallinas Avenue / Lucas Valley Road intersection would remain because the intersection is in the County's jurisdiction and there is thus far no known improvement planned for the intersection. Although Kaiser Permanente would be required to pay a fair-share contribution to the upgrade of this intersection, without a potential design solution, these impacts will remain significant; and

**WHEREAS**, CEQA Guidelines Section 15093 requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental impacts when determining whether to

approve a project. If these benefits outweigh the unavoidable adverse environmental effects, the adverse effects may be considered “acceptable” and a statement of overriding considerations may be adopted by the agency. The decision-making agency must state in writing the specific reasons to support its action based on the FEIR and/or other information in the record. The statement of overriding considerations must be supported by substantial evidence in the record; and

**WHEREAS**, on August 28, 2018, the Planning Commission held a duly-noticed public hearing on the FEIR and Project merits, accepting all public testimony and the written report of the Community Development Department staff. As part of this hearing process the Planning Commission considered draft CEQA Findings of Fact and a draft Statement of Overriding Considerations contained in this resolution, and a draft Mitigation Monitoring and Reporting Program (MMRP). On a 5-0 vote (one absent, one recused), the Planning Commission adopted Resolution No. 18-06 recommending to the City Council adoption of the Statement of Overriding Considerations and approval of the Mitigation Monitoring and Reporting Plan (MMRP); and

**WHEREAS**, on August 31, 2018, a Public Notice for the City Council hearing, which includes the Notice of Availability of the FEIR/Response to Comments, was mailed to interested persons and property owners and occupants within 500 feet of the property and to all responsible, trustee and other public agencies that commented on the DEIR, informing them of the City Council hearing for final action. A notice of availability was also published in the Marin Independent Journal on Saturday, September 1, 2018; and

**WHEREAS**, on September 17, 2018, the City Council held a duly-noticed public hearing to review the proposed amendment to the Kaiser Permanente 1650 Los Gatos Drive Medical Office Building Project and considered all oral and written public testimony and the written report of the Community Development Department; and

**WHEREAS**, on September 17, 2018, the City Council certified the FEIR by separate resolution; and

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of San Rafael does hereby: a) approve the following CEQA Findings of Fact; b) adopt the following Statement of Overriding Considerations; and c) approve of the MMRP presented in Exhibit A, finding that the MMRP has been prepared in accordance with the CEQA Guidelines:

## **FINDINGS OF FACT**

### **I. California Environmental Quality Act (CEQA)**

#### **A. Final EIR**

By separate City Council Resolution adopted concurrently with this resolution, the City Council reviewed and recommended certification of the Project's FEIR. As part of this action and as outlined in this separate resolution, the City Council: reaffirms the findings made in the separate City Council Resolution that: a) supported the certification of the FEIR; b) found that the FEIR has been prepared in accordance with the CEQA Guidelines and the City of San Rafael Environmental Assessment Procedures Manual; and c) found and concluded that the FEIR adequately assesses the environmental effects of the Project and represents the independent judgment of the City Council.

**B. Incorporated Documents/ Record of Proceedings**

1. The following information is incorporated by reference and made part of the record supporting these findings:
  - All Project plans and application materials, including supportive technical reports;
  - The DEIR and Appendices (March 2018) and FEIR (August 10, 2018), the Initial Study (June 2017) and all documents relied upon, cited therein or incorporated by reference;
  - The Mitigation Monitoring and Reporting Program (MMRP) prepared for the Project;
  - The City of San Rafael *General Plan 2020* and *General Plan 2020* FEIR;
  - Zoning Ordinance of the City of San Rafael (SRMC Title 14);
  - Subdivision Ordinance of the City of San Rafael (SRMC Title 15);
  - City Council Ordinance No. 1772, City Council Resolution No. 10980 and the City of San Rafael Archaeological Sensitivity map;
  - Kaiser Permanente's 1650 Los Gatos Drive Medical Office Building Project commitment/community benefits letter from Judy Coffey, Kaiser Permanente's SVP/Area Manager Marin/Sonoma Service Area to City Manager, Jim Schutz (July 25, 2018);
  - All records of decision, resolutions, staff reports, memoranda, maps, exhibits, letters, synopses of meetings, summaries, and other documents approved, reviewed, relied upon, or prepared by any City commissions, boards, officials, consultants, or staff relating to the Project;
  - Any documents expressly cited in these findings, in addition to those cited above; and
  - Any other materials required for the record of proceedings by caselaw and/or Public Resources Code section 21167.6, subdivision (e).
2. Pursuant to CEQA Guidelines Section 15091(e), the documents and other materials that constitute the record of proceedings upon which the City Council has based its decision are in and may be obtained from the City's Department of Community Development, Planning Division, at 1400 Fifth Street, Third Floor, San Rafael, CA 94901.

**II. Findings of Fact in Support of Project Action**

The FEIR, prepared in compliance with CEQA, evaluates the potentially significant and significant adverse environmental impacts that could result from approval of the Project. Because the FEIR concludes that implementation of the Project would result in adverse impacts, the City is required by CEQA to make certain findings with respect to these impacts. (CEQA Guidelines Section 15091) These findings list and describe the following, as analyzed in the EIR: a) impacts determined to be insignificant or less-than-significant in the Initial Study/Notice of Preparation checklist; b) impacts found to be less than significant after individual analysis in the EIR; c) significant impacts that can be avoided or reduced with mitigation; d) significant impacts that cannot be avoided; and e) project alternatives that were developed and studied as provided in the CEQA Guidelines.

These findings are supported by substantial evidence in the entirety of the record of proceedings before the City, which is incorporated herein by this reference. Further explanation of these environmental findings and conclusions can be found, without limitation, in the DEIR and FEIR, and these findings hereby incorporate by reference the discussion and analysis in those documents supporting the FEIR determinations regarding mitigation measures and the Project's impacts and mitigation measures designed to address those impacts. In making these findings, the City Council ratifies, adopts and incorporates in these findings the determinations and conclusions of the DEIR and FEIR relating to environmental impacts and mitigation measures, except to the extent any such determinations and conclusions are specifically and expressly modified by these findings.

**A. IMPACTS DETERMINED TO BE LESS THAN SIGNIFICANT AND NOT INDIVIDUALLY ANALYZED**

During the Project's Notice of Preparation (NOP) and scoping period, the City determined that a number of the Project's potential environmental effects would be insignificant, less-than-significant or would be adequately addressed through the City's environmental review process, including: Agriculture Resources, Biological Resources, Cultural/ Archaeological Resources, Geology/Soils, Hazards and Hazardous Materials, Hydrology/Water Quality, Mineral Resources, Population/Housing, Public Services, Recreation, Tribal Cultural Resources, and Utilities/Service Systems. For these topics, in accordance with CEQA Guidelines Section 15128, no need for further environmental assessment was required for the preparation of the FEIR.

Finding:

*The Project's DEIR, citing the Initial Study (IS), contains brief statements identifying possible impacts that were determined to be insignificant or less-than-significant, along with the reasons for those determinations. The City Council adopts those statements and concludes that the referenced environmental effects are insignificant or less than significant and no further analysis in the FEIR is required.*

**B. IMPACTS DETERMINED TO BE LESS-THAN-SIGNIFICANT AFTER INDIVIDUAL ANALYSIS.**

The NOP and scoping period identified a number of potential environmental impacts to be analyzed in the DEIR. Through that analysis, impacts relating to Land Use and Planning, Aesthetics, Air Quality, Greenhouse Gas (GHG) Emissions, and Noise were determined to be less-than-significant and, thus, no mitigation measures are necessary or required, as noted below.

Finding: *The City Council adopts these statements and concludes that the referenced environmental impacts would be less than significant for the reasons stated below and contained within the entirety of the record of proceedings.*

**(1) Land Use & Planning**

**a. Project Will Not Conflict with Applicable Land Use Plans, Goals, or Policies**

Facts in Support of Finding: As discussed on pages 4.1-6 to 4.1-7 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the Project is currently within an Office (O) land use designation per the *San Rafael General Plan 2020*. Medical office uses are typical and allowed in Office (O) General Plan designations. The Project is also within the PD-1590 (Planned Development) zoning district, which allows general office uses but not medical office uses. The Project is requesting an amendment to its zoning designation and Use Permit to allow "medical office" uses. The Project uses will be consistent with that amended zoning designation. The Project proposes colors and materials that are harmonious with the existing development on the site, as well as the surrounding hills in the background. Lastly, given the reuse of the existing on-site building and developing a parking structure within existing footprints on-site, the Project would not significantly impact any threatened, endangered or special status species in the surrounding area. This impact will therefore be less than significant.

**b. Project Will Not Result in a Cumulative Land Use Impact**

Facts in Support of Finding: As discussed on page 4.1-8 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the Project Site has been previously graded and developed with an office building and surface parking lots and is located within a commercially developed area; therefore, the Project would not result in significant impacts due to conflicting land uses. Furthermore, the site is assigned an Office (O) General Plan land use designation, which allows for medical office and associated parking. This impact will therefore be less than significant.

**(2) Aesthetics**

**a. The Project Will Not Result in Visual Character or Quality Impacts**

Facts in Support of Finding: As discussed on pages 4.2-14 to 4.2-16 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the Project will not substantially change the character of the Project site by constructing the new parking structure on an existing surface parking lot. Further, visual simulations show that the Project will largely be screened by existing and proposed mature vegetation from many viewpoints, will have less-than-significant impacts on views of Mt. Tamalpais from public vantage points, and the use is consistent and compatible with surrounding uses. In addition, the Project is consistent with design guidelines in the General Plan 2020 and non-residential design guidelines. This impact will therefore be less than significant.

**b. The Project Will Not Increase Light and Glare**

Facts in Support of Finding: As discussed on pages 4.2-16 to 4.2-17 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the Project will not increase light and glare due to existing presence of commercial lighting. Lighting on the Project site will be directed downward and angled to reduce spillover of ambient light onto adjacent properties. The potential PV system incorporated on the top level of the parking structures would have panels with standard low-glare glass with anti-reflective coatings and would be angled to minimize potential glare to nearby

residences. In sum, the Project's lighting will not be substantial in comparison to existing conditions (which includes the surface parking lot lighting) and will not affect nighttime views or cause potential "spillage" of lighting that may affect nearby residents. This impact will therefore be less than significant.

**c. The Project Will Not Result in Cumulative Aesthetic Impacts**

Facts in Support of Finding: As discussed on page 4.2-18 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the Project will not result in cumulative visual impacts. The Project is subject to City of San Rafael Design Guidelines and formal Design Review to ensure high-quality and compatible design. Lighting on the Project site will be directed downward and angled to reduce spillover of ambient light onto adjacent properties. The Project therefore will not make a cumulatively considerable contribution to a significant cumulative impact, and thus this impact will be less than significant.

