



# 2023-31

---

# Housing

---

# Element

---

TOWN OF FAIRFAX

Volume 1

Draft Environmental  
Impact Report

SCH: 2022080624

---

September 26, 2023





# Table of Contents

<b>Executive Summary.....</b>	<b>ES-I</b>
<b>I Introduction.....</b>	<b>I-I</b>
1.1 Purpose of the EIR .....	I-1
1.2 Approach and Scope of the EIR .....	I-2
1.3 Planning Process and Public Involvement.....	I-4
1.4 Other Relevant Plans and Environmental Studies.....	I-6
1.5 Organization of the EIR.....	I-6
<b>2 Project Description.....</b>	<b>2-I</b>
2.1 Location and Setting .....	2-I
2.2 Planning Context and Process.....	2-5
2.3 Purpose and Objectives of the Proposed Project .....	2-5
2.4 Proposed Project.....	2-6
2.5 Intended Uses of this EIR .....	2-13
<b>3.1 Aesthetics .....</b>	<b>3.1-I</b>
Environmental Setting.....	3.1-I
Impact Analysis .....	3.1-8
<b>3.2 Air Quality .....</b>	<b>3.2-I</b>
Environmental Setting.....	3.2-I
Impact Analysis .....	3.2-21
<b>3.5 Energy .....</b>	<b>3.5-I</b>
Environmental Setting.....	3.5-I
Impact Analysis .....	3.5-9
<b>3.6 Geology and Soils.....</b>	<b>3.6-I</b>
Environmental Setting.....	3.6-I
Impact Analysis .....	3.6-17
<b>3.7 Greenhouse Gas Emissions .....</b>	<b>3.7-I</b>
Environmental Setting.....	3.7-I
Impact Analysis .....	3.7-18



<b>3.8 Hazards and Hazardous Materials .....</b>	<b>3.8-1</b>
Environmental Setting .....	3.8-1
Impact Analysis .....	3.8-13
<b>3.9 Hydrology and Water Quality.....</b>	<b>3.9-1</b>
Environmental Setting .....	3.9-1
Impact Analysis .....	3.9-11
<b>3.10 Land Use, Population, and Housing.....</b>	<b>3.10-1</b>
Environmental Setting .....	3.10-1
Impact Analysis .....	3.10-10
<b>3.11 Noise .....</b>	<b>3.11-1</b>
Environmental Setting .....	3.11-1
Impact Analysis .....	3.11-16
<b>3.12 Public Services and Recreation .....</b>	<b>3.12-1</b>
Environmental Setting .....	3.12-1
Impact Analysis .....	3.12-9
<b>3.13 Transportation.....</b>	<b>3.13-1</b>
Environmental Setting .....	3.13-1
Impact Analysis .....	3.13-12
<b>3.15 Wildfire .....</b>	<b>3.15-1</b>
Environmental Setting .....	3.15-1
Impact Analysis .....	3.15-14
<b>4 Alternatives Analysis.....</b>	<b>4-1</b>
4.1 Alternatives Analyzed in This EIR.....	4-3
4.2 Alternatives Considered but Not Evaluated in Detail in this EIR .....	4-4
4.3 Impact Analysis of Alternatives .....	4-4
4.4 Environmentally Superior Alternative .....	4-16
<b>5 CEQA Required Conclusions.....</b>	<b>5-1</b>
5.1 Growth-Inducing Impacts .....	5-1
5.2 Cumulative Impacts.....	5-5
5.3 Significant and Unavoidable Impacts.....	5-17
5.4 Significant Irreversible Environmental Changes.....	5-18
<b>6 List of Preparers.....</b>	<b>6-1</b>



## **VOLUME 2: APPENDICES**

### **Appendix A: NOP**

### **Appendix B: NOP Comment Letters**

### **Appendix C: Supporting Materials for Cultural and Tribal Cultural Resources**

### **Appendix D: GHG and Air Quality Data**

### **Appendix E: Transportation VMT Assessment**

### **Appendix F: Public Service Provider Correspondence**

## **List of Figures**

Figure 2-1: Planning Area and Context.....	2-2
Figure 2-2: Environmental Constraints.....	2-4
Figure 2-3: Sites Available for Housing.....	2-9
Figure 3.2-1: Existing Air Quality Sensitive Receptors and Emissions Sources in the Vicinity of the Planning Area.....	3.2-10
Figure 3.3-1: CNDDDB Special Status Species .....	3.3-7
Figure 3.4-1: Historic Resources .....	3.4-5
Figure 3.6-1: Soil Types and Landslide Hazards.....	3.6-3
Figure 3.6-2: Seismic Hazards .....	3.6-6
Figure 3.8-1: Contaminated Sites in the Vicinity of Planning Area.....	3.8-5
Figure 3.9-1: Waterways and Flood Zones in the Planning Area .....	3.9-4
Figure 3.10-1: Existing Land Use.....	3.10-3
Figure 3.11-1: Future Noise Contours (2040).....	3.11-22
Figure 3.12-1: Fairfax Parks, Schools, and Public Facilities.....	3.12-5
Figure 3.13-1: Existing and Proposed Bicycle Network.....	3.12-5
Figure 3.15-1: WUI Areas in Marin County .....	3.15-4
Figure 3.15-2: Fire Hazards .....	3.15-6
Figure 3.15-3: Town of Fairfax Evacuation Map.....	3.15-16



# List of Tables and Charts

Table ES-1: Summary of Impacts and Mitigation Measures .....	ES-7
Table 2-1: Sites Inventory .....	2-8
Table 2-2: Sites Reused from Prior Inventories.....	2-12
Table 3.2-1: Ambient Air Quality Data at the San Rafael Monitoring Station (2019-2021).....	3.2-8
Table 3.2-2: Existing Stationary Sources within the Planning Area.....	3.2-9
Table 3.2-3: Federal and State Ambient Air Quality Attainment Status for the SFBAAB.....	3.2-12
Table 3.2-4: National and California Ambient Air Quality Standards.....	3.2-13
Table 3.2-5: BAAQMD Project-Level Regional Criteria Pollutant Emission Thresholds.....	3.2-22
Table 3.2-6: BAAQMD 2017 Clean Air Plan Control Measure Consistency.....	3.2-33
Table 3.2-7: Estimated Unmitigated Criteria Pollutant Emissions from Operation of the Proposed Project .....	3.2-36
Table 3.6-1: Soil Types in the Planning Area .....	3.6-2
Table 3.7-1: Lifetimes and Global Warming Potentials of Key Greenhouse Gases.....	3.7-2
Table 3.7-2: Global, National, State, and Regional Greenhouse Gas Emission Inventories.....	3.7-4
Table 3.7-3: Estimated Proposed Project Operational GHG Emissions .....	3.7-28
Table 3.7-4: Comparison of GHG Emissions Efficiency Metrics.....	3.7-29
Table 3.8-1. Contaminated Sites within the Planning Area.....	3.8-4
Table 3.10-1: Existing Land Use Summary .....	3.10-4
Table 3.10-2: Plan Bay Area 2050 Central Marin Job Growth and Housing Projections, 2015–2050 .....	3.10-5
Table 3.10-3: Plan Bay Area 2050 Strategies Applicable to the Proposed Project.....	3.10-15
Table 3.11-1: Typical Noise Levels in the Environment .....	3.11-3
Table 3.11-2: Typical Levels of Groundborne Vibration.....	3.11-8
Table 3.11-3: Vibration Source Levels for Construction Equipment.....	3.11-9
Table 3.11-4: Vibration Damage Potential Threshold Criteria Guidelines .....	3.11-10
Table 3.11-5: Vibration Annoyance Potential Criteria Guidelines.....	3.11-10
Table 3.11-6: Groundborne Vibration Impact Criteria.....	3.11-10
Table 3.11-7: Typical Noise Levels for Construction Equipment.....	3.11-19
Table 3.11-8: Traffic Noise Analysis Summary .....	3.11-21
Table 3.13-1: Existing (2019) VMT Summary.....	3.12-2
Table 3.13-2: Daily Home-Based Vehicle Miles Traveled (VMT) for Residential Uses .....	3.13-16
Table 3.13-3: CAPCOA Mitigation Measures to Reduce VMT .....	3.13-16
Table 4-1: Summary of Impacts for Alternatives.....	4-17
Table 5-1: Planning Area Population, Housing, and Job Growth Projections, 2020–2031 .....	5-2
Table 5-2: Jobs-to-Housing Unit Ratio (2019 and 2031) .....	5-3



# Executive Summary

This Draft Environmental Impact Report (EIR) evaluates the potential impacts of the proposed General Plan Housing Element Update, referred to as the “Proposed Project,” in the Town of Fairfax, located in Marin County, California. The Proposed Project is both a policy document and an implementation tool for implementing the Town’s General Plan. It contains goals, policies, and programs to guide future housing development within the approximately 2.2-square-mile Planning Area that encompasses the entire town. Implementation will include amendments to the Town’s Zoning Ordinance. The Town is the Lead Agency for environmental review, as defined by the California Environmental Quality Act, Public Resources Code Section 21000, *et seq.* (CEQA).

An EIR is intended to inform decision-makers and the general public about the potential significant environmental impacts of a proposed project. The EIR also considers mitigation measures to minimize significant impacts and evaluates feasible alternatives to the Proposed Project that may reduce or avoid one or more significant environmental impacts. Based on the alternatives analysis, the EIR identifies an environmentally superior alternative.

This EIR is a program EIR that examines the potential effects resulting from implementing designated land uses, goals, and policies in the Proposed Project. The impact assessment evaluates the Proposed Project as a whole and identifies the broad, area-wide, and regional effects that may occur with implementation. As a programmatic document, this EIR does not assess project-specific impacts that may result from developments pursuant to the Proposed Project. To the extent that any future development project made possible by the Proposed Project may have individual, site-specific impacts not addressed in this program EIR, such projects would be subject to separate, project-level environmental review, as required by State law. Projects consistent with the Proposed Project and the findings of this EIR may also be eligible for streamlined environmental review as permitted under CEQA. This EIR represents the Town’s best effort to evaluate the implementation and buildout of the Proposed Project through its horizon year of 2031. While it is anticipated that conditions may change, the assumptions used are the best available at the time of preparation and reflect existing knowledge of patterns of development.

## 1.1 Proposed Project

---

The Proposed Project involves updates to the Town of Fairfax General Plan Housing Element. In compliance with State law, the Housing Element is being updated to account for changing demographics, market conditions, and projected housing need over an eight-year planning period that runs from 2023 through 2031.



This Housing Element touches many aspects of community life. It builds upon the goals, policies and implementing programs contained in the Town's 2015-2023 Housing Element and other Town policies and practices to address housing needs in the community. The overall focus of the Housing Element is to address local housing needs in compliance with State law while also seeking to retain Fairfax's village-like quality, with distinct neighborhoods, and large areas of surrounding visible open space. The objectives of the Proposed Project, included below, inform the policies and implementing actions of the Proposed Project. A full project description is included in Chapter 2 of this Draft EIR.

## **PLANNING AREA**

The Planning Area is comprised of the entire Town of Fairfax. Home to 7,399 residents, the Town of Fairfax is the fourth smallest jurisdiction in Marin County, encompassing just 2.2 square miles. The town is composed largely of single-family homes, with a diverse range of small, locally-owned businesses along Sir Francis Drake Boulevard, Broadway, and Bolinas Road. Notable land uses in the downtown area include the Fairfax Post Office, Fairfax Theater, Fairfax Library, and the Marin Museum of Bicycling. Much of the rest of the community is made up of single-family neighborhoods with a dense tree canopy. The southern parts of Fairfax are lined with open space, including the Cascade Canyon Preserve, the Mount Tamalpais Watershed, Deer Park, and the Bald Hill Preserve in adjacent San Anselmo.

## **PROJECT OBJECTIVES**

The following are some of the specific purposes of the Housing Element update:

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

## **ESTIMATED BUILDOUT OF THE PROPOSED PROJECT**

Buildout refers to the estimated amount of new development and corresponding growth in population that is likely to take place under the Proposed Project through the planning horizon year of 2031. Buildout estimates should not be considered a prediction for growth, as the actual amount of development that will occur through 2031 is based on many factors outside of the Town's control. Therefore, buildout estimates represent one potential set of outcomes rather than definitive

figures. Amid the ongoing housing crisis in California, Fairfax is required to plan for at least 490 new housing units between 2023 and 2031, including 149 Very Low Income units, 86 Low Income units, 71 Moderate income units, and 184 Above Moderate Income units.

As required by State law, the Draft Housing Element includes a map of sites available for housing and an inventory of realistic capacity. The inventory demonstrates a total capacity of up to 598 new housing units, which is sufficient to meet the Town's RHNA obligations at all income levels with a buffer. This amount of development would result in approximately 1,171 new residents. The buffer is required to ensure that there is sufficient capacity to meet RHNA obligations at all times during the planning period, in the event that some sites on the inventory develop at lower densities than envisioned. Implementation of the Draft Housing Element would primarily involve facilitation of infill development on underutilized commercial sites and ADUs, with the remainder of sites comprised of low impact clustered residential development and single-family housing.

## **1.2 Areas of Known Controversy**

---

During the drafting of the Proposed Project and this EIR, public agencies and members of the public were invited to provide feedback on the documents. The following topics were identified as areas of controversy, based on comments at public meetings on the Proposed Project and at the EIR Scoping Meeting, and responses to the Notice of Preparation (NOP):

### **AESTHETICS**

Commenters expressed concern for potential development impacts on scenic ridgelines, vistas, and town character. Several sites identified for development under the Proposed Project are located in areas mapped as visual resources in the General Plan, including ridgeline scenic corridors, visually significant areas, adjacent to a scenic highway, and adjacent to views/vista points. If development pursuant to the Proposed Project were to be oriented or scaled in such a way that views of the hillside area are blocked from specific locations in the Planning Area, a potentially significant impact could result.

### **BIOLOGICAL RESOURCES**

The California Department of Fish and Wildlife (CDFW) submitted a comment letter with a list of special-status species that are known to occur or have the potential to occur in or near the Planning Area. Commenters also expressed concerns over the Proposed Project impacts on biological diversity, special-status species, and open space preservation. Development under the Proposed Project would primarily involve facilitation of infill development on underutilized commercial sites and ADUs, limiting the potential for adverse impacts on special-status species and sensitive natural communities. However, given the extent of biological resources throughout the community, future development under the Proposed Project could have a significant direct or indirect impact on special-status species if it would result in the removal or degradation of the species or suitable habitat. Housing sites identified in the Proposed Project do occur along riparian and hillside areas; the construction of which could potentially adversely affect several special-status species.



## **GEOLOGY AND SOILS**

Commenters had concerns about the feasibility of development sites located in steep areas and subsequent public safety concerns regarding soil instability and landslides. Landslide risk in Fairfax occurs mainly in the steep hills at the southern and western edges of the Planning Area boundary, with small pockets of landslide risk also evident in the northern hills and eastern boundary. Given that almost all remaining vacant land is located in steeply sloped hillsides areas in the town, the Proposed Project has identified several sites for development on steeply sloped hillsides. As such, housing sites identified in the Proposed Project are in proximity to mapped landslides hazards and landslide impacts are potentially significant.

## **TRANSPORTATION**

Commenters expressed concern about development patterns that increase vehicular use, as well as subsequent congestion on arterials and greenhouse gas emissions. Goals and policies in the Proposed Project are designed to reduce VMT in the Planning Area by identifying sites for infill development on underutilized commercial sites and ADUs, which encourages housing opportunities in commercial districts and adequate residential access to pedestrian infrastructure, neighborhood services, and recreation facilities to further reduce VMT. However, the VMT forecasts indicate that the proposed residential uses would result in a Home-Based VMT per capita that is 10.4 percent below the baseline 2019 Town VMT per capita. The cumulative effect of adding up to 598 housing units on Daily Home-Based VMT for residential uses in the Town of Fairfax is considered a significant impact prior to mitigation because it is not 15 percent or below the baseline 2019 townwide level, which is the applicable significance threshold as recommended by the OPR Technical Advisory. As outlined in Section 3.13, there are no feasible mitigation measures available to reduce VMT to a less-than-significant level. As such, the VMT impact would be significant and unavoidable.

## **WILDFIRE**

Commenters primarily had concerns about impacts on evacuation safety from development pursuant to the Proposed Project. Sir Francis Drake Boulevard is the principal evacuation route available in and out of the Ross Valley in the event of a natural hazard event. Increased development under the Proposed Project would increase traffic on Sir Francis Drake, resulting in a potentially significant impact. However, there is a robust framework of emergency preparedness and evacuation actions in place to facilitate evacuation as outlined in Section 3.15.

## **1.3 Alternatives to the Proposed Project**

---

The following alternatives are described and evaluated in Chapter 4 of this Draft EIR.

### **NO PROJECT ALTERNATIVE**

Under the No Project Alternative, the Town would not update the existing 2015 to 2023 Housing Element. The existing Housing Element would continue to direct the Town's decisions related to housing development and the RHNA assignment of 61 units in the current Housing Element would remain the Town's goal for new housing units. In addition, the Town is responsible for addressing the remaining RHNA from the previous planning period (2007–2014) totaling 80 units. The 2015 to 2023 Housing Element goals, policies, and implementing programs would continue to guide Town decisions regarding housing within the Planning Area. Under these conditions it would be reasonable to assume that applications for new housing developments consistent with the 2015 to 2023 Housing Element would continue to be submitted and approved.

### **MIXED USE DEVELOPMENT ALTERNATIVE**

To reduce significant impacts related to VMT and GHG emissions, this alternative seeks to foster an integrated mixed-use development on the Marin Town and Country Club (MTCC) site. According to data from the US Census, over 3,100 residents of Fairfax commute to jobs in other communities each day, while only 1,200 residents of other communities commute to jobs in Fairfax and only 239 both live and work in Fairfax. Therefore, intent of this alternative is to create new jobs and housing within easy walking distance of Downtown Fairfax and the main transit route through the community along Sir Francis Drake Boulevard in order to rebalance commute patterns and increase opportunities for people to live and work in Fairfax and to travel within the community without the need for a vehicle. This alternative would involve the development of a master plan for the MTCC site in coordination with the property owner to integrate up to 200 additional new housing units and 50,000 square feet of office and studio space for local businesses, artists, and craftsmen. It is assumed that at least 20 percent of the new homes would be affordable to moderate-income households, consistent with the Town's draft inclusionary ordinance.

## **1.4 Impacts Summary and Environmentally Superior Alternative**

---

### **IMPACTS SUMMARY**

Table ES-1: Summary of Impacts and Mitigation Measures presents the summary of the significant impacts of the Proposed Project identified in the EIR, and the Proposed Project mitigation measures that reduce these impacts. Detailed discussions of the impacts and proposed policies and mitigation measures that reduce impacts are in Chapter 3.

## **IDENTIFICATION OF ENVIRONMENTALLY SUPERIOR ALTERNATIVE**

The CEQA Guidelines Section 15126.6 requires the identification of an environmentally superior alternative among the alternatives analyzed in an EIR. If the No Project Alternative is identified as the environmentally superior alternative, the guidelines require another environmentally superior alternative to be identified.

For the Proposed Project, three impacts were expected to be significant and unavoidable, seven impacts were expected to be less than significant with mitigation, and 53 impacts were expected to be less than significant.

For the No Project Alternative, two impacts were expected to be significant and unavoidable, eight impacts were expected to be less than significant with mitigation, and 53 impacts were expected to be less than significant. In addition, impacts would be nominally reduced for aesthetics, air quality, biological resources, energy, geology and soils, GHG emissions, hydrology and water quality, noise, public services, and recreation, utilities and service systems, and wildfire.

For the Mixed Use Development Alternative, similar to the Proposed Project, three impacts were expected to be significant and unavoidable, seven impacts were expected to be less than significant with mitigation, and 53 impacts were expected to be less than significant. In addition, impacts would be nominally reduced for GHG emissions and VMT as compared to the Proposed Project. However, impacts would be nominally increased for air quality, energy, noise, utilities and service systems, and wildfire risk and evacuation.

The No Project Alternative reduces the greatest number of environmental impacts. Since the CEQA guidelines require another environmentally superior alternative other than the No Project Alternative to be identified, the Mixed Use Development Alternative would be the environmentally superior alternative. This is because it nominally reduces the Proposed Project's significant and unavoidable impacts pertaining to GHG emissions and VMT. However, the MTCC site currently does not have zoning that permits residential development. In order to make the site available for housing, the Town of Fairfax would be required to develop a ballot initiative to rezone the site. As such, it is uncertain that the site could be rezoned and housing could be developed within the eight-year planning period. Therefore, the Mixed Use Development Alternative is considered infeasible.