**(3) Air Quality**

**a. The Project Will Not Violate Air Quality Standards or Substantially Contribute to Any Air Quality Violations**

Facts in Support of Finding: As discussed on pages 4.3-17 and 4.3-18 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the Project will not contribute substantially to existing or projected violations of Bay Area Air Quality Management District (BAAQMD) standards for impacts related to ozone and particulate matter. In addition, the Project will have emissions less than the BAAQMD screening size for evaluating such impacts. Further, intersections affected by the Project will have traffic volumes less than the BAAQMD screening criteria and, thus, will not cause a violation of an ambient air quality standard or have considerable contributions to cumulative violations of these standards. This impact will therefore be less than significant.

**(4) Greenhouse Gas (GHG) Emissions**

**a. The Project's GHG Emissions Will Be Less Than Significant**

Facts in Support of Finding: As discussed on pages 4.4-12 to 4.4-13 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, under CEQA, projects that are consistent with the City of San Rafael Climate Change Action Plan (CCAP) forecasts and implement applicable CCAP strategies are determined to result in less than significant GHG emissions. The Project is consistent with the City's *General Plan 2020* and, therefore, would be consistent with the applicable CCAP measures if it meets the standards included in the Qualified GHG Emissions Reduction Strategy. As shown in Table 4.4-1 on page 4.4-13 of the DEIR, the Project is consistent with these standards.

In addition, Senate Bill 32's 40% GHG emissions reduction goal for 2030 provides an interim emissions reduction goal in order to assist in the attainment of the 2050 emission reduction goal previously adopted by Assembly Bill 32 in 2006. The City's CCAP acknowledges the 2050 goal and also, in its Greenhouse Gas Emissions Reduction Strategy, introduced planning of attainment of an interim 2035 goal, consistent with Executive Order No. B-30-15. Thus, the concept of further GHG emissions reduction being required beyond 2020 is explicitly part of the City's CCAP.

Further, the Project's efficiency in terms of being well-lower than regional VMT averages (see DEIR pp. 4.6-34 to 4.6-35) and Kaiser Permanente's stated commitment to make the Project energy efficient demonstrates that it will aid in the achievement of the State's 2030 emission reductions goal. As a result of the above, the Project's GHG emissions will be less than significant.

**b. The Project Will Not Conflict or Interfere with Applicable GHG Plans, Policies or Regulations**

Facts in Support of Finding: As discussed on pages 4.4-13 to 4.4-14 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the Project will not conflict or otherwise interfere with the statewide GHG reduction measures identified in the California Air Resources Board's (CARB) Scoping Plan. The Project will comply with requirements of the Green Building Code and the CCAP. For example, the parking structure and MOB tenant improvements will be constructed in conformance with CALGreen and California's Title 24 Building Code. This impact will therefore be less than significant.

**c. The Project Will Not Result in Significant Cumulative GHG Impacts**

Facts in Support of Finding: As discussed on page 4.4-15 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the completed Project will not exceed the BAAQMD's recommended threshold of significance for GHG emissions and is consistent with the adopted City of San Rafael CCAP, which serves as a Qualified GHG Reduction Strategy. The Project therefore will not make a cumulatively considerable contribution to a significant cumulative impact, and thus this impact will be less than significant.

**(5) Noise**

**a. Project Noise Levels Will Not Exceed City Standards or Increase Existing Ambient Noise**

Facts in Support of Finding: As discussed on pages 4.5-20 to 4.5-26 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, noise levels generated by Project construction and operational activities are not expected to exceed the City's 90 dBA threshold. In addition, all new mechanical equipment associated with the Project will be below the City's thresholds during daytime and nighttime hours and will not increase the day-night average noise level at the residential land uses. Further, intermittent noise from the parking structure will be less than the intermittent noise thresholds established in the City's Municipal Code and will not increase the ambient environment at the nearest residential property line by 3 dBA  $L_{dn}$ . Noise from refuse collection is not expected to differ from the existing land use and will be compatible with City noise limits. As such, the impact is considered less-than-significant.

**b. The Project Will Not Result in Excessive Groundborne Vibration Due to Construction**

Facts in Support of Finding: As discussed on pages 4.5-27 to 4.5-28 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, vibration levels as a result of construction activities for the Project will be up to 0.02 in/sec Peak Particle Velocity (PPV), which will not

exceed the 0.3 in/sec PPV threshold for residences or commercial buildings adjacent and uphill from the Project. Construction of the Project will not generate vibration levels of 0.3 in/sec PPV or more at existing noise-sensitive land uses located off- and on-site. Therefore, the impact is considered less-than-significant.

**c. The Project Will Not Result in a Permanent Noise Level Increase to Surrounding Residential Receptors Due to Project-Generated Traffic**

Facts In Support of Finding: As discussed on pages 4.5-27 to 4.5-28 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, residential land uses to the west of the Project site will experience an increase of up to 1 dBA Ldn, resulting in ambient noise levels below 60 dBA Ldn with the inclusion of the Project. While the traffic increase along Los Gamos Drive will result in a permanent noise increase of 3 dBA Ldn, this increase will only apply to the commercial office buildings to the south of the Project site. Therefore, the Project-generated traffic will not cause a permanent increase to noise at the surrounding residential receptors. This impact will therefore be less than significant.

**d. The Project Will Not Result in Cumulative Noise Increase Impacts to Noise-Sensitive Land Uses**

Facts In Support of Finding: As discussed on pages 4.5-33 to 4.5-34 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, although the Project will make a “cumulative considerable” contribution to the overall traffic noise increase along Los Gamos Drive, the office buildings located along this roadway are not considered noise-sensitive, and hence the overall cumulative impact will not be significant. Therefore, this impact will be considered less than significant since the Project’s cumulatively considerable contribution will be to a less than significant cumulative impact.

**C. SIGNIFICANT IMPACTS THAT CAN BE AVOIDED OR REDUCED WITH MITIGATION**

The City Council, as authorized by Public Resources Code Section 21081 and CEQA Guidelines Sections 15091 and 15092, identifies the following significant impacts that can be eliminated or reduced to a less-than-significant level with the implementation of mitigation measures recommended in the IS and EIR. As summarized in Chapter 2 (pages 2-5 – 2-28) of the DEIR and supported by evidence contained within the entirety of the record of proceedings, these mitigation measures are hereby adopted and incorporated into the description of the Project and their implementation will be monitored through the MMRP.

**(1) Aesthetics**

**The Project could potentially create a new source of substantial light and glare which would adversely affect day or nighttime views in the area. The incorporation of a photometric lighting study demonstrating compliance with building code specifications as a Project mitigation measure will result in a less than significant impact.**

Significant Impact

As discussed on page 36 of the IS, summarized in Chapter 2 (page 2-21) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, the proposed usage of the existing office building will not introduce a new source of light and glare or affect nighttime views. However, development of the parking structure could potentially create a new source of substantial light or glare which would adversely affect day or nighttime views in the area. This potential impact can be mitigated to a less-than-significant level with the preparation of photometric lighting study demonstrating that outdoor lighting fixtures meet the requirements of the California Energy Code and are included in the Project's building plan (Exhibit A; Mitigation Measure **MM AES-1**).

#### Finding

Specific Project lighting design is subject to Design Review Board review and approval and standard City conditions of approval. In addition, the City Council finds that implementation of MM AES-1 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City Council finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City Council further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact will be less than significant.

## **(2) Air Quality**

- a. Impact AIR-3: The Project would expose sensitive receptors to substantial pollutant concentrations. The incorporation of construction best management practices as Project conditions of approval would result in a less than significant temporary impact to sensitive receptors.**

#### Significant Impact

As discussed on pages 4.3-18 to 4.3-22 and summarized in Chapter 2 (pages 2-5 – 2-8) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, grading and construction activities on the Project site will create a temporary potentially-significant Air Quality impact, which can be mitigated to a less-than-significant level with the preparation, approval and implementation of a basic measures to control dust and exhaust during construction (Exhibit A; Mitigation Measure **MM AIR-1**).

#### Finding

The City Council finds that implementation of MM AIR-1 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City Council finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City Council further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact will be less than significant.

- (b) Impact AIR-4: The Project would contribute to cumulative air quality degradation and to regional air quality cumulative impacts. The incorporation of construction best management practices as Project conditions of approval would result in a less than significant cumulative air quality impact.**

#### Significant Impact

As discussed on page 4.3-23 and summarized in Chapter 2 (pages 2-5 – 2-8) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, grading and construction activities on the site related to the Project will create a cumulative potentially-significant Air Quality impact, which can be mitigated to a less-than-significant level with the preparation, approval and implementation of a basic measures to control dust and exhaust during construction (Exhibit A; Mitigation Measure **MM AIR-1**).

#### Finding

The City Council finds that implementation of MM AIR-1 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City Council finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City Council further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact will be less than significant.

### **(3) Biological Resources**

**The Project could potentially 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. The incorporation of a preconstruction nesting bird and bat survey as a Project mitigation measure will result in a less than significant impact.**

#### Significant Impact

As discussed on page 44 of the IS, summarized in Chapter 2 (pages 2-21 –2-22) of the DEIR and supported by evidence contained within the entirety of the record of proceedings, development of the parking structure requires removal of 63 trees, which could potentially impact nesting birds and roosting bats if these species are in the Project area. This potential Biological Resources impact can be mitigated to a less-than-significant level by conducting a preconstruction nesting bird and bat survey prior to issuance of a grading or building permit (Exhibit A; Mitigation Measure **MM BIO-1**).

#### Finding

The City Council finds that implementation of MM BIO-1 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1) and Title 14, and California Code of Regulations Section 15091(a)(1), the City Council finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City Council further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact will be less than significant.

### **(4) Cultural Resources**

- (a) The Project could potentially cause a substantial adverse change in significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5. The incorporation of archeological resource protections as a Project mitigation measure will result in a less than significant impact.**

#### Significant Impact

As discussed on pages 47 to 48 of the IS, summarized in Chapter 2 (pages 2-22 – 2-23) of the DEIR and supported by evidence contained within the entirety of the record of proceedings, although construction of the Project would have no impact on known archaeological resources, there is a possibility that previously unidentified archaeological resources and subsurface deposits are present within the project area, and Project construction could potentially disturb such resources and subsurface deposits within the Project area. This potential Cultural Resources impact can be mitigated to a less-than-significant level if archaeological resources are found during construction, construction is halted, and Kaiser Permanente retains a qualified archaeologist to assess the previously unrecorded discovery and provide recommendations. (Exhibit A; Mitigation Measure **MM CULT-1**).

#### Finding

The City Council finds that implementation of MM CULT-1 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1) and Title 14, and California Code of Regulations Section 15091(a)(1), the City Council finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition

of Project approval, which mitigate or avoid the significant environmental impact listed above. The City Council further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact will be less than significant.

- (b) The Project could potentially disturb human remains, including those interred outside of dedicated cemeteries. The incorporation of human remains protections as a Project mitigation measure will result in a less than significant impact.**

Significant Impact

As discussed on pages 48 to 49 of the IS, summarized in Chapter 2 (pages 2-23 – 2-24) of the DEIR and supported by evidence contained within the entirety of the record of proceedings, there are no formal cemeteries or known interred human remains within the Project area and no evidence of human remains was identified within the Project area. However, the potential for their presence cannot be entirely ruled out, since construction-related excavation could expose and disturb, or damage previously undiscovered human remains. This Cultural Resources impact can be mitigated to a less-than-significant level if previously unknown human remains are found during construction, construction is halted, and Kaiser Permanente retains a qualified archaeologist to assess the previously unrecorded discovery and providing immediate notification to the Marin County Coroner and the notification to the NAHC if the remains are Native American. (Exhibit A; Mitigation Measure **MM CULT-2**).

Finding

The City Council finds that implementation of MM CULT-2 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1) and Title 14, and California Code of Regulations Section 15091(a)(1), the City Council finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City Council further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact will be less than significant.

- (5) Noise - Temporary/Construction Related Noise**

**Impact NOISE-4: Existing noise-sensitive land uses will be exposed to a temporary increase in ambient noise levels due to Project construction activities. The incorporation of construction best management practices as Project conditions of approval will result in a less-than-significant temporary noise impact.**

Significant Impact

As discussed on pages 4.5-29 to 4.5-33 and summarized in Chapter 2 (pages 2-8 – 2-12) of the DEIR, and supported by evidence contained within the

entirety of the record of proceedings, construction noise related to grading and construction activities on the site related to the Project will create a temporary, potentially-significant Noise impact by exposing sensitive receptors and adjacent residences to construction noise that exceeds limits allowed by the City's Noise Ordinance. This Noise impact can be mitigated to a less-than-significant level by implementing best management practices during construction activities, including, but not limited to, constructing temporary noise barriers, equipping all equipment with sound suppression features, limiting idling time on all equipment, preparing a detailed construction management plan and schedule for grading and construction activities, all to minimize exposure time, as further detailed in the MMRP (Exhibit A; Mitigation Measure **MM NOISE-1**).

#### Finding

The City Council finds that implementation of MM NOISE-1 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1) and Title 14, and California Code of Regulations Section 15091(a)(1), the City Council finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City Council further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact will be less than significant.

### **(6) Transportation/Circulation**

Impact TRAF-2: Implementation of the Project would increase traffic volumes on freeway segments and affect levels of the regional network under Existing plus Project Conditions. The incorporation of a Transportation Demand Management (TDM) program and annual monitoring report as a Project mitigation measure will result in a less than significant impact.

#### Significant Impact

As discussed on pages 4.6-39 to 4.6-43 and summarized in Chapter 2 (pages 2-14 – 2-15) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, the Project's contribution to AM and PM peak hour trips to the local freeway corridor will create a potentially-significant Transportation/Circulation impact to volume/capacity ratio on the freeway segment between the Miller Creek on- and off-ramps. The Project will contribute to the existing failing condition of LOS conditions on freeway segments in the Project study area. At the Miller Creek off-ramp to Miller Creek on-ramp segment, the Project's contribution would increase the corridor's volume to capacity (v/c) ratio by more than 0.01, which means the Project contributes at least 1-percent or more of the freeway segment capacity, resulting in a significant impact. The significant impact can be mitigated to a less-than-significant level with the implementation of the Project Transportation Demand Management Plan (Exhibit A; Mitigation Measure **MM TRAF-2**).

#### Finding

The City Council finds that implementation of MM TRAF-2 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1), Title 14, and California Code of Regulations Section 15091(a)(1), the City Council finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City Council further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact would be less than significant.

### **(7) Tribal Cultural Resources**

**The Project could potentially 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. The incorporation of tribal cultural protections as a Project mitigation measure will result in a less than significant impact.**

#### Significant Impact

As discussed on pages 81 to 84 of the IS, summarized in Chapter 2 (pages 2-27 – 2-28) of the DEIR and supported by evidence contained within the entirety of the record of proceedings, although construction of the Project will have no impact on known tribal cultural resources, there is a possibility that previously unidentified resources and subsurface deposits are present within the project and could be disturbed during Project construction. This Tribal Cultural Resources impact can be mitigated to a less-than-significant level if cultural resources are identified onsite during construction, all work stops immediately within 50 feet of the resource(s) and Kaiser Permanente complies with all relevant State and City policies and procedures prescribed under PRC Section 21074. (Exhibit A; Mitigation Measure **MM TRIBAL-1**). In addition, the implementation of **MM CULT-1** and **MM CULT-2** will also reduce any potentially significant impacts.

#### Finding

The City Council finds that implementation of MM TRIBAL-1, MM CULT-1 and MM CULT-2 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1) and Title 14, and California Code of Regulations Section 15091(a)(1), the City Council finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City Council further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact will be less than significant.

#### **D. SIGNIFICANT IMPACTS THAT CANNOT BE FULLY MITIGATED TO A LEVEL OF LESS THAN SIGNIFICANT**

As authorized by Public Resources Code Section 21081(a)(1) and CEQA Guidelines Sections 15091 and 15092, the FEIR is required to identify the significant impacts that cannot be reduced to a less-than-significant level through the incorporation of mitigation measures. The FEIR concluded that although specific mitigation measures have been identified for the following Project Transportation and Circulation impacts, the impacts would nonetheless be considered significant and unavoidable, since the roadway intersections at issue are outside of the City's jurisdiction and require authorization and permits by other agencies. Although the Commission is recommending adoption of the identified mitigation measures as part of Project approval, since the City cannot legally implement mitigation measures outside of its jurisdiction, despite the incorporation of Mitigation Measures outlined in the EIR and in this Resolution, should the City wish to approve the Project notwithstanding these significant and unavoidable impacts, the City Council must adopt a statement of overriding considerations included herein:

##### **(1) Transportation/Circulation**

- a) Implementation of the Project will increase traffic volumes on area roadways and affect levels of service at the local intersections and freeways under Existing plus Project Conditions.**

##### Significant Impact.

The addition of Project traffic at the Lucas Valley Road/Los Gamos Drive side street stop-controlled (unsignalized) intersection will increase vehicle delay during the AM and PM peak hour. As a result of the Project, traffic will degrade the side street stop-controlled approach from LOS C to LOS E during the AM peak hour and LOS A to LOS F during the PM peak hour. As a result, the Project's contribution during the PM peak hour will result in a significant impact because the Project's contribution will worsen the intersection operations to an unacceptable LOS.

##### Finding

As discussed in Chapter 4.6 (pages 4.6-36 – 4.6-39) of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the mitigation measures necessary to reduce this significant and unavoidable Transportation and Circulation impact to a less-than-significant level cannot be implemented/authorized by the City of San Rafael alone. Specifically, the identified mitigation measure requires review and approval from the County of Marin and CALTRANS to construct the intersection improvements at Los Gamos Drive and Lucas Valley Road. Therefore, ensuring the implementation of the mitigation for this impact is outside the power of City of San Rafael decision makers and the impact is therefore considered significant and unavoidable. (Exhibit A: Mitigation Measure **MM TRAF-1**). However, the Applicant-Implemented Traffic Improvements alternative (DEIR Alternative 4) would include construction of the necessary intersection signalization.

- b) The Project will contribute to deficient operations of the Lucas Valley Road/Las Gallinas Avenue intersection by increasing the average delay by more than five seconds under Baseline plus Project conditions.**

Significant Impact.

The Lucas Valley Road/Las Gallinas Avenue intersection is expected to operate below LOS D during the weekday AM and/or PM peak hour. The Project will contribute to deficient operations by increasing the average delay by more than five seconds.

Finding

As discussed in Chapter 4.6 (pages 4.6-46 – 4.6-58) of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the mitigation measures necessary to reduce this significant and unavoidable impact to Transportation and Circulation to a less-than-significant level cannot be implemented/authorized by the City of San Rafael. Improvements at the Lucas Valley Road/Las Gallinas Avenue intersection have yet to be identified through the City of San Rafael's *General Plan 2020*. Specifically, since the Las Gallinas Avenue / Lucas Valley Road intersection is not within the City's jurisdiction and is not part of a traffic fee program, intersection improvements have yet to be identified, impacts to the intersection will remain significant and unavoidable.

A fair-share agreement would require Kaiser to contribute funding for future improvements even though there is no identified improvement from the County of Marin. Ultimately, the County of Marin will be responsible for the review, approval and construction of any identified improvements to the intersection. Therefore, the mitigation for this impact is outside the jurisdiction of City of San Rafael decision makers and is considered significant and unavoidable. (Exhibit A: Mitigation Measure **MM TRAF-3**).

- c) The Project will contribute to deficient operations of the Lucas Valley Road/Las Gamos Drive intersection by increasing the average delay by more than five seconds under Baseline plus Project conditions.**

Significant Impact.

The Lucas Valley Road/Los Gamos Drive intersection is expected to operate at LOS F. The addition of Project traffic will increase vehicle delay during the AM peak hour and PM peak hour by more than five seconds, resulting in a significant impact.

Finding

As discussed in Chapter 4.6 (pages 4.6-36 – 4.6-51) of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the mitigation measures necessary to reduce this significant and unavoidable Transportation and Circulation impact to a less-than-significant level cannot be implemented/authorized by the City of San Rafael. In coordination with the City of San Rafael Department of Public Works, the County of Marin Department of Public Works, and CALTRANS, Kaiser Permanente is required to pay a fair share contribution to the reconfiguring and signalization of the Lucas Valley Road/Los Gamos Drive Intersection. The San Rafael *General Plan 2020* Circulation Element Policy C-7 identifies

improvements at this intersection, including signaling the intersection, adding dual westbound left turn lanes, reconfiguring the northbound approach, and removing existing striped channelized islands. The new signal should include traffic signal interconnect and be coordinated with the adjacent interchange signals. Additionally, since most of the intersection is located within the County of Marin's jurisdiction, and part of CALTRANS purview, interagency coordination will be required during design, construction and maintenance of the new signal. Furthermore, a memorandum of understanding (MOU) will be required between the City of San Rafael and the County of Marin to document the future management and maintenance of the intersection and signals since the US 101/Lucas Valley interchange signals and the new Lucas Valley Road / Los Gamos Drive signal would be operated and maintained by one or multiple agencies. The City of San Rafael may also coordinate an MOU with CALTRANS for development and operation of the traffic signal in the CALTRANS right of way. (Exhibit A: Mitigation Measure **MM TRAF-4**).

Ultimately, the identified mitigation measure requires review and approval from the County of Marin and CALTRANS to construct the intersection improvements at Los Gamos Drive and Lucas Valley Road. Therefore, while the MM TRAF-4 will be adopted by the City, the City is unable to ensure that it will be implemented due to the involvement of other public agencies; consequently, this impact is determined to be significant and unavoidable despite the implementation of the cited mitigation.