<b>Table ES-I: Summary of Impacts and Mitigation Measures</b>			
<i>Impact</i>	<i>Mitigation Measures</i>	<i>Significance before Mitigation</i>	<i>Significance after Mitigation</i>
<b>3.1 Aesthetics</b>			
3.1-1 Implementation of the Proposed Project would not have a substantial adverse effect on scenic vistas.	None required	Less than significant	Not applicable
3.1-2 Development under the Proposed Project would not substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway.	None required	No impact	Not applicable
3.1-3 Development under the Proposed Project would not substantially degrade the existing visual character or quality of public views of the site and its surroundings in non-urbanized areas or conflict with applicable zoning and other regulations governing scenic quality in urbanized areas.	None required	Less than significant	Not applicable
3.1-4 Development under the Proposed Project would not create a new source of substantial light or glare which would adversely affect day or nighttime views in the area.	None required	Less than significant	Not applicable
In combination with other past, present, and reasonably foreseeable projects, the Proposed Project would not result in significant cumulative impacts related to scenic resources within a state scenic	None required	Less than significant	Not applicable

<b>Table ES-I: Summary of Impacts and Mitigation Measures</b>			
<i>Impact</i>	<i>Mitigation Measures</i>	<i>Significance before Mitigation</i>	<i>Significance after Mitigation</i>
highway; degradation of visual character; or light and glare.			
<b>3.2 Air Quality</b>			
3.2-1 Implementation of the Proposed Project would not conflict with or obstruct the implementation of the applicable air quality plan.	None required	Less than significant	Not applicable
<p>3.2-2 Implementation of the Proposed Project would not result in a cumulatively considerable net increase of criteria pollutants for which the Project region is nonattainment under an applicable federal or State ambient air quality standard.</p> <p><i>Construction</i></p> <p>Construction associated with buildout of the Proposed Project would result in the temporary generation of ozone precursors (ROG, NO<sub>x</sub>), CO, and particulate matter emissions that could result in short-term impacts on ambient air quality within the Planning Area and contribute to ozone formation and other air pollution in the SFBAAB. As such, construction emissions generated in the planning area by implementation of the Proposed Project would result in a potentially significant impact and mitigation would be required.</p> <p>To ensure projects achieve consistency with the BAAQMD's construction</p>	<p><b>MM AQ-1: Implement BAAQMD Basic Construction Mitigation Measures.</b></p> <p>The Town shall require new project development projects to implement the BAAQMD's Basic Control Mitigation Measures to address fugitive dust emissions that would occur during earthmoving activities associated with project construction. These measures include:</p> <ul style="list-style-type: none"> <li>a) All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.</li> <li>b) All haul trucks transporting soil, sand, or other loose material off-site shall be covered.</li> <li>c) All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.</li> <li>d) All vehicle speeds on unpaved roads shall be limited to 15 mph.</li> </ul>	Potentially significant	Less than significant with mitigation incorporated

<b>Table ES-I: Summary of Impacts and Mitigation Measures</b>			
<i>Impact</i>	<i>Mitigation Measures</i>	<i>Significance before Mitigation</i>	<i>Significance after Mitigation</i>
<p>screening criteria or, if consistency with the construction screening criteria cannot be demonstrated, the Town is incorporating Mitigation Measure AQ-1 and AQ-2 into future project development projects to mitigate this potential impact to a less-than-significant level.</p> <p><i>Operations</i></p> <p>The Proposed Project's net operational emissions would not exceed the BAAQMD's significance thresholds for any of the pollutants. As such, operational air quality impacts are less than significant.</p>	<p>e) All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.</p> <p>f) Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.</p> <p>g) All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.</p> <p>h) Post a publicly visible sign with the telephone number and person to contact at the Town regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.</p> <p><b>MM AQ-2: Prepare Project-level Construction Emissions Assessment.</b></p> <p>The Town shall require new development projects to submit a quantitative project-level construction</p>		

<b>Table ES-I: Summary of Impacts and Mitigation Measures</b>			
<i>Impact</i>	<i>Mitigation Measures</i>	<i>Significance before Mitigation</i>	<i>Significance after Mitigation</i>
	<p>criteria air pollutant and toxic air contaminant emissions analysis prior to the start of construction activities that shows project construction activities would not exceed BAAQMD project-level thresholds of significance. The analysis may rely on BAAQMD construction screening criteria to demonstrate that a detailed assessment of criteria air pollutant and toxic air contaminant construction emissions is not required for the project. If the project does not satisfy all BAAQMD construction screening criteria, the analysis shall estimate and compare construction criteria air pollutant and toxic air contaminant emissions against the project-level thresholds of significance maintained by BAAQMD and, if emissions are shown to be above BAAQMD thresholds, then the project must implement measures to reduce emissions below BAAQMD thresholds. Mitigation measures to reduce emissions could include, but are not limited to:</p> <ul style="list-style-type: none"> <li>a) Watering exposed surfaces at a frequency adequate to maintain a minimum soil moisture content of 12 percent, as verified by moisture probe or lab sampling;</li> <li>b) Suspending excavation, grading, and/or demolition activities when average wind speeds exceed 20 miles per hour;</li> <li>c) Selection of specific construction equipment (e.g., specialized pieces of equipment with smaller engines or equipment that will be more efficient and reduce engine runtime);</li> <li>d) Installing wind breaks that have a maximum 50 percent air porosity;</li> </ul>		



<b>Table ES-I: Summary of Impacts and Mitigation Measures</b>			
<i>Impact</i>	<i>Mitigation Measures</i>	<i>Significance before Mitigation</i>	<i>Significance after Mitigation</i>
	<ul style="list-style-type: none"> <li>e) Restoring disturbed areas with vegetative ground cover as soon as possible;</li> <li>f) Limiting simultaneous ground-disturbing activities in the same area at any one time (e.g., excavation and grading);</li> <li>g) Scheduling/phasing activities to reduce the amount of disturbed surface area at any one time;</li> <li>h) Installing wheel washers to wash truck and equipment tires prior to leaving the site;</li> <li>i) Minimizing idling time of diesel-powered construction equipment to no more than two minutes or the shortest time interval permitted by manufacturer's specifications and specific working conditions;</li> <li>j) Requiring equipment to use alternative fuel sources (e.g., electric-powered and liquefied or compressed natural gas), meet cleaner emission standards (e.g., U.S. EPA Tier IV Final emissions standards for equipment greater than 50-horsepower), and/or utilizing added exhaust devices (e.g., Level 3 Diesel Particular Filter);</li> <li>k) Requiring that all construction equipment, diesel trucks, and generators be equipped with Best Available Control Technology for emission reductions of NO<sub>x</sub> and PM;</li> <li>l) Requiring all contractors use equipment that meets CARB's most recent certification</li> </ul>		

<b>Table ES-I: Summary of Impacts and Mitigation Measures</b>			
<i>Impact</i>	<i>Mitigation Measures</i>	<i>Significance before Mitigation</i>	<i>Significance after Mitigation</i>
	<p>standard for off-road heavy-duty diesel engines; and</p> <p>m) Applying coatings with a volatile organic compound (VOC) that exceeds the current regulatory requirements set forth in BAAQMD regulation 8, Rule 3 (Architectural Coatings).</p>		
<p>3.2-3 Implementation of the Proposed Project would not expose sensitive receptors to substantial pollutant concentrations.</p> <p>With the implementation of Mitigation Measures AQ-1 through AQ-3, TAC construction emissions associated with the Proposed Project would not result in significant adverse health risks at receptor locations.</p>	<p><b>MM AQ-1: Implement BAAQMD Basic Construction Mitigation Measures.</b></p> <p><b>MM AQ-2: Prepare Project-level Construction Emissions Assessment.</b></p> <p><b>MM AQ-3: Review Air Quality Risks to New Housing Sites.</b></p> <p>The Town shall require new project residential development projects to review and identify, using the BAAQMD's publicly available Stationary Source Screening Map or another standard methodology (e.g., BAAQMD public records request), permitted stationary sources within 1,000 feet of the project that may result in risks and hazards to new receptors. If screening-level information indicates potential stationary source risks and hazards would exceed the BAAQMD's thresholds, the project applicant shall: 1) incorporate site and building design measures into the project that reduce exposure to pollutants; or 2) conduct refined, site-specific modeling, using the latest information and guidance from the BAAQMD, demonstrating sources risks and hazards would not exceed BAAQMD thresholds for new receptors. Site and building design measures that may reduce potential exposure to pollutants would include, but are not limited to,</p>	Potentially significant	Less than significant with mitigation incorporated

<b>Table ES-I: Summary of Impacts and Mitigation Measures</b>			
<i>Impact</i>	<i>Mitigation Measures</i>	<i>Significance before Mitigation</i>	<i>Significance after Mitigation</i>
	buffering/increasing the distance between sources and receptors, designing the site to limit exposure to the highest pollutant concentrations, and incorporating enhanced filter systems into heating, ventilation, and air conditioning equipment.		
3.2-4 Implementation of the Proposed Project would not result in other emissions (such as those leading to odors) adversely affecting a substantial number of people.	None required	Less than significant	Not applicable
In combination with other past, present, and reasonably foreseeable projects, the Proposed Project would not result in significant cumulative impacts related to conflicting with an applicable air quality plan, criteria pollutants, sensitive receptors, or other emissions (such as those leading to odors).	None required	Less than significant	Not applicable
<b>3.3 Biological Resources</b>			
3.3-1 Implementation of the Proposed Project could have a substantial adverse effect, either directly or through habitat modifications, on species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service, but impacts would be reduced with implementation of Mitigation Measures BIO-1 through BIO-6.	<p><b>MM BIO-1: Conduct Preconstruction Surveys for Special Status Species.</b></p> <p>Prior to ground-disturbing activities and during the appropriate identification periods for special-status plants and wildlife listed in Tables 3.3-1 and 3.3-2, project applicants proposing development on sites with the potential for special-status species to occur shall engage a licensed biologist with prior experience conducting surveys for subject species in Marin County to conduct field surveys within work areas and the immediately adjacent areas to determine the presence of habitat for special-status</p>	Potentially significant	Less than significant with mitigation incorporated

**Table ES-I: Summary of Impacts and Mitigation Measures**

<i>Impact</i>	<i>Mitigation Measures</i>	<i>Significance before Mitigation</i>	<i>Significance after Mitigation</i>
Given the extent of biological resources throughout the community, housing sites identified in the Proposed Project do occur along riparian areas near Bothin, San Anselmo, and Fairfax Creeks; the construction of which could potentially adversely affect several special-status species.	<p>plant and wildlife species. The field surveys are to be conducted when special-status species that could occur in the area are evident and identifiable, generally during the blooming or breeding period. One or more surveys shall be conducted as needed to account for different special-status species identification periods. The results of field surveys shall be summarized in an accompanying report documenting all proposed work areas and the presence or absence of any sensitive resources that could be affected by development. Additionally, the report shall outline where species and/or habitat-specific mitigation measures (as required under Mitigation Measures BIO-2 through BIO-6) are required. This report will provide the basis for any applicable permit applications and consultations with regulatory agencies where incidental take may occur.</p> <p><b>MM BIO-2: Worker Environmental Awareness Training Program.</b></p> <p>If it is established pursuant to Mitigation Measure BIO-1 that special status species occur on the site, prior to the issuance of grading or building permits, and for the duration of construction activities, the project proponent shall demonstrate that it has in place a Construction Worker Environmental Awareness Training Program for all construction workers at the project site. All construction workers shall attend the Program prior to participating in construction activities. The Program shall be developed and conducted by a licensed biologist with experience in Marin County. The training may be presented in video form. The Program shall include:</p>		



<b>Table ES-I: Summary of Impacts and Mitigation Measures</b>			
<i>Impact</i>	<i>Mitigation Measures</i>	<i>Significance before Mitigation</i>	<i>Significance after Mitigation</i>
	<ul style="list-style-type: none"> <li>Information on the life history of wildlife and plant species that may be encountered during construction activities and legal protection status of each species;</li> <li>The definition of “take” under the Federal Endangered Species Act and the California Endangered Species Act;</li> <li>Measures the project proponent/operator is implementing to protect the species; and</li> <li>Specific measures that each worker shall employ to avoid take of wildlife species, and penalties for violation of the Federal Endangered Species Act or California Endangered Species Act.</li> </ul> <p><b>MM BIO-3: Install Temporary Flagging or Barrier Fencing to Protect Sensitive Biological Resources Adjacent to the Work Area.</b></p> <p>If required pursuant to Mitigation Measure BIO-1, a licensed biologist with prior experience for subject species in Marin County shall identify and flag or fence sensitive biological habitat onsite to ensure it is avoided during construction and pre-construction activities. Flagging or fencing shall be installed prior to the site of site preparation activities remain in place for the duration of construction activities.</p> <p><b>MM BIO-4: Avoid and Minimize Disturbance to Special-Status Plant Species.</b></p> <p>If necessary pursuant to the results of surveys conducted under Mitigation Measure BIO-1, the</p>		

<b>Table ES-I: Summary of Impacts and Mitigation Measures</b>			
<i>Impact</i>	<i>Mitigation Measures</i>	<i>Significance before Mitigation</i>	<i>Significance after Mitigation</i>
	<p>work area shall be modified to the extent feasible to avoid indirect or direct impacts on special-status plants. If complete avoidance of special-status plants is not feasible,, at a minimum the special-status plant species shall be relocated on-site, at least 20 feet away from construction directly relating to the project. All site preparation, seed/cutting/root collection, grow-out, and plant installation shall be conducted by a landscape company approved by the Town of Fairfax with experience working on restoration projects and within the habitats present on-site. Following the relocation, the plantings/seedlings shall be monitored annually for three to five years by a licensed biologist paid for and hired by the applicant to determine the success of the relocation. For individual plants, the success criteria would be the establishment of new viable occurrences equal to or greater in number than the number of plants impacted. On-site maintenance of the relocated plants shall be contracted to a landscaping company which will also be paid for and hired by the applicant. An annual report by a licensed biologist detailing the success of the relocation shall be drafted and submitted to all responsible agencies (e.g., CDFW, USFWS) for their review.</p> <p><b>MM BIO-5: Disturbance to Obscure Bumble Bee.</b></p> <p>If required pursuant to Mitigation Measure BIO-I, in order to minimize disturbance to the obscure bumble bee, a licensed entomologist paid for and hired by the applicant shall conduct a take avoidance survey for active bumblebee colony nesting sites in any previously undisturbed area no more than 14</p>		

<b>Table ES-I: Summary of Impacts and Mitigation Measures</b>			
<i>Impact</i>	<i>Mitigation Measures</i>	<i>Significance before Mitigation</i>	<i>Significance after Mitigation</i>
	<p>days prior to each phase of construction, if the work will occur during the flying season, generally between March 1 and September 1.</p> <p>The surveys shall occur when temperatures are above 60 degrees Fahrenheit (°F), on sunny days with wind speeds below 8 miles per hour, and at least 2 hours after sunrise and 3 hours before sunset. Surveyors shall conduct transect surveys focusing on detection of foraging bumble bees and underground nests using visual aids such as binoculars. If no obscure bumble bees or potential obscure bumble bees are detected, no further mitigation is required. If potential obscure bumble bees are seen but cannot be identified, the applicant shall obtain authorization from CDFW within 14 days prior to groundbreaking to use nonlethal netting methods to capture bumble bees to identify them to species. If protected bumble bee nests are found, they shall be protected in place until they are no longer active as determined by a licensed entomologist. Survey results, including negative findings, shall be submitted to CDFW and the Town prior to groundbreaking within 14 days of completing the take avoidance survey.</p> <p><b>MM BIO-6: Disturbance to Foothill Yellow-Legged Frog (FYLF).</b></p> <p>If required pursuant to Mitigation Measure BIO-1, in order to minimize disturbance to dispersing or foraging FYLF, all grading activity within 100 feet of aquatic habitat shall be conducted during the dry season, generally between May 1 and October 15, or before the onset of the rainy season, whichever occurs first, unless exclusion fencing is utilized.</p>		

<b>Table ES-I: Summary of Impacts and Mitigation Measures</b>			
<i>Impact</i>	<i>Mitigation Measures</i>	<i>Significance before Mitigation</i>	<i>Significance after Mitigation</i>
	<p>Construction that commences in the dry season may continue into the rainy season if exclusion fencing is placed between the construction site and Bothin Creek, Fairfax Creek, or San Anselmo Creek, and includes drainage features to keep the frog from entering the construction area. Additionally, the following measures shall be implemented to lessen impacts to FYLF:</p> <ul style="list-style-type: none"> <li>a) Prior to building permit issuance the applicant shall submit evidence to the building department to demonstrate that they have retained a licensed biologist with experience with FYLF to implement each of the following measures.</li> <li>b) No more than 14 days before the start of ground disturbance activities, pre-construction surveys for FYLF shall be conducted by a qualified biologist and shall cover the project site, access areas, and aquatic features within 200 feet of the project site. Additionally, for construction activity within 100 feet of Bothin Creek, Fairfax Creek or San Anselmo Creek, a survey shall be conducted by a qualified biologist every morning before construction activities commence for the day to ensure that no FYLF are present in the construction area. If FYLF are observed in the construction area or access areas, all work in the vicinity of the FYLF shall be stopped and the USFWS shall be consulted immediately. The biologist shall submit a summary of their surveyed findings to the</li> </ul>		

<b>Table ES-I: Summary of Impacts and Mitigation Measures</b>			
<i>Impact</i>	<i>Mitigation Measures</i>	<i>Significance before Mitigation</i>	<i>Significance after Mitigation</i>
	<p>town planner by email within 14 days prior to groundbreaking.</p> <p>c) Exclusion fencing shall be installed around any work area within 100 feet of a drainage, wetland, or Bothin Creek, Fairfax Creek or San Anselmo Creek, unless construction activity will be completed in one day or less at that location. A qualified biologist shall be present to monitor the installation of the exclusion fence.</p> <p>d) Because dusk and dawn are often the times when FYLF are most actively foraging, all construction activities shall cease one half hour before sunset and shall not begin prior to one half hour before sunrise. Construction activities shall not occur during rain events, which are any occurrences of rain that result in an accumulation of 0.1 inches or more in 24 hours, unless a survey is conducted by a licensed biologist each day prior to the start of construction activities and one-half hour before sunset to ensure that no FYLF are observed in the construction area or access areas.</p> <p>e) Any open holes or trenches shall be covered using timber mats or an equally effective material at the end of each working day to prevent FYLF from becoming entrapped.</p> <p>f) A Spill Prevention and Control Plan shall be created and made part of the plans for the</p>		



<b>Table ES-I: Summary of Impacts and Mitigation Measures</b>			
<i>Impact</i>	<i>Mitigation Measures</i>	<i>Significance before Mitigation</i>	<i>Significance after Mitigation</i>
	<p>building permit application. The plan shall outline equipment and procedures to prevent and respond to a spill. Containers (tanks, drums, totes) are required to have sized secondary containment and overfill prevention. The plan and materials necessary to implement it shall be accessible on-site. Heavy equipment shall be checked daily for leaks. Equipment with leaks shall not be used until leaks are fixed. Refueling shall occur at designated sites outside of active stream channels or above the ordinary high water mark.</p> <p>g) Any disturbed ground shall receive erosion control treatment pursuant to Chapter 8.32 of the Town Code and native seed mix within seven days following completion of construction or within seven days following a seasonal stoppage of construction.</p> <p>h) All workers shall ensure that food scraps, paper wrappers, food containers, cans, bottles, and other trash from the construction area are deposited in covered or closed trash containers. The trash containers shall not be left open and unattended overnight.</p>		
3.3-2 Implementation of the Proposed Project would not have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California	None required	Less than significant	Not applicable

<b>Table ES-I: Summary of Impacts and Mitigation Measures</b>			
<i>Impact</i>	<i>Mitigation Measures</i>	<i>Significance before Mitigation</i>	<i>Significance after Mitigation</i>
Department of Fish and Game or U.S. Fish and Wildlife Service.			
3.3-3 Implementation of the Proposed Project would not have a substantial adverse effect on federally protected wetlands, as defined by Section 404 of the Clean Water Act (including, but not limited to, marshes, vernal pools, coastal areas, etc.) through direct removal, filling, hydrological interruption, or other means.	None required	Less than significant	Not applicable
3.3-4 Implementation of the Proposed Project would not 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.	None required	Less than significant	Not applicable
3.3-5 Implementation of the Proposed Project would not conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	None required	Less than significant	Not applicable
3.3-6 Implementation of the Proposed Project would not conflict with the provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or State habitat conservation plan.	None required	No impact	Not applicable
In combination with other past, present, and reasonably foreseeable projects, the	None required	Less than significant	Not applicable

<b>Table ES-I: Summary of Impacts and Mitigation Measures</b>			
<i>Impact</i>	<i>Mitigation Measures</i>	<i>Significance before Mitigation</i>	<i>Significance after Mitigation</i>
Proposed Project would not result in significant cumulative impacts related to special status species, riparian or natural habitat, federally protected wetlands, movement of native or migratory fish or wildlife species, conflict with adopted local policies or ordinances protecting biological resources, or conflict with adopted habitat conservation plans.			
<b>3.4 Cultural and Tribal Cultural Resources</b>			
3.4-1 Implementation of the Proposed Project at the program level could cause a substantial adverse change in the significance of a historical resource, as defined as physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of a historic resource would be materially impaired, but this impact is reduced through the implementation of mitigation measures CUL-1 and CUL-2 (Guidelines Section 15064.5).	<p><b>MM CUL-1: Evaluate Age-Eligible Properties That Have Not Previously Been Evaluated Prior to Development Projects to Identify Historic Resources.</b></p> <p>As a condition of project approval for a development project proposed on a parcel within the Planning Area that includes a building, structure, or landscape more than 45 years old (typical age threshold applied by the California Office of Historic Preservation) and that has not previously been evaluated for potential historic significance, the Town shall require the project applicant shall retain a professional who meets the Secretary of the of the Interior's Professional Qualifications Standards for architectural history or history (as appropriate), to conduct an evaluation of historic significance and eligibility for listing on local, State, or national registers.</p> <p><b>MM CUL-2: Avoidance or Minimization of Effects on Identified Historic Resources.</b></p>	Potentially Significant	Less than significant with mitigation incorporated

<b>Table ES-I: Summary of Impacts and Mitigation Measures</b>			
<i>Impact</i>	<i>Mitigation Measures</i>	<i>Significance before Mitigation</i>	<i>Significance after Mitigation</i>
	<p>The project applicant shall consult with Town staff to determine whether a project can be feasibly redesigned or revised to avoid significant adverse impacts on listed and identified eligible historic resource(s), including historic districts. If a local landmark or historic district is part of a proposed development, the project's Historic Application must be reviewed by the Town's Planning Commission. If avoidance of historic resource(s) is not feasible, where feasibility is defined as "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors," the project sponsor shall seek to reduce the effect on historic resource(s) to a less-than-significant level pursuant to CEQA Guidelines Section 15364. Projects that conform to the Secretary of the Interior's Standards for the Treatment of Historic Properties are considered to have a less-than-significant effect on historic architectural resources.</p>		
<p>3.4-2 Implementation of the Proposed Project at the project level could cause an adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5., but this impact is reduced through the implementation of Mitigation Measure CUL-2 (Guidelines Section 15064.5).</p>	<p><b>MM CUL-3: Conduct Cultural Resources Awareness Training.</b></p> <p>Prior to the start of any ground disturbance or construction activities, developers of projects within 50 feet of a creek or within 50 feet of recorded archaeological resources or tribal cultural resources in the Planning Area shall retain a qualified professional archaeologist to conduct cultural resource awareness training for construction personnel. This training shall include an overview of what cultural resources are and why they are important, archaeological terms (such as site,</p>	Potentially Significant	Less than significant with mitigation incorporated

**Table ES-I: Summary of Impacts and Mitigation Measures**

<i>Impact</i>	<i>Mitigation Measures</i>	<i>Significance before Mitigation</i>	<i>Significance after Mitigation</i>
	feature, deposit), project site history, types of cultural resources likely to be uncovered during excavation, laws that protect cultural resources, and the unanticipated discovery protocol per the PRC Section 21083.		
3.4-3 Implementation of the Proposed Project could have the potential to disturb human remains, including those interred outside of formal cemeteries, but this impact is reduced through the implementation of Mitigation Measure CUL-3.	<b>MM CUL-3: Conduct Cultural Resources Awareness Training.</b>	Potentially significant	Less than significant with mitigation incorporated
<p>3.4-4 Implementation of the Proposed Project could cause an adverse change in the significance of a tribal cultural resource, defined in PRC Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American Tribe, and that is:</p> <p>(a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in PRC Section 5020.1(k), or</p> <p>(b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of PRC Section 5024.1. In</p>	<b>MM CUL-3: Conduct Cultural Resources Awareness Training.</b>	Potentially significant	Less than significant with mitigation incorporated