**d) The addition of Project-related traffic would exacerbate the Cumulative No Project condition and contribute more than 5 seconds of delay at the Lucas Valley Road/Las Gallinas Avenue intersection.**

Significant Impact.

The Project would contribute additional traffic to local intersections. Improvements to the Lucas Valley Road / Las Gallinas Avenue intersection have yet to be identified through the City of San Rafael's *General Plan 2020*. Although, several vehicle capacity improvements could be considered to mitigate poor operating conditions at the intersection, the feasibility of the potential improvement projects (such as reconfiguring the intersection to remove channelized turn islands or replacing the existing signal with a roundabout) and any potential adverse impacts will require further study and coordination with the City of San Rafael, County of Marin, and the local community.

Finding

As discussed in Chapter 4.6 (pages 4.6-58 – 4.6-62) of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the mitigation measures necessary to reduce this significant and unavoidable Transportation and Circulation impact to a less-than-significant level cannot be implemented/authorized by the City of San Rafael. Specifically, since the Las Gallinas Avenue / Lucas Valley Road intersection is not part of a traffic fee program and intersection improvements have yet to be identified, impacts to the intersection will remain significant and unavoidable. A fair-share agreement will require Kaiser Permanente to contribute funding for future improvements even though there is no identified

improvement from the County of Marin. Ultimately, the County of Marin will be responsible for the review, approval and construction of any identified improvements to the intersection. (Exhibit A: Mitigation Measure **MM TRAF-3**).

Therefore, while the MM TRAF-3 will be adopted by the City, the City is unable to ensure that it will be implemented due to the involvement of other public agencies; consequently, this impact is determined to be significant and unavoidable despite the implementation of the cited mitigation.

## **E. IMPACT OVERVIEW**

### **(a) Significant Irreversible Environmental Changes**

Pursuant to CEQA Guidelines Section 21100(b)(2)(B), an EIR shall include a discussion of significant irreversible environmental changes that would result from implementation of a project.

CEQA Guidelines Section 15126.2(c) describes irreversible environmental changes in the following manner: “Uses of nonrenewable resources during the initial and continued phases of the Project may be irreversible since a large commitment of such resources makes removal or nonuse thereafter unlikely. Primary impacts and, particularly, secondary impacts (such as highway improvement which provides access to a previously inaccessible area) generally commit future generations to similar uses. Also, irreversible damage can result from environmental accidents associated with the Project. Irretrievable commitments of resources should be evaluated to assure that such current consumption is justified.”

As discussed in Chapter 6.2 (page 6-2) of the DEIR and supported by evidence contained within the entirety of the record of proceedings, construction activities associated with the Project would result in an irretrievable and irreversible commitment of non-renewable resources through the use of construction materials. This would include the use of fossil fuels (such as gasoline, diesel and oil) during the construction period, and the use of earth minerals and ores (such as concrete and steel). The Project would construct a new parking structure and implement associated traffic infrastructure mitigation measure improvements in areas that have already been developed, as well as build out the existing building at 1650 Los Gamos Drive with new medical office uses. Although off-site roadway improvements are required, the overall scope of the improvements have been previously identified in the *San Rafael General Plan 2020*; therefore, the Project would not modify regional access or result in access to a previously inaccessible area. As a proposed medical office use, the Project is not characteristic of a land use type that would result in disturbance or land modifications that could lead to irreversible environmental damage.

Based on the preceding and on the entirety of the record of proceedings, the City Council consequently finds that no significant irreversible effects will result from implementation of the Project.

## **(b) Growth Inducement**

Pursuant to CEQA Guidelines Section 15126.2(d), a project is considered growth-inducing if it would directly or indirectly foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment. Examples of projects likely to have significant growth-inducing impacts include extensions or expansions of infrastructure systems beyond what is needed to serve project-specific demand, and development of new residential subdivisions or industrial parks in areas that are currently only sparsely developed or are undeveloped. Typically, redevelopment projects on infill sites that are surrounded by existing urban uses are not considered growth-inducing because redevelopment by itself usually does not facilitate development intensification on adjacent sites.

As discussed in Chapter 6.4 (page 6-3) of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the Project would feature a new use and intensity on the site (medical office) previously developed for a similar use (general office). This new type of use is consistent with the existing pattern of commercial uses in the surrounding area. The intensification of use, as defined, is consistent with the City of San Rafael *General Plan 2020* designation for the subject property and is generally allowed in the office land use designation, although not allowed by the current PD Zoning for the Project site. Therefore, the range of potential environmental impacts, including growth-inducing impacts, considered in the San Rafael *General Plan 2020* EIR for development in the North San Rafael Commercial Center have been evaluated. Furthermore, the Project includes the relocation of specific existing services from areas throughout the City of San Rafael and Marin County. As a result, the Project is not considered growth-inducing.

Based on the preceding and on the entirety of the record of proceedings, the City Council consequently finds that no significant growth-inducing effects will result from implementation of the Project.

## **F. REVIEW OF PROJECT ALTERNATIVES**

The CEQA Guidelines indicate that an EIR must “describe a range of reasonable alternatives to the project, or to the location of the project, which could 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.” (Guidelines§ 15126.6[a].)

The Project Alternatives selected for this EIR were formulated considering the Objectives of the City of San Rafael and Kaiser Permanente’s Objectives outlined in Chapter 5 of the DEIR (pages 5-1 - 5-19). Alternatives provide a basis of comparison to the Project in terms of beneficial, significant, and unavoidable impacts. This comparative analysis is then used to consider reasonable, feasible options for minimizing environmental consequences of a project.

The Project Alternatives analyzed in the following sections include:

- No Project/No Medical Office Uses
- Reduced Medical Office Use
- Alternate Parking Structure Location
- Applicant-Implemented Traffic Improvements

## **(1) Alternative 1: No Project/No Medical Office Uses (Status Quo)**

### Description

The No Project Alternative, as required by CEQA, considers the potential impacts associated with the Project site assuming denial or withdrawal of the Project. As discussed in the DEIR (pages 5-9 through 5-12) and supported by evidence contained within the entirety of the record of proceedings, the No Project / No Medical Office Uses Alternative assumes there will be no new Kaiser Permanente MOB or medical uses at 1650 Los Gatos Drive and the existing commercial building will remain utilized for general office uses. The existing general office and surface parking lot uses will continue, and no new development will occur on the Project site, including a new parking structure or intersection improvements. Kaiser Permanente will continue to use its main medical campus at 99 Montecillo for medical office uses and will have limited ability for modernization of existing spaces.

### Impacts

The No Project / No Medical Office Uses Alternative would maintain the existing office building on the Project site and no new parking structure or intersection improvements would be proposed. There would be no excavation/grading, tree removal, or change of use to the existing structures. No new short-term air quality, GHG emissions, noise, or traffic impacts would occur during construction at the Project site under this alternative and neither would any potential long-term impacts associated with Project operation. Although some environmental impacts would be avoided under the No Project / No Medical Office Uses Alternative, this alternative would not have the benefits of improved medical facility services for local residents, improved stormwater drainage, improved pedestrian circulation and bicycle lanes on Lucas Valley Road, and roadway infrastructure improvements. In addition, since the medical services that would have been located at the Project site would need to be provided at other locations, there may be unknown environmental impacts at other locations.

### Finding

The City Council (1) rejects this No Project / No Medical Office Uses Alternative on the basis that it fails to meet basic project objectives and is infeasible for social and policy reasons; and (2) finds that each and any of these grounds separately and independently provide sufficient justification for rejection of this Alternative.

### Facts in Support of Finding

- The No Project / No Medical Office Uses Alternative fails to meet any of the Project objectives. For instance:
  - This Alternative would maintain the current uses on site, which would not allow for a new, modern, MOB nor would it relieve pressure on Kaiser Permanente's existing facilities.
  - No new infrastructure or traffic improvements would be included in this Alternative.
  - This Alternative would continue to contribute the same amount of vehicle trips at Kaiser Permanente's main campus at 99 Montecillo Road.

- Use of the existing office building at 1650 Los Gamos Drive would continue as a general office with daily usage and vehicular trips consistent with a general office building.
- The No Project / No Medical Uses Alternative is also infeasible for policy reasons, as it fails to comply with the intent of the City's *General Plan 2020*, which promotes economic vitality (Policy EV-2 Seek, Retain, and Promote Businesses that Enhance San Rafael) and an overarching vision for the North San Rafael Commercial Center (NH-136. Design Excellence). For instance, an under-utilized Project site and larger geographic area would not be 're-activated' or re-energized along Los Gamos Drive and would not increase the economic vitality of the existing Marin Commons office park.
- From a policy and social perspective, without development of the proposed Project, redevelopment of the Project site would likely be postponed indefinitely, new MOB facilities development would not be created on-site, and Kaiser Permanente would be required to find an alternate location(s) for the Project. In addition, Kaiser Permanente's existing clinics and medical facilities in the North Bay region would not be supplemented or supported as a result of this No Project / No Medical Office Uses Alternative, and, therefore would continue to experience the same operational loads and space challenges with regard to future modernization.

## **(2) Alternative 2: Reduced Medical Office Use**

### Description

As discussed in the DEIR (pages 5-9 through 5-12) and supported by evidence contained within the entirety of the record of proceedings, the Reduced Medical Office Use Alternative assumes Kaiser Permanente reduces the amount of proposed medical office uses in the existing 1650 Los Gamos Drive office building. The Reduced Medical Office Use assumptions are based on the traffic analysis results for the proposed Project. The Reduced Medical Office Use Alternative reduces the Project's overall trip generation (thereby resulting in less than significant impacts) by decreasing the amount of medical office use at the Project site from 100 percent to approximately 70 percent and keeping the remaining 30 percent of use as general office. As a result, some of the planned services would no longer be relocated to 1650 Los Gamos Drive and would remain at other existing Kaiser Permanente facilities, primarily at the 99 Montecillo Road Kaiser Permanente San Rafael Medical Center or would be located at an undetermined alternative off-site location(s). The Reduced Medical Office Use Alternative would still require a new parking structure to provide adequate parking on site and meet City Zoning Code requirement, however, the parking structure contemplated by the Project could be reduced by approximately 100 parking spaces. The Reduced Medical Office Use Alternative would require the same entitlements that would be requested as part of the Project.

### Impacts

Many of the same construction and operational impacts would occur under the Reduced Medical Office Use Alternative, including impacts to Air Quality and Noise. In addition, since Kaiser Permanente would need to find a secondary site(s) to accommodate the remaining 30 percent of uses that would not be located at 1650 Los Gamos, this site(s) may not be as centrally located or have

ease of access or available parking. Thus, the Reduced Medical Office Use Alternative could result in the same or more overall trip generation and GHG estimates, though they will not all occur at this location.

### Finding

The City Council (1) rejects this alternative on the basis that it fails to meet basic project objectives, is infeasible for social and policy reasons, and is not environmentally superior to the proposed project; and (2) finds that each and any of these grounds separately and independently provide sufficient justification for rejection of this Alternative.

### Facts in Support of Finding

- This Alternative achieves some, but not all, of the Project objectives, including failing to achieve the primary Project objective for a single centralized MOB. In addition:
  - In order to address the remaining 30% of medical office space removed from this Alternative, Kaiser would be required to find alternative locations that may not be as centrally located or have ease of access or available parking.
  - General site improvements included as part of the Project would be included in this Alternative.
  - Kaiser Permanente would continue to require additional medical office space throughout San Rafael and Marin County and, therefore, would continue to experience the same operational loads and space challenges with regard to future modernization at the main hospital campus.
- From a social and policy perspective, Kaiser Permanente would continue to have multiple medical office locations and would therefore continue to impact local neighborhoods or other areas in San Rafael and Marin County with additional vehicle trips.

## **(3) Alternative 3: Alternative Parking Structure Location**

### Description

As discussed in the DEIR (pages 5-8 through 5-9) and supported by evidence contained within the entirety of the record of proceedings, the Alternative Parking Structure Location Alternative assumes Kaiser Permanente will modify and relocate the Project's proposed parking structure to the surface parking lot to the north of the existing office building (southeast of Los Gatos Drive). This Alternative will result in an overall slightly smaller development footprint but will require additional height (i.e., greater than the three-level structure design included in the proposed Project) to achieve the City's Municipal Code minimum parking requirement for medical office use. The Alternative Parking Structure Alternative will displace the mature landscaping vegetation on the alternate site but will retain the mature landscaping vegetation currently growing around the existing western surface parking lot.

### Impacts

The Alternate Parking Structure Location Alternative would still contribute the same amount of traffic trips as the Project. The Alternative Parking Structure

Alternative would result in less short-term construction by eliminating excavation into the hillside to build the parking structure but would still require the same amount of overall construction disturbance and off-site improvements. Impacts to Air Quality, GHG Emissions, Noise, and Transportation/Circulation would continue to be potentially significant without mitigation implementation. Furthermore, the taller parking structure design, located closer to Lucas Valley Road and without the aid of existing screen trees could potentially present a new visual impact.

#### Finding

The City Council (1) rejects this alternative on the basis that it fails to meet basic Project objectives, does not sufficiently avoid or substantially reduce the Project's significant environmental impacts, and is infeasible for social and policy reasons; and (2) finds that each and any of these grounds separately and independently provide sufficient justification for rejection of this Alternative.

#### Facts in Support of Finding

- The Alternate Parking Structure Location Alternative will not meet Project Objective #7, in that it may create a structure that would be significantly more visibly prominent at the corner of Lucas Valley Road and Los Gamos Drive.
- The Alternative Parking Structure Alternative does not offer any significant environmental advantages in comparison with the Project. The Alternative will include the same amount of operational vehicle trips and result in similar environmental impacts and required mitigation measures. Thus, it does not avoid or substantially lessen the proposed Project's significant and unavoidable impacts.
- The Alternative Parking Structure Alternative is infeasible for policy reasons, as it fails to comply with the intent of the City's *General Plan 2020*, which protect views (Policy CD-5: Views), design consistency (CD-10: Nonresidential Guidelines) and unnecessary light and glare (CD-19. Lighting). Since locating the parking structure on the eastern parcel of the Project site would create a taller structure with impacts to local view corridors, the Alternative will create a new source of light and glare that will not be as effectively screened by existing landscaping as the Project.
- The Alternative Parking Structure Alternative is also infeasible for policy reasons because it will not be consistent with the existing PD 1590 or revised PD design standards or the San Rafael *General Plan 2020* height limits for this area of San Rafael in that it will require a modification to the allowable height restrictions for the District.

### **(4) Alternative 4: Applicant-Implemented Traffic Improvements**

#### Description

As discussed in the DEIR (pages 5-15 through 5-18) and supported by evidence contained within the entirety of the record of proceedings, the Applicant-Implemented Traffic Improvements Alternative assumes Kaiser Permanente would voluntarily undertake the cost of specific traffic and infrastructure improvements above and beyond what is required by the City's General Plan and the Project's identified fair-share contribution to improve intersection operations at Lucas Valley Road and Los Gamos Drive and the US 101 southbound and northbound ramps.

Mitigation measures identified in Chapter 4.6 of the DEIR (MM TRAF1, MM TRAF-3, and MM TRAF-4) to improve impacted intersections and reduce potential adverse effects to less than significant levels require inter-agency coordination, review and approval of the intersection improvements. As mitigation measures, the impacts can be reduced pursuant to CEQA; however, until the improvements are completed, the potential traffic and circulation conflicts remain. Therefore, the Applicant-Implemented Traffic Improvements Alternative is premised on Kaiser Permanente developing intersection designs and coordinating the review and permitting approval of the improvements before the impact threshold is triggered. As such, the Applicant-Implemented Traffic Improvements Alternative would avoid the significant impacts related to traffic impacts identified with the project, including Impact TRAF-1 and Impact TRAF-4, by voluntarily gaining approvals and constructing the intersection improvements at the Lucas Valley Road and Los Gamos Drive intersection. Permitting and construction of the intersection would still require multi-agency coordination and entitlement review and approval.

A full list of intersection, roadway, and pedestrian improvements to be undertaken as part of this Applicant-Implemented Traffic Improvements Alternative is identified in Table 5-3 of the DEIR (pages 5-16 – 5-17).

#### Impacts

The Applicant-Implemented Traffic Improvements Alternative will contribute the same amount of traffic trips as the Project. However, impacts to Transportation / Circulation (TRAF-1 and TRAF-4) will be reduced to less than significant, while impacts to Air Quality and GHG Emissions will continue to be potentially significant without mitigation implementation.

#### Finding

The City Council (1) adopts this alternative as the approved “Revised Project” for all of the specific economic, social and environmental considerations stated in the Project findings and in the entirety of the proceedings; and (2) finds that each and any of these grounds separately and independently provide sufficient justification for adoption of this Alternative.

#### Facts in Support of Finding

- The Applicant-Implemented Traffic Improvements Alternative would achieve all Project objectives. In addition, because this alternative would be providing up-front improvements that would improve the existing vehicular and pedestrian circulation network, some of the Project objectives would be further enhanced, including Objective #6.
- Since this Alternative would provide up-front improvements to improve the existing vehicular and pedestrian circulation network, it provides more efficient and improved intersection operations than as originally contemplated under the proposed Project.
- The Applicant-Implemented Traffic Improvements Alternative is identified in the DEIR as the Environmentally Superior Alternative. The Alternative would still contribute the same amount of traffic trips as the proposed Project, however, impacts to Transportation and Circulation would be reduced to less than significant, while impacts to Air Quality and GHG Emissions would continue to be potentially significant without mitigation implementation.

- The Applicant-Implemented Traffic Improvements Alternative creates a funding source and impetus to construct identified off-site improvements to alleviate potential traffic issues at the Los Gamos Drive / Lucas Valley Road intersection.
- The Applicant-Implemented Traffic Improvements Alternative would be consistent with and implement Policy C-6 of the San Rafael *General Plan 2020*.
- The City of San Rafael would benefit from a major monetary contribution of the intersection improvement and the intersection improvement itself, which is identified as an improvement required by the *General Plan 2020*.
- The Applicant-Implemented Traffic Improvements Alternative would commit Kaiser Permanente to funding the identified improvements in addition to paying its Traffic Mitigation Fees, the latter of which could be utilized for other traffic improvements throughout San Rafael.

### **Approved Alternative for Adoption**

Consistent with CEQA Guidelines Section 15126.6(e), an environmentally superior alternative must be identified among the alternatives that were studied. The DEIR concludes (Chapter 5.9; page 5-18 – 5-19) that the Environmentally Superior Alternative is the Applicant-Implemented Traffic Improvements Alternative for the following reasons:

- The Alternative meets, and in some cases additionally enhances, all Project objectives, including furthering community support of improved highway access and circulation. Furthermore, this Alternative includes additional circulation improvements, including upgrades to pedestrian sidewalks and bicycle lanes within the Project area.
- The Applicant-Implemented Traffic Improvements Alternative is feasible from policy, social, economic, and environmental standpoints.
- Although Impact TRAF-3 and TRAF-5 would remain significant and unavoidable under the Alternative for reasons discussed in DEIR Chapter 4.6 Transportation and Circulation due to the fact that the mitigation measures identified for the Los Gamos / Las Gallinas intersection are not proposed to be implemented by Marin County in the near future, the Applicant-Implemented Traffic Improvements Alternative would significantly reduce potential impacts to the local circulation network, and avoid significant impacts at the Los Gamos Drive / Lucas Valley Road intersection (Impacts TRAF-1 and TRAF-4). Environmental impacts associated with other potential areas of concern, including air quality and GHG emissions, will be mitigated to less than significant levels in this Alternative, as same under the proposed Project.
- The Applicant-Implemented Traffic Improvements Alternative mirrors the proposed Project in all instances, except for additionally providing up-front improvements to improve the existing vehicular and pedestrian circulation network. As such, the “Project” as proposed under the Applicant-Implemented Traffic Improvements Alternative is fully analyzed in the DEIR, and the findings of this resolution that address the proposed Project are adopted as similarly addressing the Applicant-Implemented Traffic Improvements Alternative.

The City Council, in its review of the Final EIR/Response to Comments (FEIR), considers this Applicant Implemented Traffic Improvements Alternative preferable to the originally proposed Project for all the reasons and evidence presented above and as included in these findings based on the entirety of the proceedings. As such, the City Council hereby approves of the Applicant-Implemented Traffic Improvements Alternative as the adopted "Revised Project."

**BE IT FURTHER RESOLVED**, that the City Council adopts the following Statement of Overriding Considerations:

**G. STATEMENT OF OVERRIDING CONSIDERATIONS**

The City Council adopts the following Statement of Overriding Considerations based on information in the FEIR and all other information in the record, including the proposal of public benefits outlined in the July 25, 2018 letter from Judy Coffey, Kaiser Permanente's SVP/Area Manager Marin/Sonoma Service Area to City Manager, Jim Schutz (on file with the Department of Community Development). The City Council recognizes that significant and unavoidable impacts would result from implementation of the Project.

Pursuant to Section F of this Resolution, the City Council approves of the Applicant-Implemented Traffic Improvements Alternative as the adopted "Revised Project." The City Council hereby declares that, pursuant to State CEQA Guidelines Section 15093, the City Council has balanced the benefits of the Revised Project against any unavoidable environmental impacts in determining whether to approve the Revised Project. Pursuant to the State CEQA Guidelines, if the benefits of the Revised Project outweigh the unavoidable adverse environmental impacts, those impacts may be considered "acceptable."