<b>Table ES-I: Summary of Impacts and Mitigation Measures</b>			
<i>Impact</i>	<i>Mitigation Measures</i>	<i>Significance before Mitigation</i>	<i>Significance after Mitigation</i>
<p>applying the criteria set forth in subdivision (c) of PRC Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.</p> <p>However, this impact is reduced through the implementation of Mitigation Measure CUL-3.</p>			
<p>In combination with other past, present, and reasonably foreseeable projects, the Proposed Project would not result in significant cumulative impacts related to historic resources, archaeological resources, disturbance of human remains, or tribal cultural resources.</p>	None required	Less than significant	Not applicable
<b>3.5 Energy</b>			
<p>3.5-1 Implementation of the Proposed Project would not cause wasteful, inefficient, or unnecessary consumption of energy resources during project construction or operation.</p>	None required	Less than significant	Not applicable
<p>3.5-2 Implementation of the Proposed Project would not conflict with or obstruct a State or local plan for renewable energy or energy efficiency.</p>	None required	Less than significant	Not applicable
<p>In combination with other past, present, and reasonably foreseeable projects, the Proposed Project would not result in significant cumulative impacts related to wasteful energy consumption, or conflict</p>	None required	Less than significant	Not applicable

<b>Table ES-I: Summary of Impacts and Mitigation Measures</b>			
<i>Impact</i>	<i>Mitigation Measures</i>	<i>Significance before Mitigation</i>	<i>Significance after Mitigation</i>
with adopted plans for renewable energy or energy efficiency.			
<b>3.6 Geology, Soils, and Seismicity</b>			
3.6-1 Implementation of the Proposed Project would not expose residents, visitors and employees, as well as public and private structures, to substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault; strong seismic ground shaking; seismically related ground failure, including liquefaction; or landslides.	None required	Less than significant	Not applicable
3.6-2 Implementation of the Proposed Project would not result in substantial soil erosion or the loss of topsoil.	None required	Less than significant	Not applicable
3.6-3 Implementation of the Proposed Project would not locate structures on expansive soils or on a geologic unit or soil that is unstable, or that would become unstable as a result of new development under the Proposed Project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse, or create substantial risks to life or property.	None required	Less than significant	Not applicable
3.6-4 Implementation of the Proposed Project would not be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating	None required	Less than significant	Not applicable

<b>Table ES-I: Summary of Impacts and Mitigation Measures</b>			
<i>Impact</i>	<i>Mitigation Measures</i>	<i>Significance before Mitigation</i>	<i>Significance after Mitigation</i>
substantial direct or indirect risks to life or property.			
3.6-5 Implementation of the Proposed Project would not have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater.	None required	Less than significant	Not applicable
3.6-6 Implementation of the Proposed Project would not directly or indirectly destroy a unique paleontological resource or site or unique geologic feature.	None required	Less than significant	Not applicable
In combination with other past, present, and reasonably foreseeable projects, the Proposed Project would not result in significant cumulative impacts related to exposure to seismic hazards, soil erosion, or location of structures on unstable soils.	None required	Less than significant	Not applicable
<b>3.7 Greenhouse Gas Emissions</b>			
3.7-1 Implementation of the Proposed Project would generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment.  <i>Construction</i>  Construction associated with buildout of the Proposed Project would require energy and generate temporary construction-related GHG emissions	<b>MM GHG-1: Require implementation of BAAQMD-recommended BMPS.</b>  All applicants within the Planning Area shall require their contractors, as a condition of contract, to reduce construction-related GHG emissions by implementing BAAQMD's recommended best management practices, including (but not limited to) the following measures (based on BAAQMD's CEQA Guidelines):	Construction: Potentially significant  Operations: Significant and unavoidable	Construction: Less than significant with mitigation incorporated  Operations: Significant and unavoidable



**Table ES-I: Summary of Impacts and Mitigation Measures**

<i>Impact</i>	<i>Mitigation Measures</i>	<i>Significance before Mitigation</i>	<i>Significance after Mitigation</i>
<p>from mobile and stationary construction equipment. However, this impact is reduced through the implementation of Mitigation Measure GHG-1.</p> <p><i>Operations</i></p> <p>Operation of the land uses introduced by the Proposed Project would require energy consumption and generate long-term emissions of CO<sub>2</sub>, CH<sub>4</sub>, and N<sub>2</sub>O. Future conditions under the Proposed Project would not meet the 100 percent GHG emissions reduction target for 2030 set by the Town Climate Action Plan. Even with Mitigation Measure GHG-2, the associated impact would remain significant and unavoidable and cumulatively considerable.</p>	<ul style="list-style-type: none"> <li>• Ensure alternative fueled (e.g., biodiesel, electric) construction vehicles/equipment make up at least 15 percent of the fleet.</li> <li>• Use local building materials of at least 10 percent (sourced from within 100 miles of the Planning Area).</li> </ul> <p><b>MM GHG-2: Update the Fairfax Climate Action Plan 2030.</b></p> <p>The Town will update its CAP to reach carbon neutrality by 2045, consistent with Executive Order B-55-18. The updated CAP shall include community emission forecasts that incorporate the changes in population and number of households anticipated under the Proposed Project.</p>		
<p>3.7-2 Implementation of the Proposed Project would conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases.</p> <p><i>Construction</i></p> <p>Construction associated with buildout of the Proposed Project would require energy and generate temporary construction-related GHG emissions from mobile and stationary construction equipment. However, this impact is reduced through the implementation of Mitigation Measure GHG-1.</p>	<p><b>MM GHG-1: Require Implementation of BAAQMD-recommended BMPs.</b></p> <p><b>MM GHG-2: Update the Fairfax Climate Action Plan 2030.</b></p>	<p>Construction: Potentially significant</p> <p>Operations: Significant and unavoidable</p>	<p>Construction: Less than significant with mitigation</p> <p>Operations: Significant and unavoidable with mitigation</p>

**Table ES-I: Summary of Impacts and Mitigation Measures**

<i>Impact</i>	<i>Mitigation Measures</i>	<i>Significance before Mitigation</i>	<i>Significance after Mitigation</i>
<p><i>Operations</i></p> <p>Future conditions under the Proposed Project would not meet the 100 percent GHG emissions reduction target for 2030 set by the Town Climate Action Plan. Even with Mitigation Measure GHG-2, the associated impact would remain significant and unavoidable and cumulatively considerable. Further, the Proposed Project's mobile-source GHG emissions would conflict with SB 743.</p>			
<p>In combination with other past, present, and reasonably foreseeable projects, the Proposed Project would not result in significant cumulative impacts construction-generated GHG emissions.</p>	<p>None required</p>	<p>Less than significant</p>	<p>Not applicable</p>
<b>3.8 Hazards and Hazardous Materials</b>			
<p>3.8-1 Implementation of the Proposed Project would not create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials.</p>	<p>None required</p>	<p>Less than significant</p>	<p>Not applicable</p>
<p>3.8-2 Implementation of the Proposed Project would not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.</p>	<p>None required</p>	<p>Less than significant</p>	<p>Not applicable</p>

<b>Table ES-I: Summary of Impacts and Mitigation Measures</b>			
<i>Impact</i>	<i>Mitigation Measures</i>	<i>Significance before Mitigation</i>	<i>Significance after Mitigation</i>
3.8-3 Implementation of the Proposed Project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.	None required	Less than significant	Not applicable
3.8-4 Implementation of the Proposed Project would not result in development located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would create a significant hazard to the public or the environment.	None required	Less than significant	Not applicable
3.8-5 Implementation of the Proposed Project would not result in development located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public uses airport, and would result in a safety hazard or excessive noise for people residing or working in the Planning Area.	None required	No impact	Not applicable
3.8-6 Implementation of the Proposed Project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan.	None required	Less than significant	Not applicable
3.8-7 Implementation of the Proposed Project would not expose people or structures, either directly or indirectly, to a	None required	Less than significant	Not applicable

<b>Table ES-I: Summary of Impacts and Mitigation Measures</b>			
<i>Impact</i>	<i>Mitigation Measures</i>	<i>Significance before Mitigation</i>	<i>Significance after Mitigation</i>
significant risk of loss, injury or death involving wildland fires.			
In combination with other past, present, and reasonably foreseeable projects, the Proposed Project would not result in significant cumulative impacts related to transport of hazardous materials, accidental release of hazardous materials into the environment, emission of hazardous materials near a school, development on a known hazardous site, airport hazards, adopted emergency response plans, or exposure to significant risk due to wildfires.	None required	Less than significant	Not applicable
<b>3.9 Hydrology and Water Quality</b>			
3.9-1 Implementation of the Proposed Project would not violate any federal, state, or local water quality standards or waste discharge requirements.	None required	Less than significant	Not applicable
3.9-2 Implementation of the Proposed Project would not substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin.	None required	Less than significant	Not applicable
3.9-3 Implementation of the Proposed Project would not substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through	None required	Less than significant	Not applicable

**Table ES-I: Summary of Impacts and Mitigation Measures**

<i>Impact</i>	<i>Mitigation Measures</i>	<i>Significance before Mitigation</i>	<i>Significance after Mitigation</i>
the addition of impervious surfaces in a manner which would result in substantial erosion, siltation, or flooding on- or off-site; substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite; create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or impede or redirect flood flows.			
3.9-4 In flood hazard, tsunami, or seiche zones, implementation of the Proposed Project would not risk release of pollutants due to project inundation.	None required	Less than significant	Not applicable
3.9-5 Implementation of the Proposed Project would not conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan.	None required	Less than significant	Not applicable
In combination with other past, present, and reasonably foreseeable projects, the Proposed Project would not result in significant cumulative impacts related to federal, state, or local water quality standards; depletion of groundwater; alteration of natural drainage or impediment of flood flows; exposure to flood risk; or conflict with adopted water quality or sustainable groundwater management plans.	None required	Less than significant	Not applicable

<b>Table ES-I: Summary of Impacts and Mitigation Measures</b>			
<i>Impact</i>	<i>Mitigation Measures</i>	<i>Significance before Mitigation</i>	<i>Significance after Mitigation</i>
<b>3.10 Land Use, Population, and Housing</b>			
3.10-1 Implementation of the Proposed Project would not physically divide an established community.	None required	No impact	Not applicable
3.10-2 Implementation of the Proposed Project would not cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect.	None required	No impact	Not applicable
3.10-3 Implementation of the Proposed Project would not induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure).	None required	Less than significant	Not applicable
3.10-4 Implementation of the Proposed Project would not displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere.	None required	Less than significant	Not applicable
In combination with other past, present, and reasonably foreseeable projects, the Proposed Project would not result in significant cumulative impacts related to division of an established community, conflict with an adopted land use plans, unplanned population growth, or	None required	Less than significant	Not applicable

<b>Table ES-1: Summary of Impacts and Mitigation Measures</b>			
<i>Impact</i>	<i>Mitigation Measures</i>	<i>Significance before Mitigation</i>	<i>Significance after Mitigation</i>
displacement that necessitates construction of replacement housing.			
<b>3.11 Noise</b>			
3.11-1 Implementation of the Proposed Project would not result in generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies.	None required	Less than significant	Not applicable
3.11-2 Implementation of the Proposed Project would not generate excessive groundborne vibration or groundborne noise levels.	None required	Less than significant	Not applicable
3.11-3 Implementation of the Proposed Project would not be located within the vicinity of a private airstrip or an airport land use plan or expose people residing or working in the Planning Area to excessive noise levels.	None required	No impact	Not applicable
In combination with other past, present, and reasonably foreseeable projects, the Proposed Project would not result in significant cumulative impacts related to ambient noise levels, groundborne vibration or groundborne noise levels, or airport noise.	None required	Less than significant	Not applicable
<b>3.12 Public Services and Recreation</b>			

<b>Table ES-I: Summary of Impacts and Mitigation Measures</b>			
<i>Impact</i>	<i>Mitigation Measures</i>	<i>Significance before Mitigation</i>	<i>Significance after Mitigation</i>
3.12-1 Implementation of the Proposed Project would not result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services: fire protection, police protection, schools, parks, or other public facilities.	None required	Less than significant	Not applicable
3.12-2 Implementation of the Proposed Project would not increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated.	None required	Less than significant	Not applicable
3.12-3 Implementation of the Proposed Project would not require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment.	None required	Less than significant	Not applicable
In combination with other past, present, and reasonably foreseeable projects, the Proposed Project would not result in significant cumulative impacts related to conflict with public services plans or staffing/equipment needs, maintenance of acceptable service ratios, the physical	None required	Less than significant	Not applicable



<b>Table ES-I: Summary of Impacts and Mitigation Measures</b>			
<i>Impact</i>	<i>Mitigation Measures</i>	<i>Significance before Mitigation</i>	<i>Significance after Mitigation</i>
state of facilities, or require the construction or expansion of facilities.			
<b>3.13 Transportation</b>			
3.13-1 Implementation of the Proposed Project would not conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, and bicycle and pedestrian facilities.	None required	Less than significant	Not applicable
3.13-2 Implementation of the Proposed Project would conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b).  CEQA Guidelines Section 15064.3 requires that the determination of significance for transportation impacts be based on VMT instead of a congestion metric such as LOS. The change in the focus of transportation analysis is the result of SB 743. OPR's Technical Advisory provides recommendations for implementing Section 15064.3 of the CEQA Guidelines related to VMT. OPR recommends that if a project does not achieve a level of 15 percent or more below regional or citywide VMT, it may indicate a significant transportation impact. While implementation of the Proposed Project would result in a 10.4 percent reduction in per capita home-based VMT in 2031, there are no	No feasible mitigation available	Significant and unavoidable	Significant and unavoidable

<b>Table ES-I: Summary of Impacts and Mitigation Measures</b>			
<i>Impact</i>	<i>Mitigation Measures</i>	<i>Significance before Mitigation</i>	<i>Significance after Mitigation</i>
feasible mitigation measures available to further reduce VMT and achieve a 15 percent reduction over existing Townwide VMT. As such, Proposed Project VMT would remain significant and unavoidable.  This impact is cumulative by nature because the effects specific to the Proposed Project cannot be reasonably differentiated from the broader effects of regional growth and development.			
3.13-3 Implementation of the Proposed Project would not substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible land uses (e.g., farm equipment)	None required	Less than significant	Not applicable
3.13-4 Implementation of the Proposed Project would not result in inadequate emergency access.	None required	Less than significant	Not applicable
In combination with other past, present, and reasonably foreseeable projects, the Proposed Project would not result in significant cumulative impacts related to conflict with adopted transportation plans, hazards related to roadway design features, or emergency access.	None required	Less than significant	Not applicable
<b>3.14 Utilities and Service Systems</b>			
3.14-1 Implementation of the Proposed Project would not require or result in the	None required	Less than significant	Not applicable

<b>Table ES-I: Summary of Impacts and Mitigation Measures</b>			
<i>Impact</i>	<i>Mitigation Measures</i>	<i>Significance before Mitigation</i>	<i>Significance after Mitigation</i>
relocation or construction of new or expanded water, or wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects.			
3.14-2 Implementation of the Proposed Project would have sufficient water supplies available to serve the Planning Area and reasonably foreseeable future development during normal, dry and multiple dry years.	None required	Less than significant	Not applicable
3.14-3 Implementation of the Proposed Project would not result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments.	None required	Less than significant	Not applicable
3.14-4 Implementation of the Proposed Project would not generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals.	None required	Less than significant	Not applicable
3.14-5 Implementation of the Proposed Project would not conflict with federal, state, and local management and reduction	None required	Less than significant	Not applicable

<b>Table ES-I: Summary of Impacts and Mitigation Measures</b>			
<i>Impact</i>	<i>Mitigation Measures</i>	<i>Significance before Mitigation</i>	<i>Significance after Mitigation</i>
statutes and regulations related to solid waste.			
In combination with other past, present, and reasonably foreseeable projects, the Proposed Project would not result in significant cumulative impacts related to relocation or construction of new utilities, water supply, wastewater treatment capacity, generation of solid waste, or conflict with adopted plans related to local waste.	None required	Less than significant	Not applicable
<b>3.15 Wildfire</b>			
3.15-1 Implementation of the Proposed Project would not substantially impair an adopted emergency response plan or emergency evacuation plan.	None required	Less than significant	Not applicable
3.15-2 Implementation of the Proposed Project would not exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire.	None required	Less than significant	Not applicable
3.15-3 Implementation of the Proposed Project would not require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment.	None required	Less than significant	Not applicable

<b>Table ES-I: Summary of Impacts and Mitigation Measures</b>			
<i>Impact</i>	<i>Mitigation Measures</i>	<i>Significance before Mitigation</i>	<i>Significance after Mitigation</i>
3.15-4 Implementation of the Proposed Project would not expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes.	None required	Less than significant	Not applicable
In combination with other past, present, and reasonably foreseeable projects, the Proposed Project would not result in significant cumulative impacts related to an adopted emergency response plan or emergency evacuation plan, exposure of residents to pollutants, or the exposure of structures or people to significant risks.	None required	Less than significant	Not applicable

# I Introduction

This Draft Environmental Impact Report (EIR) has been prepared on behalf of the Town of Fairfax (Town) in accordance with the California Environmental Quality Act (CEQA) (Public Resources Code Section 21000, *et seq.*). This EIR analyzes potential environmental impacts of the adoption and implementation of the proposed Town of Fairfax 2023-2031 General Plan Housing Element Update, referred to as the “Proposed Project.” This chapter outlines the purpose and overall approach to the preparation of the EIR. The Town is the lead agency responsible for ensuring that the Proposed Project complies with CEQA. “Lead agency” is defined by Section 21067 of CEQA as “the public agency which has the principal responsibility for carrying out or approving a project which may have a significant effect upon the environment.”

## I.1 Purpose of the EIR

---

The primary intent of CEQA is to ensure that public agency decision-makers document and consider the environmental implications of their actions in order to avoid or minimize environmental damage that could result from the implementation of a project wherever feasible, and to balance environmental, economic, and social objectives. The purpose of an EIR is to identify the significant effects on the environment of a project, to identify alternatives to the project, and to indicate the manner in which those significant effects can be mitigated or avoided (CEQA Section 21002.1).

### **PURPOSE**

This EIR serves the following purposes:

- To satisfy CEQA requirements for analysis of environmental impacts by including a complete and comprehensive programmatic evaluation of the physical impacts of adopting and implementing the Proposed Project;
- To recommend a set of measures to mitigate any significant adverse impacts;
- To analyze a range of reasonable alternatives to the Proposed Project;
- To inform decision-makers and the public of the potential environmental impacts of the Proposed Project prior to taking action on the Proposed Project, and to assist Town officials in reviewing and adopting the Proposed Project; and

- To provide a basis for the review of subsequent development projects and public improvements proposed within the Planning Area. Subsequent environmental documents may be tiered from the Final EIR.

The Proposed Project consists of policies, diagrams, and standards to guide the future development of the Planning Area, as described in Chapter 2: Project Description. This EIR contains analysis of all potential environmental impacts expected to result from implementation of the various policies and programs identified as part of the Proposed Project, including those that serve to avoid or minimize adverse environmental impacts. In accordance with CEQA requirements, this EIR also identifies and evaluates alternatives to the Proposed Project, including a Mixed-Use Development Alternative. An environmentally superior alternative is identified as part of the Alternatives analysis.

This EIR evaluates at a programmatic level the potential environmental impacts of the Proposed Project given its 2031 planning horizon. It can be anticipated that conditions will change; however, the assumptions used are the best data and information available at the time of EIR preparation and reflect existing knowledge of patterns of development.

## **INTENDED USES OF THE EIR**

The California Environmental Quality Act, Public Resources Code Section 21000, *et seq.* (CEQA) Guidelines (Section 15124(d)) require EIRs to identify the agencies that are expected to use the EIR in their decision-making, and the approvals for which the EIR will be used. This EIR will inform the Town, in addition to other responsible agencies, persons, and the general public, of the potential environmental effects of the Proposed Project and the identified alternatives. The Town will use the EIR as part of its review and approval of the Proposed Project. Other agencies that may use the EIR include local and regional agencies such as the Ross Valley School District, the Ross Valley Fire Department, San Francisco Regional Water Quality Control Board, and the Association of Bay Area Governments (ABAG); and State agencies such as the California Department of Transportation (Caltrans).

## **1.2 Approach and Scope of the EIR**

---

### **TYPE OF EIR**

This EIR is a program EIR, defined in Section 15168 of the CEQA Guidelines as: “[An EIR addressing a] series of actions that can be characterized as one large project and are related either: (1) Geographically; (2) A[s] logical parts in the chain of contemplated actions; (3) In connection with the issuance of rules, regulations, plans, or other general criteria to govern the conduct of a continuing program; or (4) As individual activities carried out under the same authorizing statutory or regulatory authority and having generally similar environmental impacts which can be mitigated in similar ways.”

Program EIRs can be used as the basic, general environmental assessment for an overall program of future projects, policies, and related implementation actions, such as the Proposed Project. A

program EIR has several advantages. First, it provides a basic reference document to avoid unnecessary repetition of facts or analysis in subsequent project-specific assessments. Second, it allows the lead agency to look at the broad, regional impacts of a program of actions before its adoption, and eliminates redundant or contradictory approaches to the consideration of regional and cumulative effects.

As a programmatic document, this EIR presents an assessment of the potential impacts of the Proposed Project on the entirety of the Planning Area which encompasses about 2.2 square miles, shown on Figure 2.1-1. It does not separately evaluate subcomponents of the Proposed Project, nor does it assess project-specific impacts of potential future developments under the Proposed Project, all of which are required to comply with CEQA and/or the National Environmental Policy Act (NEPA) as applicable.

As a program EIR, the preparation of this document does not relieve the sponsors of specific projects from the responsibility of complying with the requirements of CEQA (and/or NEPA for projects requiring federal funding or approvals). As noted, individual projects are required to prepare a more precise, project-level analysis to fulfill CEQA and/or NEPA requirements. The lead agency responsible for reviewing these projects shall determine the level of review needed, and the scope of that analysis will depend on the specifics of the particular project. These projects may, however, use the discussion of impacts in this EIR as a basis of their assessment of these regional, townwide, or cumulative impacts, provided that the projects are consistent with the Proposed Project and the data and assumptions used in this EIR remain current and valid.

## **ENVIRONMENTAL ISSUE AREAS**

Information gathered about the environmental setting is used to define relevant planning issues, determine thresholds of significance, and evaluate potential impacts. Based on the initial analysis of environmental setting and baseline conditions, and comments on the Notice of Preparation (NOP), the following issues are analyzed in this program EIR:

- Aesthetics
- Air Quality
- Biological Resources
- Cultural and Tribal Cultural Resources
- Energy
- Geology and Soils
- Greenhouse Gas Emissions
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use, Population, and Housing
- Noise



- Public Services and Recreation
- Transportation
- Utilities and Service Systems
- Wildfire

## **PLANNING HORIZON**

For analytic purposes in this EIR, the base year is 2023 and the horizon year representing future conditions is 2031, unless otherwise noted. In cases where current data is not available, the most recent known data is used to depict baseline conditions. The horizon year of 2031 represents the target year of the Proposed Project when projects and programs are anticipated to be fully implemented.

## **ALTERNATIVES**

CEQA requires EIRs to evaluate a reasonable range of alternatives to the Proposed Project that could feasibly attain most of the basic project objectives and would avoid or substantially lessen any of the significant environmental impacts. This EIR evaluates two alternatives, including a Mixed-Use Development Alternative. A No Project Alternative was considered but determined infeasible, given that State law requires each city and county in California adopt an updated Housing Element every eight years and plan to accommodate its share of the regional housing need.