The City Council hereby declares that the EIR has identified and discussed significant effects which may occur as a result of the Revised Project. With the implementation of the Mitigation Measures discussed in the EIR and adopted by this Resolution, these effects can be mitigated to a level of less than significant except for the two unavoidable significant impacts discussed in Section F of this Resolution.

The City Council hereby declares that it has made a reasonable and good faith effort to eliminate or substantially mitigate the potential impacts resulting from the Revised Project. The City Council hereby declares that to the extent any Mitigation Measures recommended in the EIR would not be incorporated, such Mitigation Measures are infeasible because they would impose restrictions on the Revised Project that would prohibit the realization of specific economic, social and other benefits that the City Council finds outweigh the unmitigated impacts.

The City Council further finds that except for the Applicant-Implemented Traffic Improvements Alternative, all other alternatives set forth in the EIR are rejected as being either inconsistent with project objectives, infeasible because they would prohibit the realization of specific policy, social and other benefits that this City Council finds outweigh any environmental benefits of the alternatives or are otherwise not environmentally superior.

The City Council further finds that the Applicant-Implemented Traffic Improvements Alternative and the Public Benefits provided by the Applicant (as listed below) off-set the potentially significant and unavoidable impacts identified in Impacts TRAF-3 and TRAF-5 to the Las Gallinas Ave/ Lucas Valley Rd intersection. Specifically, given that the intersection is outside the City's jurisdiction and there is no current identified improvement for this County intersection, and any modifications would require public outreach prior to design approval, the City Council hereby finds that the Applicant's public benefit offer outweighs its impacts.

The reasons discussed below summarize the benefits, goals and objectives of the Revised Project, and provide, in addition to the findings, the detailed rationale for adoption of the Revised Project. Collectively, these overriding considerations are sufficient to outweigh the adverse environmental impacts of the Revised Project.

The City Council hereby declares that, having reduced the adverse significant environmental effect of the Project to the extent feasible by recommending adoption of the Mitigation Measures contained in this Resolution, having considered the entire administrative record on the Project, and having weighed the benefits of the Revised Project against its unavoidable adverse impact after mitigation, the City Council finds that each of the following social, economic and environmental benefits of the Revised Project separately and individually outweigh the single potential unavoidable adverse impact and render that potential adverse environmental impact acceptable based upon the following overriding considerations:

**1. Furtherance of City Goals and Policies**

The Revised Project will implement, and is consistent with, City goals, objectives, policies and programs for the Project Site described in the following City General Plan Elements: Land Use, Neighborhood, Sustainability, Circulation, Economic Vitality, and Safety, as thoroughly analyzed in the Project DEIR. The Revised Project will also support San Rafael's Objectives and Design Guidelines for the North San Rafael Commercial Center Neighborhood by proposing a design that provides an entry and focal point off Los Gamos Drive, provides building and parking area setbacks improved with drought-tolerant landscaping, and screens mechanical and other roof top equipment from view. Further, building interiors will be accented with artwork created by local artists.

**2. Development of an Existing Infill Site**

The Revised Project will facilitate the development of an infill site in an existing urbanized area in San Rafael and will result in regional environmental benefits because it will not require the extension of utilities or roads into undeveloped areas, is convenient to major arterials, services and transit, including a SMART shuttle, and will not directly or indirectly lead to the development of greenfield sites in the San Francisco Bay Area.

**3. Significant Community Benefits and Traffic/Infrastructure Investments**

The Revised Project, as defined and detailed in the DEIR's Alternative 4: Applicant-Implemented Traffic Improvements, results in economic and community benefits to the City by providing more efficient and improved intersection operations. As explained in the DEIR, Kaiser Permanente will voluntarily construct identified traffic and infrastructure improvements at Los Gamos Drive and Lucas Valley Road above and beyond what is required by the City's General Plan and the Project's identified fair-share contribution in order to improve intersection operations and reduce

Revised Project impacts to less than significant. Intersection improvements include grading and restriping, traffic signal installation, new sidewalks and curbs, pedestrian level lighting, and an extension of a Class II bicycle lane.

In addition, as an additional community benefit and voluntary Revised Project contribution, Kaiser Permanente offers to fully fund these identified intersection improvements—at an approximate cost of \$1,050,000—with no expectation of reimbursement by the City and County as initially contemplated in the DEIR.

This voluntary contribution is in addition to \$1,855,502 to be assessed by the City as a Project Development Impact Fee for Traffic Mitigation to be used toward future citywide circulation and improvement projects identified in the City's General Plan.

**4. Increased Economic Impacts to the City of San Rafael**

The Revised Project will positively contribute to the City's local economy through new capital investment, as well as through retaining Kaiser's approximately 315 employees in the City and adding an additional 174 construction and trades jobs at peak construction. These employees are a primary source of potential business as a result of their patronizing restaurants, shops and cafes.

**5. Enhanced Public Safety and Public Health**

The Revised Project will provide a major medical care facility to serve existing and future demand in the City of San Rafael and greater Marin region, which will in turn result in an increase in the quality and efficiency of medical care delivery to patients. The Revised Project will supplement and support existing Kaiser medical offices, hospitals, and other facilities in the region that are currently constrained in their ability to enhance existing services or to renovate clinical areas. The Revised Project will also provide integrated care options for local residents at a conveniently located facility with easy access to the freeway and proximity to public transit options.

As part of Kaiser Permanente's Transportation Demand Management (TDM) plan intended to reduce midday and peak hour vehicle trips, the MOB will include a small café serving healthy meals and snacks, and healthy cooking demonstrations and nutrition talks will be available to members, staff, and nonmembers. The café will operate Monday-Saturday between the hours of 8am and 6pm.

In addition, as an ancillary use to the Revised Project's proposed primary care medical uses, Kaiser Permanente will relocate and expand its Health Education Center—a free and a valuable resource for individuals to access current information on health and wellness and disease management and online tools to help manage health conditions. Although Kaiser Permanente's Health Education Center has always been open to the public, as part of the Project it will now be centrally located with greater accessibility to those who may be on campus or prescribed its use as medical follow up (e.g., smoking cessation, etc.). The expanded Health Education Center will provide:

- a. Health Education professionals available to assist with online health information searches, Monday-Friday, 9am- 5pm;
- b. Internet access to kp.org, My Doctor Online, the Kaiser Permanente Clinical Library, and other evidence-based health-related sites;

- c. Blood pressure self-check equipment;
- d. Body Mass Index scale and body fat composition analyzer;
- e. Health information tip sheets (electronic and soft copy); and
- f. Resting metabolic rate testing with weight management education, available to members and nonmembers for a nominal fee.

The Health Education Center also offers classes to community members, including a no-cost, six-week smoking cessation program and classes on creating an Advance Health Care Directive.

## **6. Implementation of Sustainable Development Strategies**

The Revised Project will implement a comprehensive environmental sustainability strategy, including complying with Title 24 (California Energy Efficiency Standards) and seeking to achieve a Certified Leadership in Energy and Environmental Design (LEED) Gold certification or equivalent. In order to achieve a high level of sustainability and a LEED Gold rating, Kaiser Permanente will also implement many of its current green strategies, such as:

- a. Solar panel distribution on the Project site is anticipated to provide much of the electrical needs at the building and parking structure;
- b. 39 Electric Vehicle charging stations will be installed at the MOB and parking structure, which exceeds the current local requirement and promotes Clean Vehicle use;
- c. Shuttles to transport members and staff from other local Kaiser Permanente facilities and the regional SMART rail service;
- d. Standard-55 American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE) compliance, a 20% better energy performance than standard ASHRAE;
- e. Energy submetering for power, gas and water for optimal measurement and verification ability for post occupancy;
- f. Direct Digital Control HVAC system for maximum energy savings;
- g. High efficiency filtration for better indoor air quality;
- h. 100% LED lighting systems with occupancy sensors throughout building;
- i. High efficiency exterior that will reduce light pollution and save energy;
- j. Ultra-low flow water fixtures, including toilets and sinks;
- k. Photovoltaic thermal system that leverages the heat created in the photovoltaic system to heat the building water supply;
- l. Recycled water for landscaping irrigation, toilets, cooling towers and closed loop hydronic system;
- m. DIRT Walls, an innovative, modular wall system that allows for future flexibility and reduction in initial construction waste and duration;
- n. Bike storage and racks for physicians, staff, and members;
- o. On-site showers for staff and physicians; and,
- p. Use of PVC-free materials, low or no volatile organic compound (VOC) free paints, CFC-free refrigerants, formaldehyde-free casework, and use of recycled building materials.

## **7. Greenhouse Gas Emissions Reduction and Congestion Relief**

The Revised Project incorporates a TDM plan that will encourage alternate modes of transportation other than single-occupancy vehicles. The following TDM plan will be provided:

- a. A TDM manager who is responsible for, but not limited to, developing and disseminating transportation information, aiding employees in the selection of transportation options, and communicating available transit alternatives;
- b. An on-line transit information center, as part of the internal website that provides information on the Kaiser Permanente TDM, that describes current public transit, vanpools, carpools and shuttle services serving the area;
- c. A carpool and vanpool matching program;
- d. Commuter subsidy for bicycle, transit or car/vanpool use (current subsidy is \$60/month);
- e. Pre-tax commuter spending accounts;
- f. Guaranteed Ride Home program; and
- g. Local Kaiser Shuttle to shuttle employees to and from SMART Station and other Kaiser facilities in the City of San Rafael.

The Revised Project will also provide designated on-site bicycle parking, as well as dedicated parking for carpool/vanpools and electric charging stations for electric vehicles.

The Project at 1650 Los Gamos Drive would promote sustainability by providing a centralized medical office facility that is in close proximity for all Marin residents. As noted above, patients currently visit several different Kaiser facilities throughout Marin County. The development of the MOB should eliminate current vehicle trips traveled through existing neighborhoods in San Rafael, which will, in turn reduce greenhouse gas emissions and other related hazards.

#### **H. ADOPTION OF MITIGATION MONITORING AND REPORTING PROGRAM**

Pursuant to Public Resources Code section 21081.6, the City Council hereby adopts the Mitigation Monitoring and Reporting Program attached to this Resolution as Exhibit A, to be made a condition of approval of the Revised Project. In the event of any inconsistencies between the Mitigation Measures as set forth herein and the Mitigation Monitoring and Reporting Program, the Mitigation Monitoring and Reporting Program shall control.

#### **I. STAFF DIRECTION**

A Notice of Determination shall be filed with the County of Marin and the State Clearinghouse within five (5) working days of final Project approval.