## **1.3 Planning Process and Public Involvement**

---

### **NOTICE OF PREPARATION AND PUBLIC PARTICIPATION**

A NOP for the EIR on the Proposed Project was submitted to the State Clearinghouse on August 26, 2022 and circulated among relevant State and local agencies, as well as to members of the public. Since that time, the inventory of sites available for housing and the projections for their realistic capacity to accommodate housing have been revised. Therefore, the Town recirculated a NOP for the EIR on the Proposed Project and submitted it again to the State Clearinghouse on April 3, 2023 and circulated it among relevant State and local agencies, as well as to members of the public. The Town received a total of five comment letters from State public agencies and 22 comment letters from individuals during the both of the NOP's 30-day review periods, which ended on September 26, 2022 and May 2, 2023, respectively. The NOP and comments on the NOP received by the Town are summarized in Chapter 3 of this EIR and included as Appendix A and B of this EIR. Consistent with legal requirements and State guidance, an EIR Scoping Meeting was held on April 19, 2023, at the Fairfax Women's Club to receive comments and suggestions on scope and content for the EIR; solicit input on potential impacts, mitigation measures, and alternatives to consider; and consult with public agencies responsible for natural resources, other regulatory bodies, neighboring communities, Native American tribes, and members of the public. Comments on the NOP, along with input received during public workshops and meetings over the course of the Proposed Project's process, have helped to identify the major planning and environmental issues and concerns and establish the framework of this EIR.

## **TRIBAL CONSULTATION (SB 18 AND AB 52)**

Senate Bill (SB) 18, codified in California Government Code (CGC) Section 65352.3, requires local governments to consult with California Native American tribes identified by the Native American Heritage Commission (NAHC) for the purpose of protecting, and/or mitigating impacts to cultural places prior to the adoption or amendment of a general plan. Additionally, Assembly Bill (AB) 52 requires tribal cultural resources to be addressed under CEQA and established requirements for consultation with Native American tribes as part of the CEQA process, providing both federal and non-federally recognized tribes the right to formal consultation with project lead agencies (California Public Resources Code [PRC] Section 21080.3.1). In accordance with SB 18 and AB 52, the Town contacted the NAHC in October 2021 to request a consultation list of tribes traditionally and culturally affiliated with the Planning Area. Upon receipt of a list of tribal contacts, the Town contacted tribal representatives in March 2022, providing information about the planning process and inviting them to initiate consultation under AB 52 if desired. One response and formal request for tribal consultation has been received by the Federated Indians of Graton Rancheria. Correspondence with the NAHC and tribal contacts is included in Appendix C. Additionally, the NOP was shared with the NAHC and in August 2022 and April 2023, the NAHC responded with recommendations for conducting cultural resources assessments.

The record search of the NAHC Sacred Lands File (SLF) was completed and the results were negative. However, the absence of specific site information in the SLF does not indicate the absence of cultural resources in the project area, and there is still potential for the Planning Area to contain tribal cultural resources from past Native American activities.

## **DRAFT EIR REVIEW**

The CEQA Guidelines establish that the public review period for a draft EIR shall be no shorter than 30 days and no longer than 60 days. The public review period for a draft EIR that has been submitted to the State Clearinghouse for review by State agencies shall be no shorter than 45 days (CCR 15105). This Draft EIR is available for review to the public and interested and affected agencies for a period of 45 days. The purpose of the review period is to obtain comments “on the sufficiency of the document in identifying and analyzing the possible impacts on the environment and ways in which the significant effects of the project might be avoided and mitigated” (CCR Section 15204). The EIR and appendices are available for review at the front desk of Town Hall located at 142 Bolinas Road, Fairfax, CA 94930 and online at <https://www.townoffairfax.org/housing-element>.

Please submit comments on this Draft EIR in writing or via email to:

Heather Abrams, Town Manager  
Town of Fairfax  
142 Bolinas Road  
Fairfax, CA, 94390  
Email: [habrams@townoffairfax.org](mailto:habrams@townoffairfax.org)

After the close of the public review period, Town staff and CEQA consultants will review the comments, respond to the comments received, and determine whether any changes are required to

the EIR. The Town Council will then consider certification of the Final EIR. Subsequent to certification of the Final EIR, the Town Council may approve the Proposed Project. If the Town Council approves the Proposed Project, a Notice of Determination will be filed with the State Office of Planning and Research and the Clerk of Marin County.

## **1.4 Other Relevant Plans and Environmental Studies**

---

Plans and studies relevant to the Proposed Project include the following:

- Fairfax Climate Action Plan 2030 (2021)
- Marin County Multi-Jurisdiction Local Hazard Mitigation Plan (2018)
- Town of Fairfax Bicycle and Pedestrian Plan 2016 Update (2016)
- Town of Fairfax 2015-2023 Housing Element Update (2015)
- Marin County Emergency Operations Plan (2014)
- Town of Fairfax 2010-2030 General Plan (2012)

## **1.5 Organization of the EIR**

---

This Draft EIR is organized into the following chapters, plus appendices:

- ES. **Executive Summary.** Summarizes the EIR by providing an overview of the Proposed Project, the potentially significant environmental impacts that could result from the Proposed Project, the mitigation measures identified to reduce or avoid these impacts, alternatives to the Proposed Project, and identification of the environmentally superior Alternative.
1. **Introduction.** Introduces the purpose of the EIR, explains the EIR process and intended uses of the EIR, and describes the overall organization of this EIR.
2. **Project Description.** Describes in detail the Proposed Project, including its location and boundaries, purpose and objectives, and projected buildout.
3. **Environmental Analysis.** Analyzes the environmental impacts of the Proposed Project. Impacts are organized by major topic. Each topic area includes a description of the environmental setting, significance criteria, methodology, and potential impacts.
4. **Analysis of Alternatives.** Presents a reasonable range of alternatives to the Proposed Project, including the No Project alternative, provides discussion of environmental impacts associated with each alternative, compares the relative impacts of each alternative to those

of the Proposed Project and other alternatives, discusses the relationship of each alternative to the Proposed Project's objectives, and identifies the environmentally superior alternative.

5. **CEQA Required Conclusions.** Summarizes significant environmental impacts, including growth-inducing, cumulative, and significant and unavoidable impacts; significant irreversible environmental change; and impacts found not to be significant.
6. **List of Preparers.** Identifies the persons and organizations that contributed to the preparation of the EIR.
7. **Appendices.** Includes the NOP and compilation of agency and public comments received on the NOP, as well as other technical appendices including data used for environmental analysis in this EIR.

## **2 Project Description**

The project analyzed in this Environmental Impact Report (EIR) is the proposed General Plan 2023-31 Housing Element Update (Proposed Project) in the Town of Fairfax (Town) and related zoning amendments needed for implementation. The Proposed Project is both a policy document and a tool for implementing portions of the Town's General Plan. It contains goals, policies, and programs to guide future housing development within the approximately 2.2-square-mile Planning Area that encompasses the entire town. The Town is the Lead Agency for environmental review.

This chapter summarizes the key components of the Proposed Project, including a description of its location and setting; an overview of the planning process and the Proposed Project's relationship to other past and ongoing planning efforts; a description of the Proposed Project's objectives; a summary of the Proposed Project's key components and planning strategies; a statement of project buildout and phasing assumptions; a summary of regulatory mechanisms anticipated to implement the Proposed Project; and a description of intended uses of this EIR.

### **2.1 Location and Setting**

---

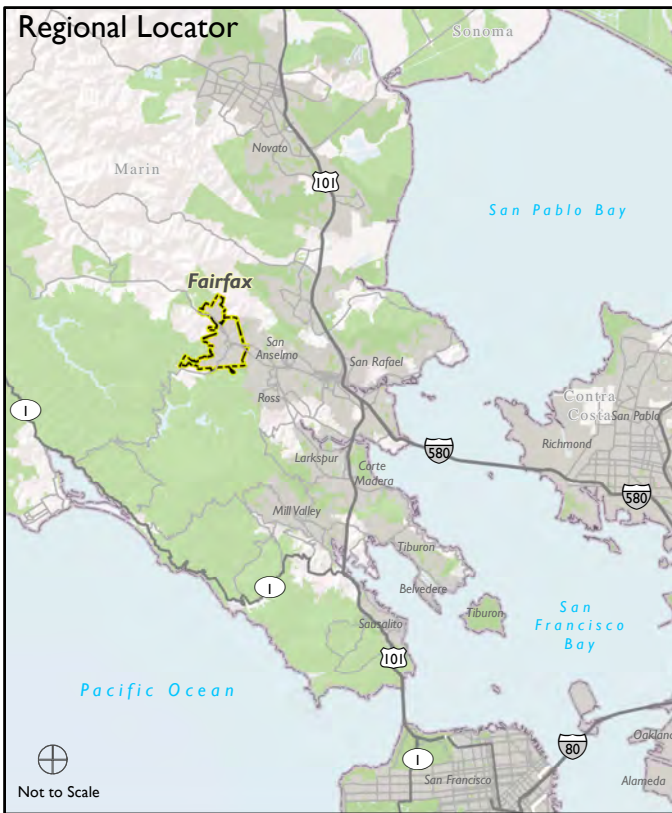
#### **REGIONAL LOCATION**

Approximately 21 miles north of San Francisco and centrally located in Marin County, Fairfax is bounded by the Town of San Anselmo to the east, census-designated place Sleepy Hollow and unincorporated Marin County to the north, the Cascade Canyon Preserve and unincorporated Fairfax to the west, and the Deer Park Wildlife Reserve to the south. Sir Francis Drake Boulevard, Center Boulevard, Broadway, and Bolinas Road are the major roadways to and through the Town. Marin Transit operates bus service along Sir Francis Drake, connecting Fairfax with Ross, San Rafael, Larkspur, and the wider Bay Area. Fairfax is at the head of the Ross Valley watershed, which lies at the confluence of San Anselmo Creek and Fairfax Creek, establishing the headwaters of Corte Madera Creek.

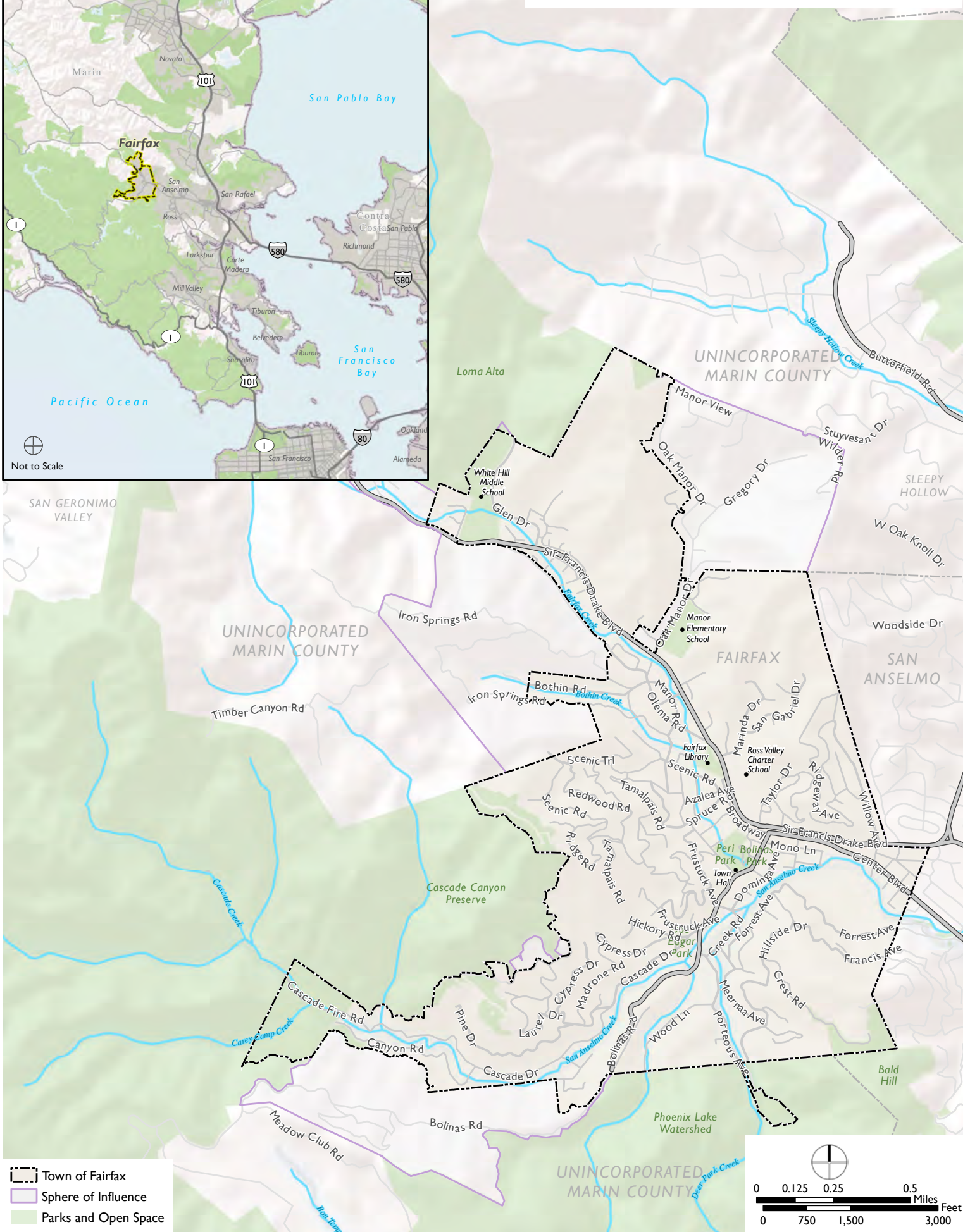
#### **PLANNING AREA AND EXISTING SETTING**

This section provides a general overview of the Planning Area; detailed setting for each topic area can be found in Chapter 3 of this EIR. The Town's location and planning boundaries are shown in Figure 2-1.

## Regional Locator



**Figure 2-1: Planning Area and Context**



## **Land Use**

Home to 7,399 residents, the Town of Fairfax is the fourth smallest jurisdiction in Marin County, encompassing just 2.2 square miles. The town is composed largely of single-family homes, with a diverse range of small, locally-owned businesses along Sir Francis Drake Boulevard, Broadway, and Bolinas Road. Notable land uses in the downtown area include the Fairfax Post Office, Fairfax Theater, Fairfax Library, and the Marin Museum of Bicycling. The southern parts of Fairfax are lined with open space, including the Cascade Canyon Preserve, the Mount Tamalpais Watershed, Deer Park, and Bald Hill Preserve. Overall, residential uses account for 720.6 acres, commercial uses occupy 46.3 acres, institutional uses occupy 53.1 acres, while parks and open space occupy 4.79 acres. Vacant land accounts for 338 acres. Utilities, roads, and right-of-way uses compose 186 acres of the Town.

## **Transportation**

Regionally, US 101 is a major freeway that functions as the primary north-south route through Marin County, connecting Marin's major population centers to destinations to the south (including San Francisco) via the Golden Gate Bridge, as well as Sonoma County and northern California to the north. State Route (SR) 1 provides access along much of Marin County's coastline, connecting smaller coastal area communities to US 101 near Tamalpais Valley, and points north in Sonoma County near Tomales. Other key roadway connections to adjacent jurisdictions include I-580, which provides access between Marin County and the East Bay via the Richmond-San Rafael Bridge, and SR 37, which links Novato to Sonoma, Napa, and Solano Counties to the east.

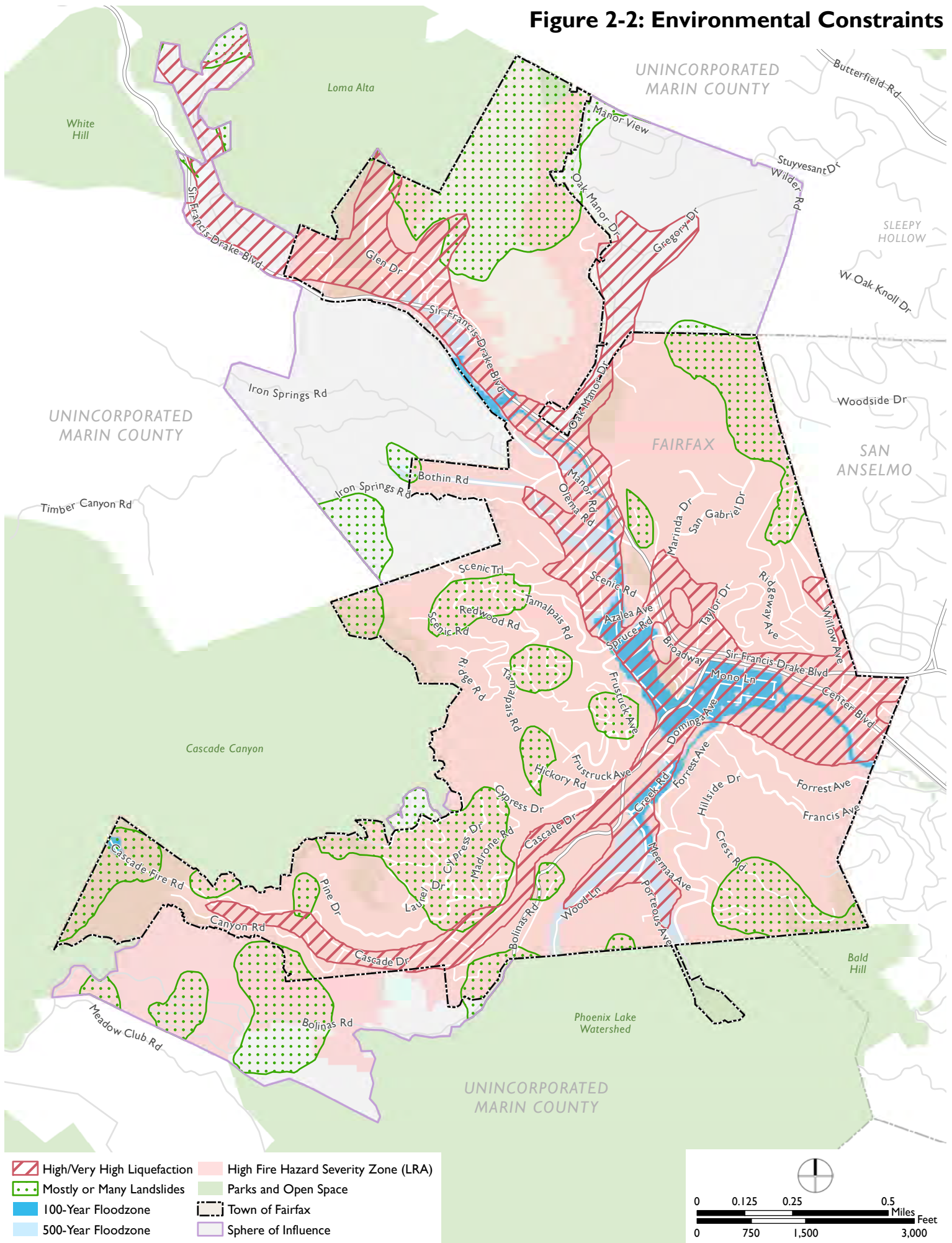
Locally, Sir Francis Drake Boulevard (SFD Blvd) bisects the Town of Fairfax and serves as the major east-west arterial from West Marin to Highway 101. Collector streets that are intended to carry traffic from collector and minor residential streets to an arterial, such as SFD Blvd, include Center Boulevard, Broadway Road, and Bolinas Road. There are also several minor residential streets throughout the town which are low-capacity streets primarily serving low density residential uses. Minor residential streets are provided within the residential neighborhoods of the Planning Area. There is no existing transit service operating within the Town.

## **Environmental Resources and Natural Setting**

Fairfax is located in the Upper Ross Valley, set amid scenic hills that rise dramatically from the valley floor. The town is at the head of the Ross Valley watershed and lies at the confluence of San Anselmo Creek and Fairfax Creek. Oak and redwood forests, diverse wildlife, streams, a variety of microclimates, and hiking, bicycling, and horse trails are all characteristic of the natural resources in the Planning Area. Most parcels within the Town limit are developed, and almost all the remaining vacant land is located in steeply sloped hillside areas. Significant portions of Fairfax are in areas of environmental hazard, including areas of high liquefaction risk that cover all of the land downtown and much of the land along Sir Francis Drake Boulevard; areas of 100-year flood risk in much of the downtown area, particularly near the confluence of San Anselmo and Fairfax Creeks; and areas of landslide risk in the hills (see Figure 2-2). Almost all land within the Town limit is classified as a High Fire Hazard Severity Zone given the risk of wildfire in the region.



### Figure 2-2: Environmental Constraints



Sources: MarinMap, 2022; Town of Fairfax, 2022; Dyett & Bhatia, 2022



## **2.2 Planning Context and Process**

---

The Proposed Project involves updates to the Town of Fairfax General Plan Housing Element. In compliance with State law, the Housing Element is being updated to account for changing demographics, market conditions, and projected housing need over an eight-year planning period that runs from 2023 through 2031.

### **HOUSING ELEMENT PLANNING PROCESS**

The Town initiated the Project in November 2021 and conducted a range of community engagement activities to solicit input from Fairfax residents. These activities included townwide mailers sent to all residents to raise awareness of the process and opportunities for input. The Town facilitated meetings with community stakeholders, including the Marin Wildfire Prevention Authority, Fairfax Age-Friendly Task Force, Town of Fairfax's Affordable Housing and Open Space Committees, Town of Fairfax Planning Commission, Chamber of Commerce, Center for Volunteer and Nonprofit Leadership, and local schools. Additionally, two community workshops and one open house were held, and the Town conducted an online survey to gather feedback from Fairfax residents. A page on the Town's website was set up to serve as an information portal for the Project.

## **2.3 Purpose and Objectives of the Proposed Project**

---

Under State law, all California cities, towns, and counties are required to adopt a General Plan Housing Element which establishes housing objectives, policies, and programs in response to community housing conditions and needs. The Town's Sixth Cycle Housing Element has been prepared to respond to current and near-term future housing needs in the Town of Fairfax and it provides a framework for the community's longer-term approach to addressing its housing needs.

The Housing Element contains goals, updated information and strategic directions (policies and implementing actions) that the Town is committed to undertaking. Housing affordability in Marin County and in the Bay Area is a critical issue. In recent decades, housing costs have skyrocketed out of proportion to many people's ability to pay, driven by increasing construction costs, steep property values, high demand for housing, and a shortfall in new housing production. As a result, long term residents and young people who grew up in Fairfax are being priced out of the local housing market. Similarly, people who work in Fairfax are often forced to live and commute by car from further away, where housing is more affordable. This contributes to congestion on local roadways, air pollution, and greenhouse gas emissions. High housing costs have become a significant obstacle to hiring teachers, first responders, and others essential to the community.

The Sixth Cycle Housing Element touches many aspects of community life. It builds upon the goals, policies and implemented programs contained in the Town's 2015-2023 Housing Element and other Town policies and practices to address housing needs in the community. The overall focus of the Housing Element is to address local housing needs in compliance with State law while also seeking to retain Fairfax's village-like quality, with distinct neighborhoods, and large areas of surrounding visible open space.

## **PROJECT OBJECTIVES**

The following are some of the specific purposes of the Housing Element update:

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

## **2.4 Proposed Project**

---

This section provides a brief overview of key plan components, which integrate the objectives and include housing policies and implementing programs. Proposed Project strategies, policies, and implementing actions are considered throughout this EIR both in terms of their environmental impacts and, where relevant, of how those policies and regulations may reduce or avoid potential impacts.

### **HOUSING ELEMENT ORGANIZATION**

The Housing Element is an integrated part of the General Plan, published under a separate cover. It is an eight-year plan that is updated more frequently than other General Plan elements to ensure its relevancy and accuracy. The Housing Element consists of the following major components organized as described below:

- **Chapter 1 - Introduction:** An introduction to the purpose of the document and the legal requirements for a Housing Element, together with an overview of the community and the community involvement process.
- **Chapter 2 – Community Profile:** Documents population characteristics, housing characteristics, and current development trends to inform the current housing state of Fairfax and to identify community needs.
- **Chapter 3 – Adequate Sites for Housing:** An inventory of adequate sites suitable for construction of new housing sufficient to meet needs at all economic levels.
- **Chapter 4 - Housing Action Plan:** Articulates housing goals, policies, and programs to address the Town’s identified housing needs, including those of special needs groups and the findings of an analysis of fair housing issues in the community. This Housing Element identifies a foundational framework of five overarching goals to comprehensively address the housing needs of Fairfax residents and workers.

- **Appendix A – Sites Inventory:** Summarizes the Town’s ability to accommodate the RHNA on available land, and the selection of sites in light of Affirmatively Furthering Fair Housing (AFFH) requirements.
- **Appendix B – Housing Needs Assessment:** Presents community demographic information, including both population and household data, to identify Fairfax’s housing needs.
- **Appendix C – Constraints Analysis:** Includes an analysis of potential market, governmental, and environmental constraints to housing production and maintenance in Fairfax. In addition, an assessment of impediments to fair housing is included, with a fuller analysis of actions needed to affirmatively further fair housing included in a separate appendix.
- **Appendix D – Accomplishments of the 2015-2023 Fairfax Housing Element:** Summarizes the Town’s achievements in implementing goals, policies, and actions under the previous Housing Element.
- **Appendix E – Fair Housing Assessment:** Identifies fair housing issues and solutions to meet Fairfax’s AFFH mandate.
- **Appendix F – Public Outreach Materials:** Includes meeting materials, community comment letters, and outreach summaries.
- **Appendix G – Reference Multifamily Projects in Marin County:** Contains details of recent multifamily housing projects in Marin County to inform capacity projections.

## **SUMMARY OF PROPOSED ACTIONS**

### **Housing Element**

Under State law, each city and county in California must plan to accommodate its share of the regional housing need - called the Regional Housing Needs Allocation (RHNA) - for the coming 8-year planning period. The State determines the estimated need for new housing in each region of California, based on population projections and other factors including rates of vacancy, overcrowding, and cost-burden. The various regional planning agencies then allocate a target to each city or town within their jurisdiction, considering factors such as access to jobs, good schools, and healthy environmental conditions. RHNA is split into four categories representing different levels of affordability, based on median income level in the county. The affordability categories are as follows:

- Very Low Income - Households making less than 50 percent of the average median income (AMI)
- Low Income - Households making 50-80 percent of AMI
- Moderate Income - Households making 80-120 percent of AMI
- Above Moderate Income - Households making more than 120 percent of AMI

Amid the ongoing housing crisis in California, Fairfax is required by law to plan for 490 new housing units over the next eight years, including 149 Very Low Income units, 86 Low Income units, 71 Moderate income units, and 184 Above Moderate units. As required by State law, the 2023-31 Housing Element Update includes a map of sites available for housing and an inventory of realistic capacity. The inventory demonstrates a total capacity of up to 598 new housing units, which is sufficient to meet the Town's RHNA obligations at all income levels with a buffer. This amount of

development would result in up to approximately 1,171 new residents<sup>1</sup>. The buffer is required to ensure that there is sufficient capacity to meet RHNA obligations at all times during the planning period, in the event that some sites on the inventory develop at lower densities than envisioned. Implementation of the Draft Housing Element would primarily involve facilitation of smaller scale housing construction in established neighborhoods on existing lots and infill sites.

The capacity projections for the inventory assume development of 46 new single-family homes on vacant land with residential zoning, including 11 pipeline projects recently approved or currently under review and which are anticipated to receive a certificate of occupancy with the 2023-31 planning period (Figure 2-3). Based on permitting trends in Fairfax since 2018 and a robust suite of programs intended to incentivize and promote small scale housing, the Town projects development of up to 160 new accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) over the planning period. Additionally, the inventory assumes construction of up to 381 multifamily housing units located on underutilized properties, primarily in the Town Center area of Fairfax. The Draft Housing Element also incorporates programs that propose revisions to the Town's development and design standards in order to integrate new housing and foster compatibility with surrounding uses.

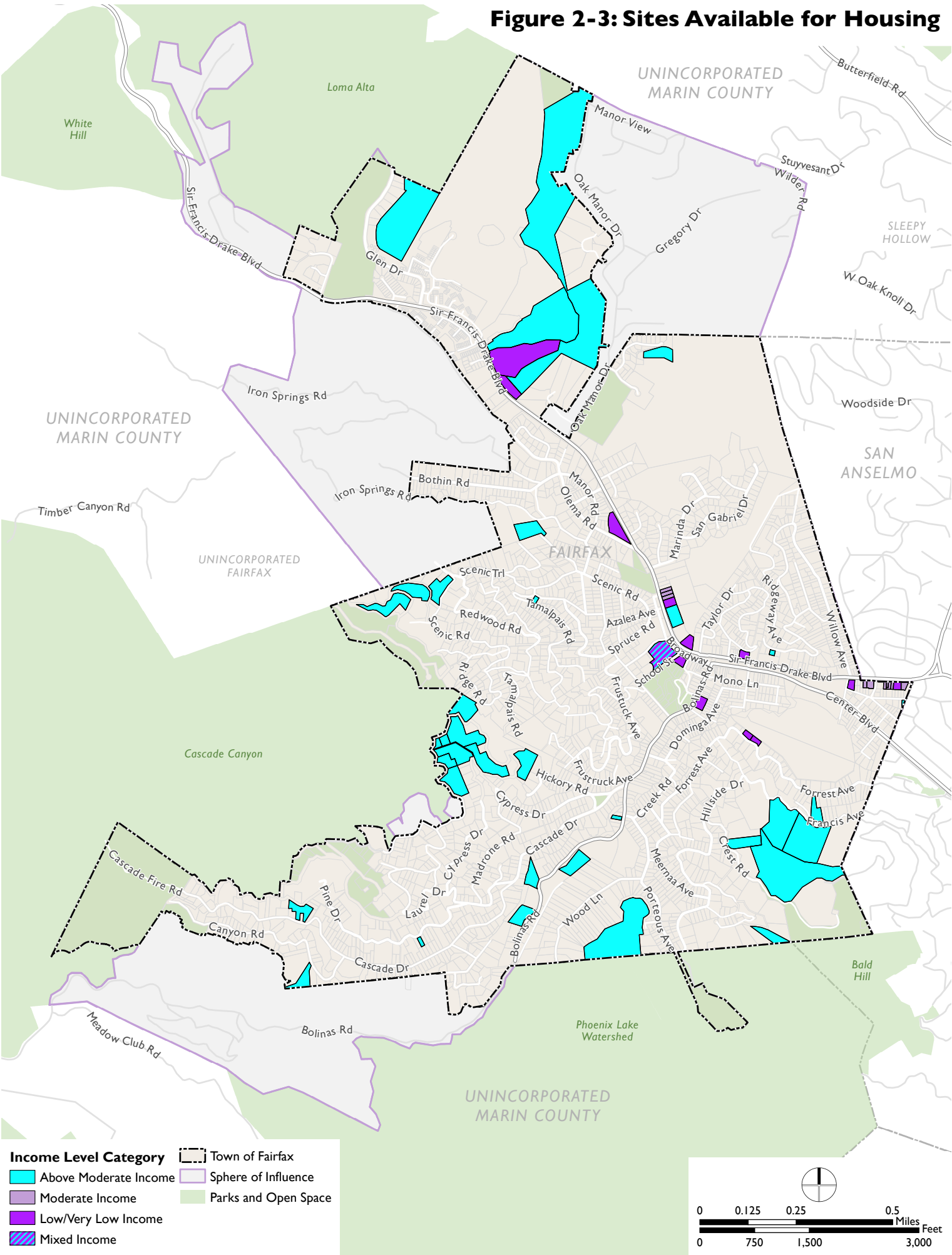
Table 2-1 shows the inventory of sites available for housing and the capacity projections for the 2023-31 planning period.

**Table 2-1: Sites Inventory**

	<i>Total Units</i>	<i>Low/Very Low</i>	<i>Moderate</i>	<i>Above Moderate</i>
Vacant Single-Family Sites	46			46
Pipeline Projects				
<i>School Street Plaza</i>	175	35		140
<i>Fairfax Market</i>	8			8
<i>Various Single Family</i>	11			11
Town-Owned Sites (002-123-17/144-01)	10	10		
Workforce Housing Overlay Sites	188	148	40	
ADU/JADU Projection (@20/yr)	160	96	48	16
<b>Total</b>	<b>598</b>	<b>289</b>	<b>88</b>	<b>221</b>
<b>RHNA</b>	<b>490</b>	<b>235</b>	<b>71</b>	<b>184</b>
<b>Buffer</b>	<b>108</b>	<b>54</b>	<b>17</b>	<b>37</b>

<sup>1</sup> Projected population from development under the Proposed Project was estimated using 2021 ACS 5-Year Estimate Tables B25033 and B25024 to calculate average Fairfax household population numbers of 2.11 residents for single-family residential units and 1.87 residents for multifamily residential units. Average household population numbers were then applied to the 217 single-family units and 381 multifamily units to be built out under the Proposed Project.

Figure 2-3: Sites Available for Housing



Sources: MarinMap, 2022; Town of Fairfax, 2022; Dyett & Bhatia, 2022

## **ACTION PLAN**

The Draft Housing Element also includes an Action Plan, organized around five housing goals, each supported by policies and implementing programs that describe actions the Town will take to help meet its RHNA obligations. Action Plan contents are summarized below.

**Goal 1, Increase the range of housing options to meet the housing needs for all economic segments of the community**, is supported by programs that seek to promote development of a variety of housing types, sizes, and densities that meet community needs. Programs involve planning for a variety of housing types located in mixed-use areas of the town that include shopkeeper housing, live-work units, home sharing and tenant matching, and ADUs. Program incentives to build such units include providing pre-approved ADU floor plans, ADU technical assistance, fee discounts, and zoning incentives.

**Goal 2, Address housing affordability by addressing regulatory, process, and market factors that limit housing production and preservation in Fairfax**, is supported by programs that seek to remove barriers to affordable housing development in the town. Specific interventions include the Town creating a workforce housing overlay, an affordable housing density bonus, rezoning sites to allow development, and reducing the time and cost of processing residential projects through establishing objective design and development standards and guidelines.

**Goal 3, Promote suitable and affordable housing for special needs populations, including housing for lower income households, large families, single parent households, the disabled, older adults, and people experiencing homelessness**, details programs that support housing development for special needs populations. Such programs include revising the Zoning Code use regulations tables to show that residential care facilities, transitional and supportive housing, and Low Barrier Navigation Centers (LBNCs) are allowed in all districts where residential uses are allowed.

**Goal 4, Foster equal housing opportunity for all residents of Fairfax, regardless of race, religion, sex, marital status, ancestry, national origin, color, or ability**, is supported by programs that ensure the housing stock will better accommodate the needs of all current and future residents. The Town will encourage and facilitate affordable housing development in Fairfax by preparing information on available sites and potential opportunities for development, conducting targeted outreach to developers, providing technical assistance to developers, and exploring various sources of funding opportunities. The Town will also promote landlord participation in the Housing Choice Voucher program and facilitate awareness of fair housing information and State legislation that prohibits housing discrimination.

**Goal 5, Monitor the effectiveness of housing programs to ensure that they respond to housing needs**, is supported by programs that provide a regular monitoring and update process to assess housing needs and achievements. Programs commit the Town to annual reporting on progress toward Housing Element objectives, ensuring adequate sites are available to meet the Town's share of RHNA at all times throughout the planning period, and monitoring of ADU and JADU trends.

## **Zoning Amendments**

The Proposed Project also involves amendments to the Fairfax Zoning Code required to implement the 2023-31 Housing Element. These include amendments to permit low impact clustered residential development on large sites within Fairfax and to facilitate the construction of housing for teachers, restaurant and service workers, firefighters, police officers, and others employed in Fairfax and Marin County within the Town Center area of Fairfax and along Sir Francis Drake Boulevard as needed to accommodate the Town's assessed share of the regional housing need.

Specifically, amendments to permit low impact clustered residential development (implementing Housing Element Program 2-D) would involve updates to Chapter 17.072 that permit clustered cottage housing units, courtyard clusters, and detached town homes as well as traditional single family dwellings on lots of 1-acre and larger with slope exceeding 15 percent so long as specified objective standards can be met. There would be no increase in density, only a change in lot size and required setbacks to enable clustered development. Objective standards would require that at least 75 percent of the site remain in its natural state and be preserved as permanent open space with a recorded conservation easement; that developments with five or more lots provide at least two means of emergency access; that scarred or graded areas be revegetated; and that a landscape documentation package compliant with the standards of the Model Water Efficient Landscape Ordinance be submitted. Objective standards would also limit maximum permitted gross building area for habitable space to 2,500 square feet plus 10 percent of the lot area up to a maximum of 4,500 square feet and establish building height limits and design standards to protect existing scenic resources and prevent development on unurbanized open space adjacent to ridgetops identified in the General Plan.

Amendments to facilitate workforce housing would include updates to the CL limited commercial and CC central commercial zones to establish multifamily housing as a permitted use, whether in a mixed use or standalone format, and to allow housing development by right pursuant to Government Code section 65583.2(i) on the 17 properties shown on Table 2-3 when 20 percent or more of the units are affordable to lower income households. These 17 properties were identified on prior Housing Element inventories and are being included in the Town's Sixth Cycle Housing Element to accommodate a portion of the Town's lower income RHNA. Additionally, amendments would also involve the creation of a workforce housing overlay that provides streamlined ministerial approval for multifamily projects on commercially zoned land that meet specified affordable housing targets, implementing Housing Element Program 2-A. The workforce housing overlay will:

- Allow for mixed use development and 100 percent residential buildings on commercial properties within in the overlay;
- Establish an “as of right” base density with a minimum percentage of affordable housing (40 units per acre in downtown and 20 dwelling units per acre along Sir Francis Drake Boulevard);
- Permit additional density on larger sites with additional on-site amenities and designs that provide transitions to adjacent lower density uses;
- Create a sliding scale that provides bonus density in exchange for a greater commitment to affordability;

- Incorporate objective design and development standards to accommodate higher density development and ensure appropriate buffering of adjacent residential land uses.

**Table 2-3: Sites Reused from Prior Inventories**

<i>APN</i>	<i>ADDRESS</i>	<i>EXISTING USE</i>	<i>ACREAGE</i>	<i>PRIOR INVENTORIES</i>
002-112-13	6 SCHOOL ST	Retail/General Commercial	1.92	2009 / 2015
001-183-10		Vacant	0.41	2009 / 2015
002-213-07	1583 SIR FRANCIS DRAKE BLVD	Retail/General Commercial	0.08	2009 / 2015
001-183-17	2000 SIR FRANCIS DRAKE BLVD	Retail/General Commercial	0.51	2009 / 2015
002-213-04	1591 SIR FRANCIS DRAKE BLVD	Retail/General Commercial	0.09	2009 / 2015
001-183-14	2086 SIR FRANCIS DRAKE BLVD	Retail/General Commercial	0.19	2009 / 2015
001-183-15	2082 SIR FRANCIS DRAKE BLVD	Retail/General Commercial	0.19	2009 / 2015
002-211-21	1625 SIR FRANCIS DRAKE BLVD	Retail/General Commercial	0.26	2009 / 2015
002-213-10	1573 SIR FRANCIS DRAKE BLVD	Retail/General Commercial	0.20	2009 / 2015
001-183-12	2090 SIR FRANCIS DRAKE BLVD	Retail/General Commercial	0.17	2009 / 2015
002-211-20	1601 SIR FRANCIS DRAKE BLVD	Retail/General Commercial	0.23	2009 / 2015
002-213-05	1589 SIR FRANCIS DRAKE BLVD	Retail/General Commercial	0.05	2009 / 2015
002-213-06	1585 SIR FRANCIS DRAKE BLVD	Retail/General Commercial	0.10	2009 / 2015
002-211-05	1607 SIR FRANCIS DRAKE BLVD	Retail/General Commercial	0.11	2009 / 2015
001-183-04	2040 SIR FRANCIS DRAKE BLVD	Retail/General Commercial	1.04	2009 / 2015
002-213-25	1577 SIR FRANCIS DRAKE BLVD	Retail/General Commercial	0.25	2009 / 2015
001-104-12	2170 SIR FRANCIS DRAKE BLVD	Retail/General Commercial	1.21	2009 / 2015
174-300-05		Vacant	11.77	2009 / 2015



## **2.5 Intended Uses of this EIR**

---

This EIR is intended to review potential environmental impacts associated with the adoption and implementation of the Proposed Project and determine corresponding mitigation measures, as necessary. This EIR is a program-level EIR and does not evaluate the project-specific impacts of individual developments or projects that may be allowed under the Proposed Project. Pursuant to CEQA Section 15152, subsequent projects that are consistent with the Proposed Project may “tier” from this EIR, relying on the environmental analysis and mitigation measures it contains in order to streamline environmental review or to focus on project-specific environmental effects not considered in this EIR, if any. Additionally, subsequent projects that satisfy the requirements of CEQA Section 15182 or 15183 may be eligible for streamlined environmental review.

This EIR serves as the environmental document for all discretionary actions associated with development under the Proposed Project. This EIR is intended to be the primary reference document in the formulation and implementation of a Mitigation Monitoring and Reporting Program (MMRP) for the Proposed Project. This EIR is also intended to assist other responsible agencies in making approvals that may result from the Proposed Project. Federal, State, regional, and local government agencies that may have jurisdiction over development proposals in the Planning Area include:

- U.S. Army Corps of Engineers
- Federal Emergency Management Agency
- U.S. Fish and Wildlife Service
- California Department of Fish and Wildlife
- California Department of Transportation
- Metropolitan Transportation Commission
- Bay Area Air Quality Management District
- San Francisco Bay Regional Water Quality Control Board
- Marin Municipal Water District
- Ross Valley Sanitary District
- Central Marin Sanitation Agency

The Proposed Project would require the following approvals and discretionary actions by Fairfax:

- **Town Council**
  - Adoption of the Proposed Project
  - Certification of the EIR pursuant to CEQA
  - Adoption of ordinances, guidelines, programs, and other mechanisms for implementation of the Proposed Project.

## 3.1 Aesthetics

This section evaluates the potential impacts to aesthetics that could arise from implementation of the Proposed Project. The analysis includes possible impacts to scenic resources, aesthetics, and visual quality, as well as those arising from the possible introduction of new sources of light and glare.

Four responses to the Notice of Preparation (NOP) related to topics addressed in this section which are located in Appendix B of this DEIR. Comments expressed concern for potential development impacts on scenic ridgelines, vistas, and town aesthetic. These comments are addressed under the Impact Analysis below. Impact 3.1-1 discusses how development under the Proposed Project would have a less than significant impact on scenic ridgelines and vistas while Impact 3.1-3 discusses how the Proposed Project would have a less than significant impact on town aesthetic.

## Environmental Setting

---

### PHYSICAL SETTING

Scenic resources can be understood as a community's key visual assets that define the visual aesthetic of a landscape and enhance community identity. Scenic resources include natural and open spaces, along with associated features such as landforms, trees, and water features. Scenic resources also include the built environment, particularly if architectural forms are of historic or artistic value.

Visual quality is defined as the overall visual impression or attractiveness of an area based on the scenic resources, both natural and built. The attributes of visual quality include variety, vividness, coherence, uniqueness, harmony, and pattern. Viewshed is a term used to describe a range of resources and their context that relate to what people can see in the immediate environment in terms of foreground, middle ground, and background distances.

Impacts to visual quality are perceived by different viewer types and to different degrees, depending on the viewer exposure. Different land uses, such as open space or commercial districts, derive value from the quality of their settings and, for the purposes of this study, city gateways and surrounding land features. For example, travelers in Fairfax might be exposed to views of dramatic hillsides, streambeds, or tall stands of Conifer Hardwood Forest as they move throughout the Town. Exposure to these views varies based on proximity and ability to see the viewshed, and scenic resources are of particular importance in circumstances where viewer sensitivity may be impacted. This sensitivity is determined by two measures: exposure and awareness. Exposure is the relative proximity of potential viewers to a given project implemented under the Proposed Project, and awareness indicates the attention and focus viewers bring to the experience of the area.

## **Existing Visual Conditions**

Nestled in the heart of Marin County at the upper-west end of Ross Valley, the Town of Fairfax retains its small-town charm and atmosphere. Its location provides easy access to San Francisco and the commercial corridor of Marin, while providing a close-knit feel for its residents. The valley and hills that comprise the town provide a strong sense of community and its uniqueness, which attract a strong artistic and entrepreneurial community. The Town's natural setting encompasses a series of valleys, canyons, and forested hills with largely undeveloped ridgelines. Scenic and natural resources are key aspects of the community with mature trees, several creeks, including San Anselmo Creek and Fairfax Creek, and extensive areas of protected open space in and around the Town. The Town of Fairfax acts as a gateway to the Point Reyes National Seashore, to West Marin with its farms and agriculture, to Samuel P. Taylor State Park, and to recreational opportunities within the Marin Municipal Watershed District (MMWD).

Historic development patterns in Fairfax created a town with a distinct center, providing a good public transit hub within walking and bicycling distance of most of the town's inhabitants. Fairfax has retained a village-like quality, with distinct neighborhoods, and large areas of surrounding visible open space. Physical development is concentrated in the Town Center area, near the former railway station at the intersection of Sir Francis Drake Boulevard and Bolinas Road. The core of the Town of Fairfax is a classic example of "old urbanism," where human-scale development was oriented around the former transit station which was developed in 1907 and 1908. Common architectural styles throughout the Planning Area include Craftsman, Main Street Classical, Mediterranean, Tudor, and Victorian. The architectural diversity of the neighborhoods and the compact, small-scale Town Center area also make Fairfax a very special place for residents and visitors.