I, Lindsay Lara, Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of San Rafael, held on Monday, the 17th of September 2018, by the following vote, to wit:

AYES: COUNCILMEMBERS Bushey, Colin, Gamblin, McCullough and Mayor Phillips

NOES: COUNCILMEMBERS None

ABSENT: COUNCILMEMBERS None

SAN RAFAEL CITY COUNCIL

BY:   
LINDSAY LARA, City Clerk

Exhibit A – Mitigation Monitoring and Reporting Program (MMRP)

**EXHIBIT A: MITIGATION MONITORING AND REPORTING PROGRAM**

Mitigation Measures	Implementation Responsibility	Agency Responsible for Monitoring	Monitoring and Reporting Action	Monitoring Schedule	Compliance Verification
<b>Aesthetics</b>					
<b>MM AES-1:</b> Prior to the issuance of any building permits, the Project applicant shall submit to the satisfaction of the Community Development Department Director, Project building plans that include a photometric lighting study demonstrating that outdoor lighting fixtures meet the requirements of the California Energy Code (known as Part 6, Title 24 of the California Code of Regulations).	Applicant/Contractor	Planning Department/ Building Division	City of San Rafael Planning Department to confirm photometric study and lighting plan.  City of San Rafael Building Department to review Plan for compliance with required lighting specifications	Prior to issuance of building permit.	<i>Verified by:</i>  <i>Date:</i>
<b>Air Quality</b>					
<b>MM AIR-1. Include basic measures to control dust and exhaust during construction.</b> During any construction period ground disturbance, Kaiser Permanente shall ensure that the Project contractor implement measures to control dust and exhaust. Implementation of the measures recommended by BAAQMD and listed below would reduce the air quality impacts associated with grading and new construction to a less than significant level. The contractor shall implement the following best management practices that are required of all projects: <ol style="list-style-type: none"> <li>1) All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.</li> <li>2) All haul trucks transporting soil, sand, or other loose material off-site shall be covered.</li> <li>3) 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.</li> <li>4) All vehicle speeds on unpaved roads shall be limited to 15 miles per hour (mph).</li> <li>5) 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</li> </ol>	Applicant/Contractor	Planning Department/ Building Division	City of San Rafael Planning Department to confirm site and equipment specifications are identified on applicable construction plans and specifications.  City of San Rafael Building Division to inspect site during construction to ensure compliance with Project construction plans.	Prior to issuance of building permit.  During construction	<i>Verified by:</i>  <i>Date:</i>

Mitigation Measures	Implementation Responsibility	Agency Responsible for Monitoring	Monitoring and Reporting Action	Monitoring Schedule	Compliance Verification
<p>used.</p> <p>6) Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 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.</p> <p>7) 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.</p> <p>8) Post a publicly visible sign with the telephone number and person to contact at the Lead Agency 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.</p>					
<b>Biological Resources</b>					
<p><b>MM BIO-1:</b> Prior to issuance of a grading or building permit, the Project sponsor shall conduct a preconstruction nesting bird and bat survey. Preconstruction surveys shall include the following:</p> <ol style="list-style-type: none"> <li>1) Perform any vegetation trimming and/or removal outside of the bird nesting season (Sept. 1 – Feb. 14);</li> <li>2) Provide a worker environmental awareness training for construction personnel;</li> <li>3) Perform preconstruction surveys for nesting migratory birds by a qualified biologist no more than 72 hours prior to the start of construction for activities occurring during the breeding season (February 15 to August 31); and</li> <li>4) If work is to occur within 300 feet of active raptor nests or 50 feet of active passerine nests, non-disturbance buffers will be established at a distance sufficient to minimize disturbance.</li> </ol>	Applicant/Biologist/ Contractor	Planning Department	<p>City of San Rafael Planning to review and approve a qualified biologist.</p> <p>Conduct pre-construction survey per time frames described in Mitigation Measure BIO-1.</p> <p>Follow protocol described in Mitigation Measure BIO-1 during construction.</p>	<p>Prior to issuance of building permit.</p> <p>Prior to construction</p> <p>During construction</p>	<p>Verified by:</p> <p>Date:</p>
<b>Hydrology and Water Quality</b>					
<p><b>MM HYDRO-1: Prior to grading activities, the Project applicant shall prepare a Stormwater Pollution Prevention Plan (SWPPP) in accordance with the requirements of the statewide Construction</b></p>	Applicant/Contractor	Building Department / Public Works/ RWQCB	City of San Rafael / RWQCB to review and approve SWPPP	Prior to issuance of building permit.	<p>Verified by:</p> <p>Date:</p>

Mitigation Measures	Implementation Responsibility	Agency Responsible for Monitoring	Monitoring and Reporting Action	Monitoring Schedule	Compliance Verification
<p><b>General Permit.</b> The SWPPP shall be prepared by a Qualified SWPPP Developer (QSD). The SWPPP shall include the minimum Best Management Practices (BMPs) required for the identified risk level. The SWPPP shall be designed to address the following objectives:</p> <ol style="list-style-type: none"> <li>1) All pollutants and their sources, including sources of sediment associated with construction, construction site erosion, and all other activities associated with construction activity are controlled;</li> <li>2) Where not otherwise required to be under a Regional Water Quality Control Board permit, all non-stormwater discharges are identified and either eliminated, controlled, or treated;</li> <li>3) Site BMPs are effective and result in the reduction or elimination of pollutants in stormwater discharges and authorized non-stormwater discharges from construction activity; and</li> <li>4) Stabilization BMPs installed to reduce or eliminate pollutants after construction are completed.</li> <li>5) BMP implementation shall be consistent with the BMP requirements in the most recent version of the California Stormwater Quality Association Stormwater Best Management Handbook-Construction or the Caltrans Stormwater Quality Handbook Construction Site BMPs Manual.</li> </ol>			Implement BMPs prior/during construction	Field inspections during construction	
<p><b>MM HYDRO-2:</b> Prior to a certificate of occupancy, the Project applicant shall verify that operational stormwater quality control measures that comply with the requirements of the current Phase II Small MS4 Permit have been implemented. Responsibilities include but are not limited to:</p> <ol style="list-style-type: none"> <li>1) Designing BMPs into Project features and operations to reduce potential impacts to surface water quality and to manage changes in the timing and quantity of runoff associated with operation of the Project. These features shall be included in the design-level drainage plan and final development drawings.</li> <li>2) The proposed Project shall incorporate site design measures and Low Impact Development design standards, including minimizing disturbed areas and impervious surfaces, infiltration, harvesting, evapotranspiration, and/or bio-treatment of stormwater runoff.</li> </ol>	Applicant/Engineer	Public Works/Planning Department/ RWQCB	<p>City of San Rafael DPW reviews Project Applicant Checklist for NPDES Permit Requirements and Post-Construction BMP Operation and Maintenance Plan</p> <p>Implement BMPs prior/during to construction</p> <p>Review annual monitoring report</p>	<p>Prior to certificate of occupancy</p> <p>Field inspections during construction</p> <p>Post-construction</p>	<p>Verified by:</p> <p>Date:</p>

Mitigation Measures	Implementation Responsibility	Agency Responsible for Monitoring	Monitoring and Reporting Action	Monitoring Schedule	Compliance Verification
<p>3) The project applicant shall establish an Operation and Maintenance Plan. This plan shall specify a regular inspection schedule of stormwater treatment facilities in accordance with the requirements of the Phase II Small MS4 Permit.</p> <p>4) Funding for long-term maintenance of all BMPs shall be specified.</p>					
<b>Noise</b>					
<p><b>MM NOISE-1. Incorporate best management practices during Project construction activities.</b> Reasonable regulation of the hours of construction, as well as regulation of the arrival and operation of heavy equipment and the delivery of construction material, are necessary to protect the health and safety of persons, promote the general welfare of the community, and maintain the quality of life. In compliance with the City's Municipal Code, the Project shall adhere to the allowable construction hours of 7:00 a.m. to 6:00 p.m. on weekdays and 9:00 a.m. to 6:00 p.m. on Saturdays. Construction activities are prohibited on Sundays and national holidays. Additionally, the construction crew shall adhere to the following construction best management practices to reduce construction noise levels emanating from the site and minimize disruption and annoyance at existing noise-sensitive receptors in the Project vicinity. Construction Best Management Practices</p> <p>In order to reduce potential significant impacts from temporary construction activities, Kaiser Permanente shall be required to develop a construction noise control plan, including, but not limited to, the following available controls:</p> <ol style="list-style-type: none"> <li>1) Construct temporary noise barriers, where feasible, to screen stationary noise-generating equipment. Temporary noise barrier fences would provide a 5 dBA noise reduction if the noise barrier interrupts the line-of-sight between the noise source and receptor and if the barrier is constructed in a manner that eliminates any cracks or gaps.</li> <li>2) Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.</li> <li>3) Unnecessary idling of internal combustion engines should be strictly prohibited.</li> </ol>	Applicant/Contractor	Planning Department/ Building Department	<p>City of San Rafael Planning / Building to review and approve project specifications and grading and construction plans for inclusion of this measure into specifications.</p> <p>Implement noise reduction measures during construction hours</p>	<p>Prior to issuance of building permit.</p> <p>Field inspections during construction</p>	<p>Verified by: Date:</p>

Mitigation Measures	Implementation Responsibility	Agency Responsible for Monitoring	Monitoring and Reporting Action	Monitoring Schedule	Compliance Verification
<p>4) Locate stationary noise-generating equipment, such as air compressors or portable power generators, as far as possible from sensitive receptors as feasible. If they must be located near receptors, adequate muffling (with enclosures where feasible and appropriate) shall be used to reduce noise levels at the adjacent sensitive receptors. Any enclosure openings or venting shall face away from sensitive receptors.</p> <p>5) Utilize "quiet" air compressors and other stationary noise sources where technology exists.</p>					
<p>6) Construction staging areas shall be established at locations that will create the greatest distance between the construction-related noise sources and noise-sensitive receptors nearest the Project site during all Project construction.</p> <p>7) Locate material stockpiles, as well as maintenance/equipment staging and parking areas, as far as feasible from residential receptors.</p> <p>8) Route construction-related traffic along major roadways and as far as feasible from sensitive receptors. Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the Project site.</p> <p>9) The contractor shall prepare a detailed construction schedule for major noise-generating construction activities. The construction plan shall identify a procedure for coordination with adjacent residential land uses so that construction activities can be scheduled to minimize noise disturbance.</p> <p>10) Designate a "disturbance coordinator" who would be responsible for responding to any complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., bad muffler, etc.) and will require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include in it the notice sent to neighbors regarding the construction schedule.</p> <p>11) The implementation of the reasonable and feasible controls outlined above would reduce construction noise levels emanating from the site by 5 to 10 dBA in order to minimize disruption. With the implementation of these controls, as well as the Municipal Code limits on allowable construction hours, and</p>					