## **Gateways and Open Space**

The Planning Area is visually and geographically bounded by prominent ridgelines that separate it from adjacent communities in Marin County. Nestled into the rolling hills of the Upper Ross Valley, open space is both a feature of the Town and an important marker of its boundaries. The General Plan identifies three "gateways" which provide physical and perceptible entrances to the Planning Area. These gateways define views that make Fairfax visually distinctive and are located at: Sir Francis Drake Boulevard and Center Boulevard at the San Anselmo/Fairfax town limits, Sir Francis Drake Boulevard at the top of White's Hill Pass between White's Hill and Loma Alta, and Bolinas Road at the Meadow Club.<sup>1</sup> Figure 3.1-1: Visual Resources, establishes important visual resources identified in the 2010-2030 General Plan, and includes a variety of ridgelines, hillsides, and forests that are highly visible from the three gateways and throughout the Fairfax Planning Area.

Beyond these gateways and into the town itself, vistas of the surrounding forested hillside and open space are visible from most vantage points within the Planning Area. Occasional glimpses of Mount Tamalpais, Marin County's most dominant natural landform, are visible from higher elevations in

---

<sup>1</sup> Ibid.

Northeastern Fairfax, near Oak Manor.<sup>2</sup> Though public views are often blocked by woodland areas, these features offer their own proximate scenic values that contribute to the Town's unique visual aesthetic. To the north, Loma Alta Preserve offers sweeping panoramic views of Ross Valley throughout its network of trails and fire roads. The southern parts of Fairfax are also lined with open space, including the Cascade Canyon Preserve, the Mount Tamalpais Watershed, Deer Park, and Bald Hill Preserve.

## **Downtown**

The downtown area offers views of many of the elements that define visual aesthetic in Fairfax such as the hillsides, ridgelines, and open space of the surrounding valley. The town is situated at the head of the Ross Valley watershed, with the commercial core situated at the confluence of San Anselmo Creek and Fairfax Creek. In the downtown area, offers some of the town's most accessible creek frontage and viewing opportunities, though parts of these creeks are also occasionally visible from public roads throughout the Planning Area. Notable land uses in the downtown area include the Fairfax Post Office, Fairfax Theater, Fairfax Library, and the Marin Museum of Bicycling. Set against a backdrop of vast open space, the hamlet-like visual setting of the downtown area evokes the sense of natural tranquility and small-town life that define community aesthetic in Fairfax.

## **Scenic Corridors**

There are no State-designated Scenic Highways in the Planning Area. According to maps produced by the California Department of Transportation Scenic Highways Mapping Project, the closest eligible highway segment, State Route 1 (SR 1) near Marin City to Leggett, is located approximately seven miles west of Fairfax. Locally, Sir Francis Drake Boulevard (SFD Blvd) bisects the Town and offers views of the surrounding hillside and woodlands, in the Planning Area and small businesses in the commercial core. Collector streets that carry traffic from minor residential streets to an arterial, such as SFD Blvd, include Center Boulevard, Broadway Road, and Bolinas Road, and offer similar views of the surrounding natural landscape and residential neighborhoods. There is no existing transit service operating within the Town.

## **Light and Glare**

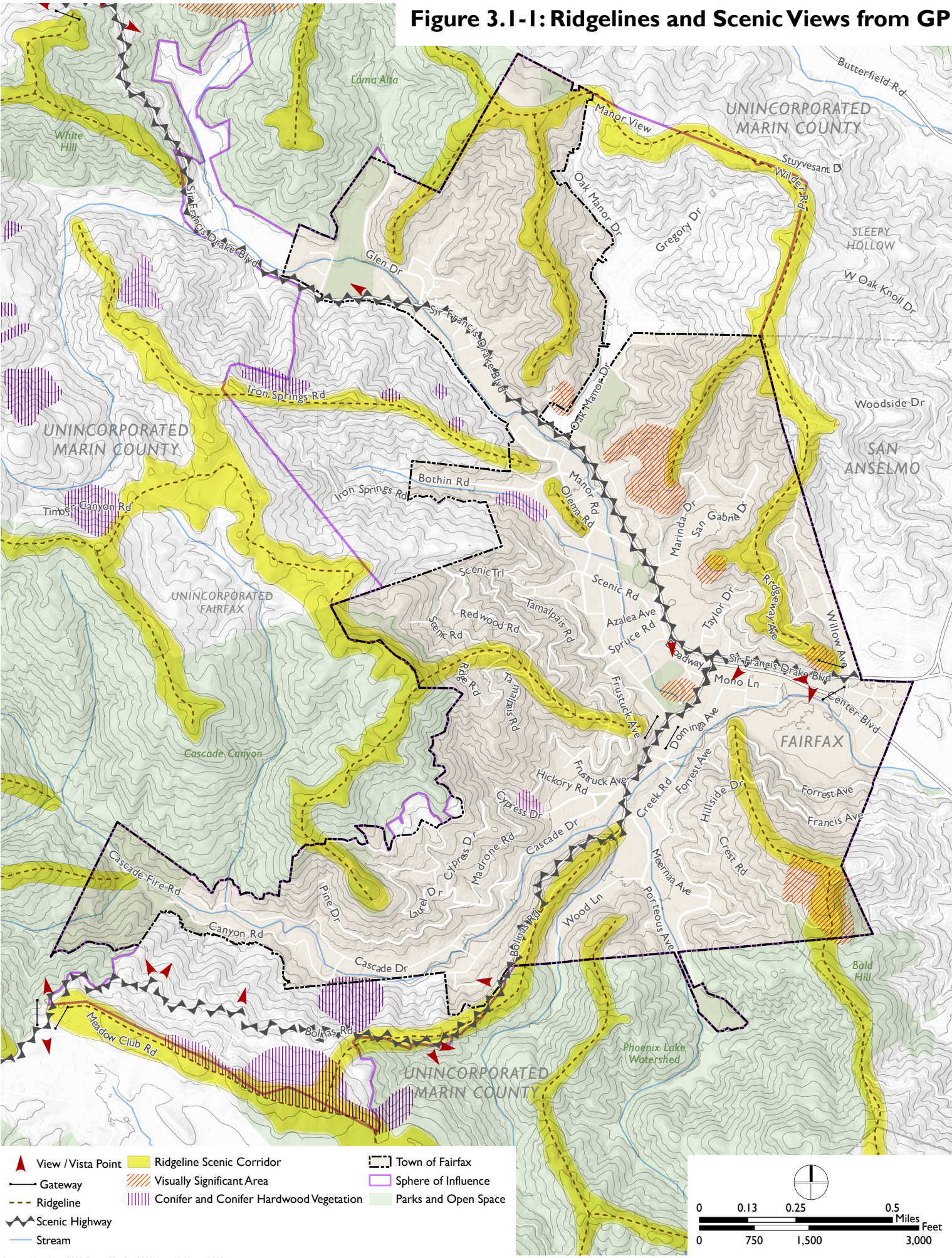
Glare refers to the discomfort or impairment of vision experienced when a person is exposed to a direct or reflected source of light, causing objectionable brightness greater than that to which the eyes are adapted. Sources of glare in suburban settings include sunlight reflected

---

<sup>2</sup> County of Marin. 2022. Housing & Safety Element Update to the Marin Countywide Plan Draft Environmental Impact Report. Available: <https://housingelements Marin.org/marin-county-environmental-review>.



Figure 3.1-1: Ridgelines and Scenic Views from GP





in the windows of buildings, including glass façades, and cars. Lighted signs on multi-story buildings are another source of light. Existing development and motor vehicles produce light and glare throughout Fairfax. Primary sources of light in the Planning Area are streetlights, parking lot lights, and automobile headlights.

## **REGULATORY SETTING**

### **Federal**

No existing federal regulations pertain to visual resources in the Town of Fairfax

### **State**

#### *California Solar Shade Control Act.*

Under the California Solar Shade Control Act (Public Resource Code Sections 25980-25986), no property owner shall allow a tree or shrub to be placed or to grow so as to cast a shadow greater than 10 percent at any one time between the hours of 10:00 AM and 2:00 PM over an existing solar collector used for water heating, space heating or cooling, or power generation on an adjacent property. These limitations apply to the placement of new trees or shrubs, and do not apply to trees and shrubs that already cast a shadow upon that solar collector. The location of a new solar collector is required to comply with local building and setback regulations but must be set back not less than five feet from the property line and must be no less than 10 feet above the ground.<sup>3</sup>

#### *Title 24 Outdoor Lighting Zones.*

The Building Energy Efficient Standards (California Building Standards Code, California Code of Regulations, Title 24, Part 6, California Energy Code) specify outdoor lighting requirements for residential and non-residential development. The intent of these standards is to improve the quality of outdoor lighting and help reduce the impacts of light pollution, light trespass, and glare. The standards regulate lighting aestheticistics, such as maximum power and brightness, shielding, and sensor controls to turn lighting on and off. Different lighting standards are set by classifying areas by lighting zone. The classification is based on U.S. Census Bureau population figures, and the areas can be designated as LZ0 (very low), LZ1 (low), LZ2 (moderate), LZ3 (moderately high), or LZ4 (high). Lighting requirements for dark and rural areas are stricter in order to protect the areas from new sources of light pollution and light trespass. According to the U.S. Census Bureau, portions of the eastern County are defined as already developed areas or already developed clusters and are therefore designated as Lighting Zone 4 per the California Energy Commission outdoor lighting zone classification standards.<sup>4</sup>

---

<sup>3</sup> California Codes, Public Resource Code Sections 25980-25986

([https://leginfo.ca.gov/faces/codes\\_displayText.xhtml?lawCode=PRC&division=15.&title=&part=&chapter=12.&article=](https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=PRC&division=15.&title=&part=&chapter=12.&article=)).<sup>9</sup>The Census Bureau def

<sup>4</sup> The Census Bureau defines rural as any population, housing, or territory not in an urban area. (U.S. Census Bureau, <https://www.census.gov/programs-surveys/geography/guidance/geo-areas/urbanrural.html>, accessed 4/6/22.)

## **Regional**

### *Marin Countywide Plan*

The 2007 Marin Countywide Plan (CWP) addresses aesthetic issues. Applicable adopted Countywide Plan policies include:

#### Natural Systems and Agriculture Element – Open Space policies.

**Policy OS-1.2:** Protect Open Space for Future Generations. Ensure that protected lands remain protected in perpetuity, and that adequate funding is available to maintain it for the benefit of residents, visitors, wildlife, and the environment.

#### Built Environment Element – Community Development policies.

**Policy CD-1.1:** Direct Land Uses to Appropriate Areas. Concentrate urban development in the City-Centered Corridor, where infrastructure and facilities can be made available most efficiently. Protect sensitive lands in the Baylands Corridor. Emphasize agricultural uses in the Inland Rural Corridor, along with preservation of resources, habitat, and existing communities. Focus on open space, recreational, and agricultural land uses, as well as preservation of existing communities, in the Coastal Corridor.

#### Built Environment Element – Community Design policies.

**Policy DES-3.1:** Promote Infill. Encourage the development of vacant and underutilized parcels consistent with neighborhood aesthetic.

**Policy DES-3.2:** Promote Green Spaces. Encourage the creation of high-quality community plazas, squares, greens, commons, community and neighborhood parks, and rooftop gardens.

**Policy DES-4.1:** Preserve Visual Quality. Protect scenic quality and views of the natural environment — including ridgelines and upland greenbelts, hillsides, water, and trees — from adverse impacts related to development.

## **Local**

### *Town of Fairfax General Plan*

#### Open Space Element

**Goal OS-1:** Protect and preserve open space lands and native biotic resources within the Fairfax Planning Area.

**Policy OS-1.4.1:** Any proposed development of a parcel in the inventory shall be reviewed by the Fairfax Open Space Committee.

**Policy OS-1.4.2:** Encourage the creation of open space through clustered development on parcels in this inventory.

**Goal OS-3:** Preserve the sensory qualities of open space for recreational, cultural, educational, and spiritual experiences.

**Policy OS-3.2.2:** Discourage development of any man-made structure on the ridgelines and within the ridge zones within the Fairfax Planning Area.

**Policy OS-3.2.3:** Prevent development from blocking or impairing existing views of Visually Significant Areas identified in Figure OS-1.

**GOAL LU-1:** Preserve scenic and natural resources.

**Policy LU-1.2.1:** Identify the Visually Significant Areas within the FPA where development will be limited.

**Policy LU-1.2.2:** New or renewed development in Visually Significant Areas shall be designed and sited to have the least visual impact as seen from the majority of the Town.

**Policy LU-1.2.3:** New and renewed development shall be designed and located so as to minimize the visual mass. The Town will require exterior materials and colors that blend the exterior appearance of structures with the surrounding natural landscape, allowing for architectural diversity.

**Policy LU-1.2.4:** No roads or streets shall be permitted to traverse a ridge, except as deemed necessary specifically for emergency access and egress.

### *Fairfax Town Code*

Chapter 16.24.080 (Ridgelines and Views) determines that all subdivisions shall be designed to protect ridgelines pursuant to Chapter 17.060 and to assure adequate light, air, privacy and views on all parcels regardless of land use.

Chapter 16.24.070 (Existing Vegetation) describes that subdivisions shall be designed to preserve desirable existing native, indigenous vegetation, especially trees, to the maximum extent feasible. Where there are insufficient natural trees, the Planning Director may require a tree plan to be approved by the review authority that is prepared by a licensed landscape architect or arborist for the location and planting of trees of approved, suitable species.

Chapter 17.060.040 (Affected Significant View Corridors) describes regulations and procedures for building in restricted areas that may affect significant view corridors.

Chapter 17.020 presents Design Review Regulations that require projects to have a well composed design, harmoniously related to other facilities in the immediate area and to the total setting as seen from hills and other key vantage points in the community. The proposed development shall be of a quality and aesthetic appropriate to, and serving to protect the value of, private and public investments in the immediate area.



Section 17.049.010 of the Town Code also has provisions for two-unit projects to have all exterior lighting directed downward, shielded to prevent direct offsite illumination, the minimum number of fixtures necessary to provide pathway, stair/step, and entry illumination, and a maximum of two-foot candles lighting intensity. No landscape lighting is allowed.

In addition, the Town has developed Objective Design and Development Standards. This Form-Based Code (FBC) sets forth the standards for neighborhood design, building form, lighting, and uses within form-based zones. These standards reflect the community's vision for implementing the intent of the Fairfax General Plan to facilitate housing production and specifically infill housing production, through development that reinforces the highly valued aesthetic and scale of the Town's walkable centers, neighborhoods, and corridors. This FBC has been integrated with Title 17 (Zoning).

## **Impact Analysis**

---

For the purposes of this EIR, a significant impact would occur if implementation of the Proposed Project would:

- Criterion 1:** Have a substantial adverse effect on a scenic vista;
- Criterion 2:** Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway;
- Criterion 3:** In non-urbanized areas, substantially degrade the existing visual aesthetic or quality of public views of the site and its surroundings. (Public views are those that are experienced from publicly accessible vantage point). Or, in urbanized areas, conflict with applicable zoning and other regulations governing scenic quality; or
- Criterion 4:** Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area.

## **METHODOLOGY AND ASSUMPTIONS**

Appreciation of aesthetics and visual resources is generally subjective by nature, and therefore the extent of visual impact associated with adoption and implementation of the Proposed Project can be difficult to quantify. In addition, it is difficult to estimate the impact future development would have on scenic resources, since individual development projects can be designed to be compatible with and/or enhance the aesthetic quality of an area. As such, this analysis was based on the overall amount of new development at buildout of the Proposed Project, the potential location of new development, and policies and standards in the Proposed Project.

## **RELEVANT PROPOSED PLAN PROGRAMS**

**Program 2-A Workforce Housing Overlay.** California Assembly Bill (AB 2011) of 2022 provides a streamlined ministerial approval pathway for multifamily projects on

commercially zoned land that pay prevailing wages for construction work and meet specified affordable housing targets. The Town will adopt Zoning Code amendments in the form of a Workforce Housing Overlay District, to implement these provisions and provide an alternative to AB2011 as a means of promoting the construction of housing for teachers, restaurant and service workers, firefighters, police officers, and others employed in Fairfax and Marin County. The overlay will apply to properties shown on Map 3-5 in the CL, CH, and CC zones, providing property owners with the option to redevelop their land with housing or mixed use projects should they elect to do so. Two subzones are envisioned: one for high density workforce housing in the downtown area, and another for medium density workforce housing along Sir Francis Drake Boulevard. The workforce housing overlay will:

- Allow for mixed use development and 100 percent residential buildings on commercial properties within in the overlay;
- Establish an “as of right” base density with a minimum percentage of affordable housing (40 units per acre in downtown and 20 dwelling units per acre along Sir Francis Drake Boulevard);
- Permit additional density on larger sites with additional on-site amenities and designs that provide transitions to adjacent lower density uses;
- Create a sliding scale that provides bonus density in exchange for a greater commitment to affordability;
- Incorporate objective design and development standards to accommodate higher density development and ensure appropriate buffering of adjacent residential land uses.

**Responsibility: Planning and Building**

**Timeframe: Adopt the Workforce Housing Overlay by January 31, 2024**

**Objective: 159 moderate and lower income RHNA units by 2030**

**Funding: General Fund**

**Program 2-C Establish Objective Design and Development Standards.** This program commits the Town to adopting objective design and development standards for multi-family residential or mixed-use development. Fairfax is one of 285 California communities subject to SB 35 streamlining provisions that offer an expedited approval process for residential and mixed use projects in already developed areas proposing to provide at least 10 percent of their units as affordable housing. As such, this program also includes codifying the administrative review requirements for projects pursuant to SB 35, which requires ministerial approval for projects meeting adopted objective design and development standards.

**Responsibility: Planning and Building**

**Timeframe: Zoning Code amendments drafted by end of 2023 for review and adoption by Town Council by June 2024**

**Objective:** Design and development standards that fully comply with the requirements of State law including the Housing Accountability Act

**Funding:** General Fund and planning grants

**Program 2-D Standards for Low Impact Clustered Residential Development on Large Sites.** There are a number of large sites with adequate access, utility services, and topography that might accommodate a clustered housing development, including both attached and detached single-family dwellings and accessory dwelling units. This program will review standards for clustered residential development in peer jurisdictions and determine whether they might be adapted to the Town's needs to expand opportunities for market rate housing while also preserving open space and protecting ridgelines and scenic views. Zoning Code amendments then will be prepared as appropriate to allow for this type of housing and to establish development standards and design review criteria, including requirements for discretionary review by the Planning Commission.

**Responsibility:** Planning and Building

**Timeframe:** Zoning Code amendments drafted by end of 2023 for review and adoption by Town Council by June 2024

**Objective:** Land use regulations and standards for clustered hillside development that expand opportunities for market rate housing

**Funding:** General Fund and planning grants

## IMPACTS

**Impact 3.1-1 Development under the Proposed Project would not have a substantial adverse effect on a scenic vista. (*Less than Significant*)**

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

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

open space through clustered development on parcels, which aligns with the intent of Program 2-D and the related zoning standards proposed to implement it.

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

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

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

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

view corridors if the proposed development is within 150 feet horizontal distance or 100 feet vertical distance of an adjacent ridge. As such, adherence to local regulations, policies, Proposed Project programs and standards would mitigate the Proposed Project's potentially substantial adverse effects on scenic vistas to a less-than-significant level.

*Mitigation Measures*

None required.

**Impact 3.1-2      Development under the Proposed Project would not substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway. (No Impact)**

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

*Mitigation Measures*

None required.

**Impact 3.1-3      Development under the Proposed Project would not substantially degrade the existing visual aesthetic or quality of public views of the site and its surroundings in non-urbanized areas or conflict with applicable zoning and other regulations governing scenic quality in urbanized areas. (Less than Significant)**

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

Buildout of the Proposed Project would primarily involve housing within already developed areas downtown and on existing single family residential lots. In addition, Proposed Project Program 2-A would adopt Zoning Code amendments in the form of a Workforce Housing Overlay District, as a means of promoting the construction of housing for teachers, restaurant and service workers,

firefighters, police officers, and others employed in Fairfax and Marin County. The overlay will be comprised of two subzones: one for high density workforce housing in the downtown area, and another for medium density workforce housing along Sir Francis Drake Boulevard. The overlay will also incorporate objective design and development standards to accommodate higher density development and ensure appropriate buffering of adjacent residential land uses. As such, proposed high-density development downtown would be required to comply with the new zoning standards and therefore there would be no conflict applicable zoning. While changes to the visual aesthetic of the downtown will occur, these changes would not represent a degradation of visual aesthetic given the objective design and development standards for higher density development that Program 2-A will establish.

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

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

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

and rooftop gardens), and Policy DES-4.1 (Preserve visual quality. Protect scenic quality and views of the natural environment — including ridgelines and upland greenbelts, hillsides, water, and trees — from adverse impacts related to development).

Therefore, the implementation of the Proposed Project would be pursuant to applicable zoning and other regulations governing scenic quality. Compliance with existing regulations and Proposed Project programs would help ensure the compatibility of new development and impacts would be less than significant.

#### *Mitigation Measures*

None required.

#### **Impact 3.1-4      Development under the Proposed Project would not create a new source of substantial light or glare which would adversely affect day or nighttime views in the area. (*Less than Significant*)**

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

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

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

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

*Mitigation Measures*

None required.



## 3.2 Air Quality

This section describes the environmental and regulatory setting for air quality. It also describes impacts related to air quality that would result from implementation of the Proposed Project and mitigation for significant impacts where feasible and appropriate. This section has been prepared using methods and assumptions recommended in the air quality impact assessment guidelines of the Bay Area Air Quality Management District (BAAQMD). The section describes existing air quality in the region, the Proposed Project's contribution to localized concentrations of carbon monoxide (CO), impacts from vehicular emissions that have regional effects, and the exposure of sensitive receptors to Project-generated toxic air contaminants (TACs). Appendix D includes a detailed summary of the data used in this analysis.

There was one response to the Notice of Preparation (NOP) regarding topics covered in this section. The commenter expressed concern about air quality impacts with the addition of personal and construction vehicles from development pursuant to the Proposed Project. These comments are addressed in the Impacts section and incorporated into the following analysis.

## Environmental Setting

---

### PHYSICAL SETTING

The Planning Area is located in Fairfax, within the San Francisco Bay Area Air Basin (SFBAAB). Ambient air quality is affected by climatological conditions, topography, and the types and amounts of pollutants emitted. The following sections summarize how air pollution moves through the air, water, and soil within the air basin, and how it is chemically changed in the presence of other chemicals and particles. This section also summarizes regional and local climate conditions, existing air quality conditions, and sensitive receptors that may be affected by project-generated emissions.

Although the primary factors that determine air quality are the locations of air pollutant sources and the amount of pollutants emitted from those sources, meteorological conditions and topography are also important factors. Atmospheric conditions, such as wind speed, wind direction, and air temperature gradients interact with the physical features of the landscape to determine the movement and dispersal of air pollutants. Unique geographic features throughout

the state define fifteen air basins with distinctive regional climates. The air quality study area for the Planning Area is located in the Marin County basin subregion of the SFBAAB.<sup>1</sup>

Marin County is bounded on the west by the Pacific Ocean, on the east by San Pablo Bay, on the south by the Golden Gate and on the north by the Petaluma Gap. Most of Marin's population lives in the eastern part of the county, in small, sheltered valleys. These valleys act like a series of miniature air basins.

Although there are a few mountains above 1500 feet, most of the terrain is only 800 to 1000 feet high, which usually is not high enough to block the marine layer. Because of the wedge shape of the county, northeast Marin County is further from the ocean than is the southeastern section. This extra distance from the ocean allows the marine air to be moderated by bayside conditions as it travels to northeastern Marin County. In southern Marin the distance from the ocean is short and elevations are lower, resulting in higher incidence of maritime air in that area.

Wind speeds are highest along the west coast of Marin, averaging about 8 to 10 miles per hour. The complex terrain in central Marin creates sufficient friction to slow the air flow. At Hamilton Air Force Base, in Novato, the annual average wind speeds are only 5 mph. The prevailing wind directions throughout Marin County are generally from the northwest.

In the summer months, areas along the coast are usually subject to onshore movement of cool marine air. In the winter, proximity to the ocean keeps the coastal regions relatively warm, with temperatures varying little throughout the year. Coastal temperatures are usually in the high-50's in the winter and the low-60's in the summer. The warmest months are September and October.

The eastern side of Marin County has warmer weather than the western side because of its distance from the ocean and because the hills that separate eastern Marin from western Marin occasionally block the flow of the marine air. The temperatures of cities next to the Bay are moderated by the cooling effect of the Bay in the summer and the warming effect of the Bay in the winter. For example, San Rafael experiences average maximum summer temperatures in the low-80's and average minimum winter temperatures in the low-40's. Inland towns such as Kentfield experience average maximum temperatures that are two degrees cooler in the winter and two degrees warmer in the summer.

Air pollution potential is highest in eastern Marin County, where most of population is located in semi-sheltered valleys. In the southeast, the influence of marine air keeps pollution levels low. As development moves further north, there is greater potential for air pollution to build up because the valleys are more sheltered from the sea breeze. While Marin County does not have many polluting industries, the air quality on its eastern side — especially along the U.S. 101 corridor — may be affected by emissions from increasing motor vehicle use within and through the county.

---

<sup>1</sup> Bay Area Air Quality Management District. May, 2017. California Environmental Quality Act Air Quality Guidelines. Available: [https://www.baaqmd.gov/~media/files/planning-and-research/ceqa/ceqa\\_guidelines\\_may2017-pdf.pdf?la=en](https://www.baaqmd.gov/~media/files/planning-and-research/ceqa/ceqa_guidelines_may2017-pdf.pdf?la=en). Accessed: August 10, 2023.

## **CRITERIA AIR POLLUTANTS**

The federal and state governments have established ambient air quality standards (AAQA) for six criteria pollutants. Ozone is considered a regional pollutant because its precursors affect air quality on a regional scale. Pollutants such as CO, nitrogen dioxide (NO<sub>2</sub>), sulfur dioxide (SO<sub>2</sub>), and lead are considered local pollutants that tend to accumulate in the air locally. Particulate matter (PM) is both a regional and local pollutant. The primary criteria pollutants generated by the Proposed Project are ozone precursors (i.e., nitrogen oxides (NO<sub>x</sub>) and reactive organic gases [ROGs]), CO, and PM.<sup>2,3,4</sup>

All criteria pollutants can have human health effects at certain concentrations. The ambient air quality standards for these pollutants are set to protect public health and the environment with an adequate margin of safety (Clean Air Act [CAA] Section 109). Epidemiological, controlled human exposure, and toxicology studies evaluate potential health and environmental effects of criteria pollutants, and form the scientific basis for new and revised ambient air quality standards.

Principal characteristics and possible health and environmental effects from exposure to the primary criteria pollutants generated by the project are discussed below.

### **Ozone**

Ozone, or smog, is a photochemical oxidant that is formed when ROG and NO<sub>x</sub> (both byproducts of the internal combustion engine) react with sunlight. ROG are compounds made up primarily of hydrogen and carbon atoms. Internal combustion associated with motor vehicle use is the major source of hydrocarbons. Other sources of ROG are emissions associated with the use of paints and solvents, the application of asphalt paving, and the use of household consumer products such as aerosols. The two major forms of NO<sub>x</sub> are nitric oxide (NO) and NO<sub>2</sub>. NO is a colorless, odorless gas that forms from atmospheric nitrogen and oxygen when combustion takes place under high temperature and/or high pressure. NO<sub>2</sub> is a reddish-brown irritating gas formed by the combination of NO and oxygen. In addition to serving as an integral participant in ozone formation, NO<sub>x</sub> also directly acts as an acute respiratory irritant and increases susceptibility to respiratory pathogens.

Ozone poses a higher risk to those who already suffer from respiratory diseases (e.g., asthma), children, older adults, and people who are active outdoors. Exposure to ozone at certain concentrations can make breathing more difficult, cause shortness of breath and coughing, inflame and damage the airways, aggravate lung diseases, increase the frequency of asthma attacks, and cause chronic obstructive pulmonary disease. Studies show associations between short-term ozone

---

<sup>2</sup> As discussed above, there are also ambient air quality standards for SO<sub>2</sub>, lead, sulfates, hydrogen sulfide, vinyl chloride, and visibility-reducing particulates. However, these pollutants are typically associated with industrial sources, which are not included as part of the project. Accordingly, they are not evaluated further.

<sup>3</sup> Most emissions of NO<sub>x</sub> are in the form of nitric oxide (NO). Conversion to NO<sub>2</sub> occurs in the atmosphere as pollutants disperse downwind. Accordingly, NO<sub>2</sub> is not considered a local pollutant of concern for the project and is not evaluated further.

<sup>4</sup> Reşitoğlu, Ibrahim A. 2018. *NO<sub>x</sub> Pollutants from Diesel Vehicles and Trends in Control Technologies*. Published November 5. DOI: 10.5772/intechopen.81112. Available: <https://www.intechopen.com/books/diesel-and-gasoline-engines/no-sub-x-sub-pollutants-from-diesel-vehicles-and-trends-in-the-control-technologies>. Accessed: July 1, 2021.

exposure and non-accidental mortality, including deaths from respiratory issues. Studies also suggest long-term exposure to ozone may increase the risk of respiratory-related deaths.<sup>5</sup> The concentration of ozone at which health effects are observed depends on an individual's sensitivity, level of exertion (i.e., breathing rate), and duration of exposure. Studies show large individual differences in the intensity of symptomatic responses, with one study finding no symptoms to the least responsive individual after a 2-hour exposure to 400 parts per billion (ppb) of ozone and a 50 percent decrease in forced airway volume in the most responsive individual. Although the results vary, evidence suggests that sensitive populations (e.g., asthmatics) may be affected on days when the 8-hour maximum ozone concentration reaches 80 ppb.<sup>6</sup> The average background level of ozone in the Bay Area is approximately 45 ppb.<sup>7</sup>

In addition to human health effect, ozone has been tied to crop damage, typically in the form of stunted growth, leaf discoloration, cell damage, and premature death. Ozone can also act as a corrosive and oxidant, resulting in property damage such as the degradation of rubber products and other materials.

### **Carbon Monoxide**

Carbon monoxide is a colorless, odorless, toxic gas produced by incomplete combustion of carbon substances, such as gasoline or diesel fuel. In the study area, high CO levels are of greatest concern during the winter, when periods of light winds combine with the formation of ground-level temperature inversions from evening through early morning. These conditions trap pollutants near the ground, reducing the dispersion of vehicle emissions. Moreover, motor vehicles exhibit increased CO emission rates at low air temperatures. The primary adverse health effect associated with CO is interference with normal oxygen transfer to the blood, which may result in tissue oxygen deprivation. Exposure to CO at high concentrations can also cause fatigue, headaches, confusion, dizziness, and chest pain. There are no ecological or environmental effects of CO at or near existing background CO levels.<sup>8</sup>

### **Particulate Matter**

PM consists of finely divided solids or liquids, such as soot, dust, aerosols, fumes, and mists. Two forms of fine particulates are now recognized: respirable coarse particles with an aerodynamic diameter of 10 micrometers or less (PM<sub>10</sub>), and respirable fine particles with an aerodynamic diameter of 2.5 micrometers or less (PM<sub>2.5</sub>). Particulate discharge into the atmosphere results primarily from industrial, agricultural, construction, and transportation activities. However, wind

---

<sup>5</sup> U.S. Environmental Protection Agency. 2021. *Ground-level Ozone Basics*. Last updated May 5. Available: <https://www.epa.gov/ground-level-ozone-pollution/ground-level-ozone-basics#wwh>. Accessed: July 1, 2021.

<sup>6</sup> U.S. Environmental Protection Agency. 2016. *Health Effects of Ozone in the General Population*. Last updated September 2. Available: <https://www.epa.gov/ozone-pollution-and-your-patients-health/health-effects-ozone-general-population>. Accessed: July 1, 2021.

<sup>7</sup> Bay Area Air Quality Management District. 2017. *Final 2017 Clean Air Plan*. Adopted April 19. Available: [https://www.baaqmd.gov/~media/files/planning-and-research/plans/2017-clean-air-plan/attachment-a\\_-proposed-final-cap-vol-1-pdf.pdf?la=en](https://www.baaqmd.gov/~media/files/planning-and-research/plans/2017-clean-air-plan/attachment-a_-proposed-final-cap-vol-1-pdf.pdf?la=en). Accessed: July 1, 2021.

<sup>8</sup> California Air Resources Board. 2021. *Carbon Monoxide & Health*. Available: <https://ww2.arb.ca.gov/resources/carbon-monoxide-and-health>. Accessed: July 1, 2021.

on arid landscapes also contributes substantially to local particulate loading. PM is considered both a local and a regional pollutant.

Particulate pollution can be transported over long distances and may adversely affect humans, especially people who are naturally sensitive or susceptible to breathing problems. Numerous studies have linked PM exposure to premature death in people with preexisting heart or lung disease. Other symptoms of exposure may include nonfatal heart attacks, irregular heartbeat, aggravated asthma, decreased lung function, and increased respiratory symptoms. Depending on composition, both PM<sub>10</sub> and PM<sub>2.5</sub> can also affect water quality and acidity, deplete soil nutrients, damage sensitive forests and crops, affect ecosystem diversity, and contribute to acid rain.<sup>9</sup>

## **OTHER CRITERIA POLLUTANTS**

The California Air Resources Board (CARB) has also established the California Ambient Air Quality Standards (CAAQS) for hydrogen sulfide (H<sub>2</sub>S), sulfates, vinyl chloride, and visibility-reducing particles. These pollutants are not addressed by federal standards. Below is a summary of the pollutants and a description of their physical properties, health and other effects, sources, and the extent of the problems.

### **Hydrogen Sulfide**

Hydrogen sulfide (H<sub>2</sub>S) emissions often are associated with geothermal activity, oil and gas production, refining, sewage treatment plants, and confined animal feeding operations. H<sub>2</sub>S in the atmosphere will likely oxidize into SO<sub>2</sub>, which can lead to acid rain. At low concentrations, H<sub>2</sub>S may cause irritation to the eyes, mucous membranes, and respiratory system, dizziness, and headaches. In high concentrations (800 parts per million can cause death), H<sub>2</sub>S is extremely hazardous, especially in enclosed spaces. The Occupational Safety and Health Administration has the primary responsibility for regulating workplace exposure to H<sub>2</sub>S.

### **Sulfates**

Sulfates are another particulate product that results from the combustion of sulfur-containing fossil fuels; however, the majority of ambient sulfates is formed in the atmosphere. When SO<sub>2</sub> comes in contact with oxygen it precipitates out into sulfates. The health effects associated with SO<sub>2</sub> and sulfates more commonly known as sulfur oxides (SO<sub>x</sub>) include respiratory illnesses, decreased pulmonary disease resistance, and aggravation of cardiovascular diseases. When acidic pollutants and particulates are also present, SO<sub>2</sub> tends to have an even more toxic effect.

Increased PM derived from SO<sub>2</sub> emissions also contributes to impaired visibility. In addition to particulates, sulfur trioxide and sulfate ion are precursors to acid rain. SO<sub>x</sub> and NO<sub>x</sub> are the leading precursors to acid rain, which can lead to corrosion of human-made structures and cause acidification of water bodies.

---

<sup>9</sup> U.S. Environmental Protection Agency. 2021. *Health and Environmental Effects of Particulate Matter (PM)*. Last updated May 26. Available: <https://www.epa.gov/pm-pollution/health-and-environmental-effects-particulate-matter-pm>. Accessed: July 1, 2021.

## **Visibility-Reducing Particles**

Visibility-reducing particles consist of PM generated from a variety of natural and manmade sources and vary greatly in shape, size, and chemical composition. Some haze-causing particles (e.g., windblown dust and soot) are directly emitted into the air, whereas others are formed in the air from the chemical transformation of gaseous pollutants (e.g., sulfates, nitrates, organic carbon particles), which are the major constituents of fine PM. These fine particles, caused largely by the combustion of fuel, can travel hundreds of miles and cause visibility impairment. California has been labeled unclassified for visibility—CARB has not established a method for measuring visibility with the precision and accuracy needed to designate areas attainment or nonattainment.

## **Vinyl Chloride**

Vinyl chloride is a colorless, sweet-smelling gas at ambient temperature. Landfills, publicly owned treatment works, and polyvinyl chloride production are the major identified sources of vinyl chloride emissions in California. Polyvinyl chloride can be fabricated into several products, such as pipes, pipe fittings, and plastics. In humans, epidemiological studies of occupationally exposed workers have linked vinyl chloride exposure to development of liver angiosarcoma, a rare cancer, and have suggested a relationship between exposure and lung and brain cancers.

## **TOXIC AIR CONTAMINANTS**

Although ambient air quality standards have been established for criteria pollutants, no ambient standards exist for TACs. Many pollutants are identified as TACs because of their potential to increase the risk of developing cancer or because of their acute or chronic health risks. For TACs that are known or suspected carcinogens, CARB has consistently found that there are no levels or thresholds below which exposure is risk-free. Individual TACs vary greatly in the risks they present. At a given level of exposure, one TAC may pose a hazard that is many times greater than another. TACs are identified and their toxicity is studied by the California Office of Environmental Health Hazard Assessment (OEHHA). The primary TACs of concern associated with the Proposed Project are asbestos and diesel particulate matter (DPM).

Asbestos is the name given to several naturally occurring fibrous silicate minerals. Before the adverse health effects of asbestos were identified, asbestos was widely used as insulation and fireproofing in buildings, and it can still be found in some older buildings. It is also found in its natural state in rock or soil. The inhalation of asbestos fibers into the lungs can result in a variety of adverse health effects, including inflammation of the lungs, respiratory ailments (e.g., asbestosis, which is scarring of lung tissue that results in constricted breathing), and cancer (e.g., lung cancer and mesothelioma, which is cancer of the linings of the lungs and abdomen).

DPM is generated by diesel-fueled equipment and vehicles. Within the Bay Area, the BAAQMD has found that of all controlled TACs, emissions of DPM are responsible for about 82 percent of the total ambient cancer risk.<sup>10</sup> Short-term exposure to DPM can cause acute irritation (e.g., eye, throat, and bronchial), neurophysiological symptoms (e.g., lightheadedness and nausea), and

---

<sup>10</sup> Bay Area Air Quality Management District. 2017. *Final 2017 Clean Air Plan*. Adopted April 19. Available: [https://www.baaqmd.gov/~media/files/planning-and-research/plans/2017-clean-air-plan/attachment-a\\_-proposed-final-cap-vol-1-pdf.pdf?la=en](https://www.baaqmd.gov/~media/files/planning-and-research/plans/2017-clean-air-plan/attachment-a_-proposed-final-cap-vol-1-pdf.pdf?la=en). Accessed: July 1, 2021.

respiratory symptoms (e.g., cough and phlegm). The U.S. Environmental Protection Agency (EPA) has determined that diesel exhaust is “likely to be carcinogenic to humans by inhalation.”<sup>11</sup>

## **ODORS**

The BAAQMD’s thresholds for odors are qualitative and based on BAAQMD’s Regulation 7, Odorous Substances. This rule places general limitations on odorous substances and specific emission limitations on certain odorous compounds. Odors are also regulated under BAAQMD Regulation 1, Rule 1-301, Public Nuisance, which states that no person shall discharge from any source whatsoever quantities of air contaminants or other materials that cause injury, detriment, nuisance, or annoyance to any considerable number of persons or the public; endanger the comfort, repose, health, or safety of any such persons or the public; or cause, or have a natural tendency to cause, injury or damage to businesses or property. Under BAAQMD’s Rule 1-301, a facility that receives three or more violation notices within a 30-day period can be declared a public nuisance. The BAAQMD has established odor screening thresholds for land uses that have the potential to generate substantial odor complaints, including wastewater treatment plants, landfills or transfer stations, composting facilities, confined animal facilities, food manufacturing, and chemical plants.<sup>12</sup>

## **EXISTING AIR QUALITY CONDITIONS**

### **Ambient Criteria Pollutant Concentrations**

A number of ambient air quality monitoring stations are located in SFBAAB to monitor progress toward air quality standards attainment of the National Ambient Air Quality Standards (NAAQS) and CAAQS. The NAAQS and CAAQS are discussed further under *Regulatory Setting*. There are no monitoring stations in Fairfax. The nearest monitoring station to the Planning Area is the San Rafael Station, located approximately 3.5 miles east of the Planning Area. Table 3.2-1 summarizes data for criteria air pollutant levels from the San Rafael Station from 2019-2021. Table 3.2-1 shows the monitoring station was in violation of federal and state ozone standards in 2019, the state PM<sub>10</sub> standard in 2020, and the federal PM<sub>2.5</sub> standard in 2020. Federal and state standards for other pollutants were not exceeded. These existing ozone, PM<sub>10</sub>, and PM<sub>2.5</sub> violations of ambient air quality standards indicate that certain individuals exposed to this pollutant may experience certain health effects, including increased incidence of cardiovascular and respiratory ailments.

---

<sup>11</sup> U.S. Environmental Protection Agency. 2003. *Diesel Engine Exhaust*; CASRN N.A. February 28. Available: [https://cfpub.epa.gov/ncea/iris/iris\\_documents/documents/subst/0642\\_summary.pdf#nameddest=woe](https://cfpub.epa.gov/ncea/iris/iris_documents/documents/subst/0642_summary.pdf#nameddest=woe). Accessed: July 1, 2021.

<sup>12</sup> Bay Area Air Quality Management District. 2017. *California Environmental Quality Act, Air Quality Guidelines*. May. Available: [https://www.baaqmd.gov/~media/files/planning-and-research/ceqa/ceqa\\_guidelines\\_may2017-pdf.pdf?la=en](https://www.baaqmd.gov/~media/files/planning-and-research/ceqa/ceqa_guidelines_may2017-pdf.pdf?la=en). Accessed: July 1, 2021.

**Table 3.2-1: Ambient Air Quality Data at the San Rafael Monitoring Station (2019-2021)**

Pollutant Standards	2019	2020	2021
<b><i>Ozone (O<sub>3</sub>)</i></b>			
Maximum 1-hour concentration (ppm)	0.096	0.086	0.082
Maximum 8-hour concentration (ppm)	0.080	0.064	0.062
<b>Number of days standard exceeded<sup>a</sup></b>			
CAAQS 1-hour (> 0.09 ppm)	1	0	0
CAAQS 8-hour (> 0.070 ppm)	1	0	0
NAAQS 8-hour (> 0.070 ppm)	1	0	0
<b><i>Carbon Monoxide (CO)</i></b>			
Maximum 1-hour concentration (ppm)	1.4	2.1	1.2
Maximum 8-hour concentration (ppm)	0.9	1.6	0.8
<b>Number of days standard exceeded<sup>a</sup></b>			
NAAQS 1-hour (≥ 35.0 ppm)	0	0	0
CAAQS 1-hour (≥ 20.0 ppm)	0	0	0
NAAQS 8-hour (≥ 9.0 ppm)	0	0	0
CAAQS 8-hour (≥ 9.0 ppm)	0	0	0
<b><i>Nitrogen Dioxide (NO<sub>2</sub>)</i></b>			
State maximum 1-hour concentration (ppm)	0.049	0.042	0.037
State second-highest 1-hour concentration (ppm)	0.047	0.040	0.036
Annual average concentration (ppm)	0.008	0.007	0.006
<b>Number of days standard exceeded<sup>a</sup></b>			
CAAQS 1-hour (0.180 ppm)	0	0	0
<b><i>Particulate Matter (PM<sub>10</sub>)</i></b>			
National <sup>e</sup> maximum 24-hour concentration (μg/m <sup>3</sup> )	31.9	115.7	29.4
National <sup>e</sup> second-highest 24-hour concentration (μg/m <sup>3</sup> )	30.7	39.9	27.5
State <sup>f</sup> maximum 24-hour concentration (μg/m <sup>3</sup> )	33.0	118.0	30.0
State <sup>f</sup> second-highest 24-hour concentration (μg/m <sup>3</sup> )	32.0	42.0	28.0
National annual average concentration (μg/m <sup>3</sup> )	13.9	16.2	14.3
State annual average concentration (μg/m <sup>3</sup> )	—	16.6	14.7
<b>Measured number of days standard exceeded<sup>a</sup></b>			
NAAQS 24-hour (> 150 μg/m <sup>3</sup> )	0	0	0
CAAQS 24-hour (> 50 μg/m <sup>3</sup> )	—	1	0
<b><i>Fine Particulate Matter (PM<sub>2.5</sub>)</i></b>			
National <sup>e</sup> maximum 24-hour concentration (μg/m <sup>3</sup> )	19.5	155.5	29.1
National <sup>e</sup> second-highest 24-hour concentration (μg/m <sup>3</sup> )	18.3	94.4	22.8
State <sup>f</sup> maximum 24-hour concentration (μg/m <sup>3</sup> )	19.5	155.5	29.1
State <sup>f</sup> second-highest 24-hour concentration (μg/m <sup>3</sup> )	17.3	94.4	22.8
National annual average concentration (μg/m <sup>3</sup> )	6.3	8.5	7.0
State annual average concentration (μg/m <sup>3</sup> )	6.4	8.7	7.0
<b>Measured number of days standard exceeded<sup>a</sup></b>			



<b>Pollutant Standards</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
NAAQS 24-hour ( $> 35 \mu\text{g}/\text{m}^3$ )	0	9	0

**Sources:**

California Air Resources Board, 2023. *iADAM: Air Quality Data Statistics – Top 4 Summary* (2019-2021), Marin County, San Rafael Monitoring Station. Available: <https://www.arb.ca.gov/adam/topfour/topfour1.php>. Accessed: August 10, 2023.  
U.S. Environmental Protection Agency, 2021. *Outdoor Air Quality Data. Monitor Values Reports* (Carbon Monoxide, 2019-2021, Marin County, San Rafael Monitoring Station. Last updated September, 2022. Available: <https://www.epa.gov/outdoor-air-quality-data/monitor-values-report>. Accessed: August 10, 2023.