Mitigation Measures	Implementation Responsibility	Agency Responsible for Monitoring	Monitoring and Reporting Action	Monitoring Schedule	Compliance Verification
considering that construction is temporary, the impact would be reduced to a less-than-significant level.					
<b>Transportation and Circulation</b>					
<p><b>MM TRAF-1. Signalize Lucas Valley Road / Los Gamos Drive.</b> In coordination with the City of San Rafael, the County of Marin Department of Public Works, and Caltrans, Kaiser Permanente shall pay the fair share cost to signalize the Lucas Valley Road / Los Gamos Drive intersection to mitigate poor operating conditions. Signalizing the intersection is consistent with improvements identified in the San Rafael General Plan 2020. Due to its close proximity to the US-101 Ramp terminal intersections, the new signal should include traffic signal interconnect and be coordinated with the adjacent interchange signals. Additionally, interagency coordination will be required during design, construction and maintenance of the new signal. Therefore, a memorandum of understanding (MOU) will be required between the City of San Rafael and the County of Marin to document the management and maintenance of the new signal, since the US 101/Lucas Valley interchange signals and the new Lucas Valley Road / Los Gamos Drive signal would need to be operated and maintained by one or multiple agencies.</p> <p>Signalizing the intersection would mitigate the project impact to a <b>less than significant</b> impact. However, implementation of the mitigation measure requires the intersection improvements to be fully funded and constructed. Therefore, until and unless the MOU and fair-share contributions are finalized, and the design and construction of the intersection is permitted and approved, the Project will result in a <b>significant and unavoidable</b> impact.</p>	Applicant/Contractor	Public Works/ Planning Department/ County of Marin/ Caltrans	<p>City of San Rafael to prepare MOU prior to Project approval.</p> <p>Review MOU and project plans to ensure measure is implemented.</p> <p>Installation of signal / conduit</p>	<p>Prior to final occupancy</p> <p>Site inspection post-construction</p>	<p>Verified by: Date:</p>

Mitigation Measures	Implementation Responsibility	Agency Responsible for Monitoring	Monitoring and Reporting Action	Monitoring Schedule	Compliance Verification
<p><b>MM TRAF-2. Kaiser Permanente shall implement additional TDM measures.</b> Kaiser Permanente shall implement a TDM program, as described in Chapter 3: <i>Project Description</i> and Section 4.6.4.2: <i>Transportation Demand Management Considerations</i> of this traffic impact chapter (Section 3.1.1 of the 1650 Los Gamos Drive FTIA). Implementation of these TDM strategies would go beyond what is required as part of the PD District, with the goal of reducing employee vehicle trips, thereby reducing the Project's impact on the regional network.</p> <p>Based on a quantitative assessment of the TDM measures proposed in the <i>1650 Los Gamos Drive FTIA</i>, the TDM strategies may yield a Project vehicle trip generation reduction of up to 12-percent between the Miller Creek Off-Ramp and Miller Creek On-Ramp. If maximally effective, implementation of the Project's TDM strategies would result in a project trip reduction of up to 10-15 AM peak hour trips along this segment, which would result in a project contribution of less than a 0.01 increase in volume to capacity ratio. As presented in the <i>1650 Los Gamos Drive FTIA</i>, implementation of the Project's TDM measures will achieve this reduction, however, Kaiser will annually quantitatively analyze and monitor employee vehicle trip generation data via comprehensive employee surveys and make adjustments to its TDM measures as needed to achieve the stated reduction.</p> <p>As described in the 4.6.4.2: <i>Transportation Demand Management Considerations</i> and the Fehr &amp; Peers <i>1650 Los Gamos Drive FTIA</i>, Kaiser Permanente shall conduct an annual employee survey and prepare a monitoring report that evaluates the effectiveness of the Project's TDM Plan. The TDM program will be submitted to the City of San Rafael for comment and review. Kaiser Permanente will coordinate with the City of San Rafael, as necessary. The annual survey shall demonstrate how the TDM measures reduce the Project's impact to peak-hour volume to capacity ratio for the Miller Creek on and Off Ramp.</p>	Applicant/Contractor	Public Works/ Planning Department	City of San Rafael Planning/DPW to review TDM to ensure measures are implemented.	<p>Prior to final occupancy</p> <p>Applicant to submit report by December 1<sup>st</sup>, annually.</p>	<p>Verified by: Date:</p>

Mitigation Measures	Implementation Responsibility	Agency Responsible for Monitoring	Monitoring and Reporting Action	Monitoring Schedule	Compliance Verification
<p><b>MM TRAF-3. Improve Intersection Operations at Lucas Valley Road/Las Gallinas Avenue.</b> Improvements at the Lucas Valley Road/Las Gallinas Avenue intersection have yet to be identified through the City of San Rafael's General Plan 2020; however, several vehicle capacity improvements (such as reconfiguring the intersection to remove channelized turn islands or replacing the existing signal with a roundabout) may be considered by the City of San Rafael to mitigate poor operating conditions at the intersection. Capacity increasing improvements include various trade-offs, however. For example, adding capacity could facilitate more vehicular traffic but this could also have an adverse impact to pedestrians and bicyclists and result in the diversion of more pass-through traffic along Las Gallinas Avenue and an increase in VMT. Although mitigation is possible at this intersection to address Project impacts, the intersection is outside of the City's jurisdiction and specific improvements have yet to be identified by either the City of San Rafael or the County of Marin. As such, the feasibility of potential mitigations will require further study and coordination with local neighborhood groups, the City of San Rafael, and the County of Marin, who operates and maintains the existing traffic signal. Since the City cannot legally implement mitigation measures outside of its jurisdiction, this potential mitigation is infeasible from both a legal and public policy standpoint. Ultimately, the City of San Rafael, in coordination with the County of Marin, would be responsible for implementing improvements, of which Kaiser Permanente would pay its fair share; however, as discussed above, since the intersection is not part of a traffic fee program and intersection improvements have yet to be identified, the Project would result in a <b>significant and unavoidable</b>.</p>	Applicant/Contractor	Public Works/ Planning Department/ County of Marin	Review MOU to ensure measure and fair-share contribution is implemented.	Prior to final occupancy	<p>Verified by:</p> <p>Date:</p>

Mitigation Measures	Implementation Responsibility	Agency Responsible for Monitoring	Monitoring and Reporting Action	Monitoring Schedule	Compliance Verification
<p><b>MM TRAF-4. Signalize and Reconfigure the Lucas Valley Road/Los Gamos Drive Intersection.</b> In coordination with the City of San Rafael Department of Public Works, the County of Marin Department of Public Works, and Caltrans, Kaiser Permanente shall pay a fair share contribution to the reconfiguring and signalization of the Lucas Valley Road/Los Gamos Drive Intersection. The San Rafael <i>General Plan 2020</i> (Exhibit 21 #2) identifies improvements at this intersection, including signalizing the intersection, adding dual westbound left turn lanes, reconfiguring the northbound approach, and removing existing striped channelized islands, as illustrated in <b>Figure 4.6-13</b>. Due to its close proximity to the US-101 Ramp terminal intersections, the new signal should include traffic signal interconnect and be coordinated with the adjacent interchange signals. Additionally, since the majority of the intersection is located within the County of Marin jurisdiction, interagency coordination will be required during design, construction and maintenance of the new signal. Furthermore, a memorandum of understanding (MOU) will be required between the City of San Rafael and the County of Marin to document the management and maintenance of the intersection and signals since the US 101/Lucas Valley interchange signals and the new Lucas Valley Road / Los Gamos Drive signal would be operated and maintained by one or multiple agencies.</p> <p>Implementing these improvements would mitigate the Project's impact to <b>less than significant</b>. However, until the intersection is fully funded, approved by the referenced public agencies, and constructed, the impact to the level of service would remain. Therefore, until and unless the MOU and fair-share contributions are finalized, the design and construction of the intersection is permitted and approved by all parties, the Project will result in a <b>significant and unavoidable</b> impact.</p>	Applicant/Contractor	Public Works/ Planning Department/ County of Marin/ Caltrans	<p>Review MOU and project plans to ensure measure is implemented.</p> <p>Installation and construction of traffic signal and associated improvements</p>	Prior to final occupancy	<p>Verified by:</p> <p>Date:</p>

Mitigation Measures	Implementation Responsibility	Agency Responsible for Monitoring	Monitoring and Reporting Action	Monitoring Schedule	Compliance Verification
<b>Cultural Resources</b>					
<b>MM CULT-1: Protect Archaeological Resources Identified during Construction:</b> The Project sponsor shall ensure that construction crews stop all work within 100 feet of the discovery until a qualified archaeologist can assess the previously unrecorded discovery and provide recommendations. Resources could include subsurface historic features such as artifact-filled privies, wells, and refuse pits, and artifact deposits, along with concentrations of adobe, stone, or concrete walls or foundations, and concentrations of ceramic, glass, or metal materials. Native American archaeological materials could include obsidian and chert flaked stone tools (such as projectile and dart points), midden (culturally derived darkened soil containing heat-affected rock, artifacts, animal bones, and/or shellfish remains), and/or groundstone implements (such as mortars and pestles).	Applicant/Contractor	Planning Department	Applicant to retain qualified archaeologist to implement protocol described in Mitigation Measure CULT-1	Prior to and during construction	Verified by: Date:
<b>MM CULT-2: Protect Human Remains Identified During Construction:</b> The Project proponent shall treat any human remains and associated or unassociated funerary objects discovered during soil-disturbing activities according to applicable State laws. Such treatment includes work stoppage and immediate notification of the Marin County Coroner and qualified archaeologist, and in the event that the Coroner's determination that the human remains are Native American, notification of NAHC according to the requirements in PRC Section 5097.98. NAHC would appoint a Most Likely Descendant (MLD). A qualified archaeologist, Project proponent, County of Marin, and MLD shall make all reasonable efforts to develop an agreement for the treatment, with appropriate dignity, of any human remains and associated or unassociated funerary objects (CEQA Guidelines Section 15064.5[d]). The agreement would take into consideration the appropriate excavation, removal, recordation, analysis, custodianship, and final disposition of the human remains and associated or unassociated funerary objects. The PRC allows 48 hours to reach agreement on these matters.	Applicant/Contractor	Building Department/ Planning Department	City of San Rafael Planning to verify mitigation measure on construction plans.  Applicant to retain qualified archaeologist to implement protocol described in Mitigation Measure CULT-2	Prior to issuance of grading permit  During construction	Verified by: Date:
<b>MM TRIBAL-1:</b> Implementation of the unanticipated discovery measures outlined in Section V(b) and (d) above, address the potential discovery of previously unknown resources within the project area. If significant tribal cultural resources are identified onsite, all work would stop immediately within 50 feet of the resource(s) and the project applicant would comply with all relevant State and City policies and	Applicant/Contractor	Planning Department/ Federated Indians of Graton Rancheria	Applicant to immediately retain Tribal Historic Preservation Officer (THPO) to implement protocol described in Mitigation Measure TRIBAL-1	During construction	Verified by: Date:

Mitigation Measures	Implementation Responsibility	Agency Responsible for Monitoring	Monitoring and Reporting Action	Monitoring Schedule	Compliance Verification
procedures prescribed under PRC Section 21074.					