**Notes:**

- <sup>a</sup> An exceedance is not necessarily related to a violation of the standard.
- <sup>b</sup> National statistics are based on standard conditions data. In addition, national statistics are based on samplers using federal reference or equivalent methods.
- <sup>c</sup> State statistics are based on approved local samplers and local conditions data.
- <sup>d</sup> State criteria for ensuring that data are sufficiently complete for calculating valid annual averages are more stringent than the national criteria.
- <sup>e</sup> National statistics are based on samplers using federal reference or equivalent methods.
- <sup>f</sup> State statistics are based on local approved samplers.

ppm = parts per million; NAAQS = National Ambient Air Quality Standards; CAAQS = California Ambient Air Quality Standards;  $\mu\text{g}/\text{m}^3$  = micrograms per cubic meter,  $\text{mg}/\text{m}^3$  = milligrams per cubic meter, – = no data available

## Existing TAC Sources and Health Risks

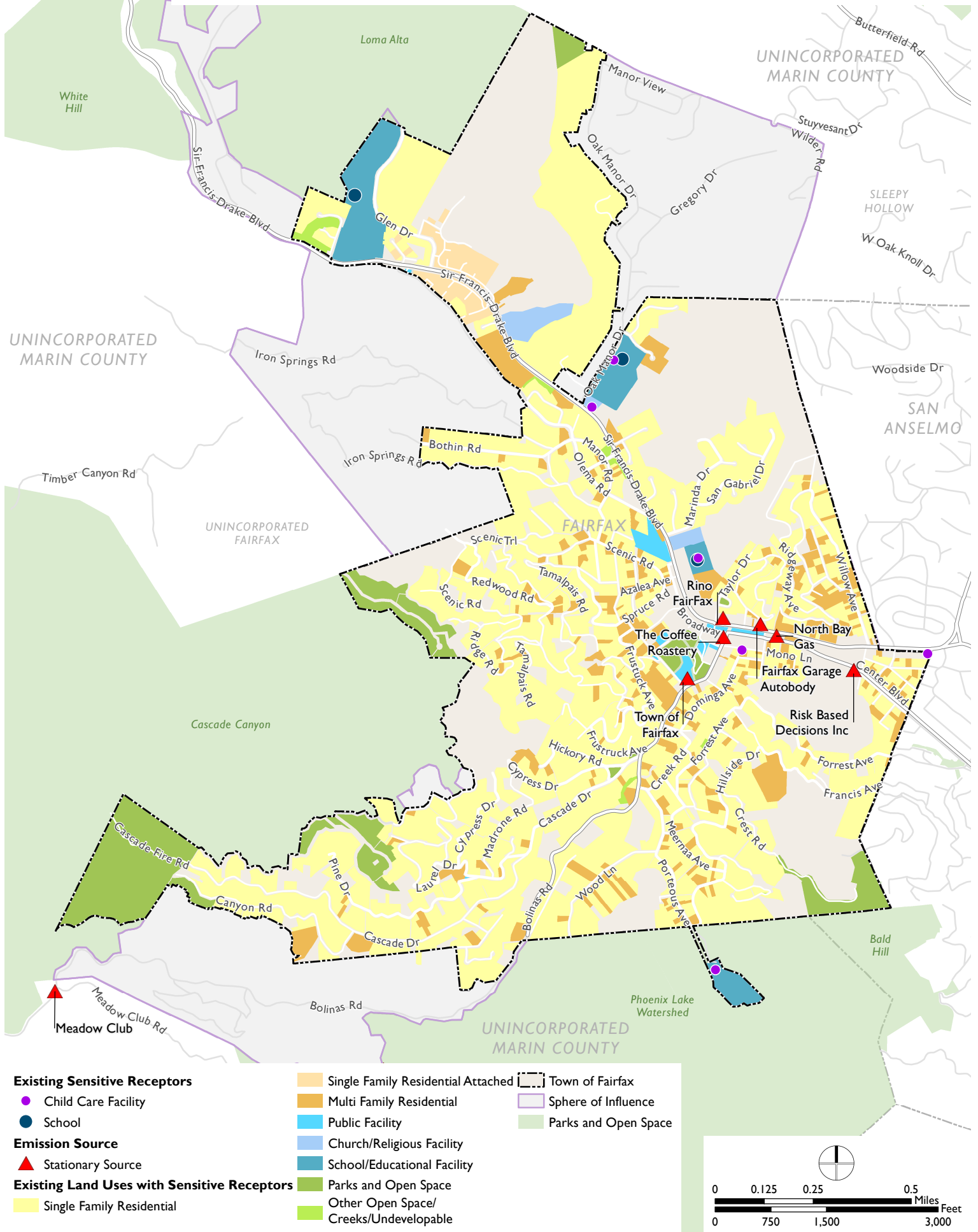
The BAAQMD maintains an inventory of health risks associated with all permitted stationary sources within the SFBAAB. The inventory was last updated in 2023 and is publicly available online. Table 3.2-2 provides a summary of the stationary sources within the Planning Area. The stationary sources consist of gasoline dispensing facilities, food manufacturers, automotive services, and waste management services. Figure 3.2-1 shows the existing stationary emission sources within the Planning Area.

**Table 3.2-2: Existing Stationary Sources within the Planning Area**

<b>Facility Name</b>	<b>Source Type</b>	<b>Address</b>
Town of Fairfax	Gas Dispensing Facility	142 Bolinas Road
The Coffee Roastery	Food Manufacturing	4 Bolinas Road
Rino Fairfax	Gas Dispensing Facility	1942 Sir Francis Drake Blvd
Fairfax Garage Autobody	Automotive Body, Paint, and Interior Repair and Maintenance	1812 Sir Francis Drake Blvd
North Bay Gas	Gas Dispensing Facility	1789 Sir Francis Drake Blvd
Risk Based Decisions Inc	Waste Management and Remediation Services	709 Center Blvd

Source: Bay Area Air Quality Management District, 2023. *Stationary Source Screening Map*. March 18. Available: <https://baaqmd.maps.arcgis.com/apps/webappviewer/index.html?id=845658c19eae4594b9f4b805fb9d89a3>. Accessed: August 7, 2023.

**Figure 3.2-1: Existing Air Quality Emission Sources in the Planning Area**



Aside from stationary sources, emissions of TACs in and around the Planning Area are also generated from mobile sources. The BAAQMD considers roadways with greater than 10,000 average daily traffic (ADT) as “high volume roadways” and recommends they be included in the analysis of health risks.<sup>13</sup> Existing roadways located in the immediate proximity of the Planning Area (within 1,000 feet) that have ADT greater than 10,000 vehicles include Sir Francis Drake Boulevard (SFD Blvd).<sup>14</sup>

### **Regional Attainment Status**

Local monitoring data are used to designate areas as nonattainment, maintenance, attainment, or unclassified for the ambient air quality standards. The four designations are defined below.

- Nonattainment—assigned to areas where monitored pollutant concentrations consistently violate the standard in question.
- Maintenance—assigned to areas where monitored pollutant concentrations exceeded the standard in question in the past but are no longer in violation of that standard.
- Attainment—assigned to areas where pollutant concentrations meet the standard in question over a designated period of time.
- Unclassified—assigned to areas where data are insufficient to determine whether a pollutant is violating the standard in question.

Table 3.2-3 summarizes the attainment status of Marin County.

### **LOCATIONS OF SENSITIVE RECEPTORS**

Sensitive land uses are defined as locations where human populations, especially children, seniors, and sick persons are located and where there is reasonable expectation of continuous human exposure according to the averaging period for the air quality standards (i.e., 24-hour or 8-hour). Per the BAAQMD, typical sensitive land uses are residences, hospitals, and schools. Parks and playgrounds, where sensitive receptors (e.g., children and seniors) are present are considered sensitive land uses.<sup>15</sup>

The Planning Area is comprised of the Town of Fairfax, encompassing just 2.2 square miles. The town is composed largely of single-family homes, with a diverse range of small, locally-owned businesses along Sir Francis Drake Boulevard, Broadway, and Bolinas Road. Overall, residential uses account for 720.6 acres, commercial uses occupy 46.3 acres, institutional uses occupy 53.1 acres, while parks and open space occupy 4.79 acres. Sensitive receptors are currently located at the aforementioned land uses (e.g., residential, schools, parks, etc.) throughout the Planning Area.

---

<sup>13</sup> Bay Area Air Quality Management District. 2012. *Recommended Methods for Screening and Modeling Local Risks and Hazards*. May. Available: <http://www.baaqmd.gov/~media/files/planning-and-research/ceqa/risk-modeling-approach-may-2012.pdf>. Accessed: July 1, 2021.

<sup>14</sup> According to analysis conducted by the Proposed Project’s traffic engineers, Fehr and Peers, existing weekday ADT for SFD Blvd between Butterfield Road and Willow Avenue is 19,400 and is projected to be 21,700 with implementation of the Proposed Project.

<sup>15</sup> Bay Area Air Quality Management District. 2017b. *California Environmental Quality Act. Air Quality Guidelines*. May. Available: [https://www.baaqmd.gov/~media/files/planning-and-research/ceqa/ceqa\\_guidelines\\_may2017-pdf.pdf?la=en](https://www.baaqmd.gov/~media/files/planning-and-research/ceqa/ceqa_guidelines_may2017-pdf.pdf?la=en). Accessed: July 1, 2021.

Existing sensitive receptors, including childcare facilities and schools, are also identified in Figure 3.2-1, many of which are located adjacent to SFD Blvd.

**Table 3.2-3: Federal and State Ambient Air Quality Attainment Status for the SFBAAB**

<b>Criteria Pollutant</b>	<b>State Designation</b>	<b>Federal Designation</b>
Ozone (8-hour)	Nonattainment	Nonattainment
Ozone (1-hour)	Nonattainment	–
Carbon Monoxide (CO)	Attainment	Attainment
Particulate Matter (PM <sub>10</sub> )	Nonattainment	Unclassified
Fine Particulate Matter (PM <sub>2.5</sub> )	Nonattainment	Unclassified/Attainment
Nitrogen Dioxide (NO <sub>2</sub> )	Attainment	Attainment
Sulfur Dioxide (SO <sub>2</sub> )	Attainment	–
Lead	–	Attainment
Sulfates	Attainment	(No Federal Standard)
Hydrogen Sulfide	Unclassified	(No Federal Standard)
Visibility Reducing Particles	Unclassified	(No Federal Standard)

Source:

Bay Area Air Quality Management District. 2023. *Air Quality Standards and Attainment Status*. Available: <https://www.baaqmd.gov/about-air-quality/research-and-data/air-quality-standards-and-attainment-status#twelve>. Accessed: August 10, 2023.

– = no classification listed

## REGULATORY SETTING

### Federal Regulations

Air quality in the project area is regulated through the efforts of various federal, state, regional, and local government agencies. These agencies work jointly, as well as individually, to improve air quality through legislation, planning, policy-making, education, and a variety of programs. The agencies responsible for improving the air quality within the air basin are discussed below.

#### *National Ambient Air Quality Standards*

The EPA has been charged with implementing national air quality programs. EPA's air quality mandates draw primarily from the federal CAA, which was enacted in 1963. The most recent major amendments were made by Congress in 1990. The CAA required EPA to establish NAAQS for six common air pollutants found all over the U.S. referred to as criteria air pollutants. EPA has established primary and secondary NAAQS for the following criteria air pollutants: ozone, CO, NO<sub>2</sub>, SO<sub>2</sub>, PM<sub>10</sub>, PM<sub>2.5</sub>, and lead. The NAAQS are shown in Table 3.2-4. The primary standards protect public health and the secondary standards protect public welfare. The CAA also required each state to prepare a State Implementation Plan (SIP) for attaining and maintaining the NAAQS. The federal Clean Air Act Amendments of 1990 (CAAA) added requirements for states with nonattainment areas to revise their SIPs to incorporate additional control measures to reduce air

pollution. California's SIP is modified periodically to reflect the latest emissions inventories, planning documents, and rules and regulations of the air basins as reported by their jurisdictional agencies. EPA is responsible for reviewing all SIPs to determine whether they conform to the mandates of the CAA and its amendments, and whether implementation will achieve air quality goals. If EPA determines a SIP to be inadequate, EPA may prepare a federal implementation plan that imposes additional control measures. If an approvable SIP is not submitted or implemented within the mandated time frame, sanctions may be applied to transportation funding and stationary air pollution sources in the air basin.

**Table 3.2-4: National and California Ambient Air Quality Standards**

Criteria Pollutant	Average Time	California Standards	National Standards <sup>a</sup>	
			Primary	Secondary
Ozone	1-hour	0.09 ppm	None <sup>b</sup>	None <sup>b</sup>
	8-hour	0.070 ppm	0.070 ppm	0.070 ppm
Particulate Matter (PM <sub>10</sub> )	24-hour	50 µg/m <sup>3</sup>	150 µg/m <sup>3</sup>	150 µg/m <sup>3</sup>
	Annual mean	20 µg/m <sup>3</sup>	None	None
Fine Particulate Matter (PM <sub>2.5</sub> )	24-hour	None	35 µg/m <sup>3</sup>	35 µg/m <sup>3</sup>
	Annual mean	12 µg/m <sup>3</sup>	12.0 µg/m <sup>3</sup>	15 µg/m <sup>3</sup>
Carbon Monoxide (CO)	8-hour	9.0 ppm	9 ppm	None
	1-hour	20 ppm	35 ppm	None
Nitrogen Dioxide (NO <sub>2</sub> )	Annual mean	0.030 ppm	0.053 ppm	0.053 ppm
	1-hour	0.18 ppm	0.100 ppm	None
Sulfur Dioxide <sup>c</sup> (SO <sub>2</sub> )	Annual mean	None	0.030 ppm	None
	24-hour	0.04 ppm	0.014 ppm	None
	3-hour	None	None	0.5 ppm
	1-hour	0.25 ppm	0.075 ppm	None
Lead	30-day Average	1.5 µg/m <sup>3</sup>	None	None
	Calendar quarter	None	1.5 µg/m <sup>3</sup>	1.5 µg/m <sup>3</sup>
	3-month average	None	0.15 µg/m <sup>3</sup>	0.15 µg/m <sup>3</sup>
Sulfates	24-hour	25 µg/m <sup>3</sup>	None	None
Visibility-reducing Particles	8-hour	— <sup>d</sup>	None	None
Hydrogen Sulfide (H <sub>2</sub> S)	1-hour	0.03 ppm	None	None
Vinyl Chloride	24-hour	0.01 ppm	None	None

Source: California Air Resources Board. 2016. *Ambient Air Quality Standards*. May Available: <https://ww2.arb.ca.gov/sites/default/files/2020-07/aaqs2.pdf>. Accessed: August 10, 2023.

- <sup>a</sup>. National standards are divided into primary and secondary standards. Primary standards are intended to protect public health, whereas secondary standards are intended to protect public welfare and the environment.
  - <sup>b</sup>. The federal 1-hour standard of 12 parts per hundred million was in effect from 1979 through June 15, 2005. The revoked standard is referenced because it was employed for such a long period and is a benchmark for SIPs.
  - <sup>c</sup>. The annual and 24-hour NAAQS for SO<sub>2</sub> only apply for 1 year after designation of the new 1-hour standard to those areas that were previously in nonattainment for 24-hour and annual NAAQS.
  - <sup>d</sup>. CAAQS for visibility-reducing particles is defined by an extinction coefficient of 0.23 per kilometer—visibility of 10 miles or more due to particles when relative humidity is less than 70 percent.
- CAAQS = California Ambient Air Quality Standards; NAAQS = National Ambient Air Quality Standards; ppm = parts per million; µg/m<sup>3</sup> = micrograms per cubic meter
- 

### *Corporate Average Fuel Economy Standards for Light-Duty Passenger Vehicles*

The National Highway Traffic Safety Administration (NHTSA) Corporate Average Fuel Economy (CAFE) standards require substantial improvements in fuel economy and reductions in emissions of criteria air pollutants and precursors, as well as greenhouse gases, from all light-duty vehicles sold in the United States. On August 2, 2018, NHTSA and the EPA proposed an amendment to the fuel efficiency standards for passenger cars and light trucks and established new standards for model years 2021 through 2026 that would maintain the then-current 2020 standards through 2026—this was known as the Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule. On September 19, 2019, NHTSA and the EPA issued a final action on the One National Program Rule, which is considered Part One of the SAFE Vehicles Rule and a precursor to the proposed fuel efficiency standards. The One National Program Rule enables NHTSA and the EPA to provide nationwide uniform fuel economy and air pollutant standards by 1) clarifying that federal law preempts state and local tailpipe standards, 2) affirming NHTSA's statutory authority to set nationally applicable fuel economy standards, and 3) withdrawing California's CAA preemption waiver to set state-specific standards.

NHTSA and the EPA published their decision to withdraw California's waiver and finalize the regulatory text related to the preemption on September 27, 2019 (84 *Federal Register* 51310). California, 22 other states, the District of Columbia, and two cities filed suit against Part One of the SAFE Vehicles Rule on September 20, 2019 (*California et al. v. United States Department of Transportation et al.*, 1:19-cv-02826, U.S. District Court for the District of Columbia). On October 28, 2019, the Union of Concerned Scientists, Environmental Defense Fund, and other groups filed a protective petition for review after the federal government sought to transfer the suit to the District of Columbia (*Union of Concerned Scientists v. National Highway Traffic Safety Administration*). The lawsuit filed by California and others has been stayed, pending resolution of the petition.

NHTSA and the EPA published final rules on April 30, 2020, to amend and establish national air pollutant and fuel economy standards (Part Two of the SAFE Vehicles Rule) (85 *Federal Register* 24174). The revised rule changes the national fuel economy standards for light-duty vehicles from

46.7 miles per gallon (mpg) to 40.4 mpg in future years. California, 22 other states, and the District of Columbia filed a petition for review of the final rule on May 27, 2020.<sup>16</sup>

On January 20, 2021, the president issued an executive order, directing NHTSA and the EPA to review the SAFE Vehicles Rule, Part One, and propose a new rule for suspending, revising, or rescinding it by April 2021. The executive order also requires NHTSA and the EPA to propose a new rule for suspending, revising, or rescinding Part Two by July 2021. On April 22, 2021, NHTSA announced it proposes to repeal the SAFE Vehicles Rule, Part One, allowing California the right to set its own standards.<sup>17</sup>

### *Emission Standards for On-road Heavy-duty Vehicles*

EPA has established a series of increasingly strict emission standards for new heavy-duty bus and truck engines. Emissions from heavy-duty trucks are managed by regulations and emission limits implemented at the federal, state, and local levels. In December 2000, EPA signed the Heavy-Duty Highway Rule, which reduces emissions from on-road, heavy-duty diesel trucks by establishing a series of increasingly strict emission standards for new engines. Manufacturers were required to produce new diesel vehicles that meet PM and NO<sub>x</sub> emission standards beginning with model year 2007, with the phase-in period being between 2007 and 2010. The phase-in was based on a percentage-of-sales basis: 50 percent from 2007 to 2009 and 100 percent in 2010. Requirements apply to engines installed in all vehicles with a gross vehicle weight rating (GVWR) above 14,000 pounds and to some engines installed in vehicles with a GVWR between 8,500 and 14,000 pounds.<sup>18</sup>

### *Emission Standards for Non-road Diesel Engines*

To reduce emissions from non-road diesel equipment, EPA established a series of increasingly strict emission standards for new non-road diesel engines, also referred to as off-road diesel engines. Tier 1 standards were phased in on newly manufactured equipment from model years 1996 through 2000, depending on the engine horsepower category. Tier 2 standards were phased in on newly manufactured equipment from model years 2001 through 2006. Tier 3 standards were phased in on newly manufactured equipment from model years 2006 through 2008. Tier 4 standards, which require advanced emission-control technology, were phased in from model years 2008 through 2015.

### *Hazardous Air Pollutants and Toxic Air Contaminants*

TACs, or in federal parlance, hazardous air pollutants (HAPs), are a defined set of airborne pollutants that may pose a present or potential hazard to human health. A TAC is defined as an air pollutant that may cause or contribute to an increase in mortality or in serious illness, or that may pose a hazard to human health. TACs are usually present in minute quantities in the ambient air;

---

<sup>16</sup> *California et al. v. United States Department of Transportation et al.*, 1:19-cv-02826, U.S. District Court for the District of Columbia.

<sup>17</sup> U.S. Department of Transportation, National Highway Transportation Safety Administration. 2021. *Corporate Average Fuel Economy Preemption*. Available: [https://www.nhtsa.gov/sites/nhtsa.gov/files/documents/cale\\_preemption\\_nprm\\_04222021\\_1.pdf](https://www.nhtsa.gov/sites/nhtsa.gov/files/documents/cale_preemption_nprm_04222021_1.pdf). Accessed: July 1, 2021.

<sup>18</sup> U.S. Environmental Protection Agency. 2019. *Regulations for Smog, Soot, and Other Air Pollution from Commercial Trucks & Buses*. Last Updated February 21. Available: <https://www.epa.gov/regulations-emissions-vehicles-and-engines/regulations-smog-soot-and-other-air-pollution-commercial>. Accessed July 1, 2021.

however, their high toxicity or health risk may pose a threat to public health even at low concentrations.

A wide range of sources, from industrial plants to motor vehicles, emit TACs. The health effects associated with TACs are quite diverse and generally are assessed locally, rather than regionally. TACs can cause long-term health effects such as cancer, birth defects, neurological damage, asthma, bronchitis, or genetic damage; or short-term acute effects such as eye watering, respiratory irritation (a cough), running nose, throat pain, and headaches.

For evaluation purposes, TACs are separated into carcinogens and non-carcinogens based on the nature of the physiological effects associated with exposure to the pollutant. Carcinogens are assumed to have no safe threshold below which health impacts would not occur. This contrasts with criteria air pollutants for which acceptable levels of exposure can be determined and for which the ambient standards have been established (Table 3.2-4). Cancer risk from TACs is expressed as excess cancer cases per one million exposed individuals, typically over a lifetime of exposure.

EPA and CARB regulate HAPs and TACs, respectively, through statutes and regulations that generally require the use of the maximum available control technology or best available control technology for air toxics to limit emissions.

## **State Regulations**

### *California Clean Air Act and California Ambient Air Quality Standards*

In 1988, the state legislature adopted the California CAA, which established a statewide air pollution control program. The California CAA requires all air districts in the state to endeavor to meet the CAAQS by the earliest practical date. Unlike the federal CAA, the California CAA does not set precise attainment deadlines. Instead, the California CAA establishes increasingly stringent requirements for areas that require more time to achieve the standards. The CAAQS are generally more stringent than the NAAQS and incorporate additional standards for sulfates, hydrogen sulfide, visibility-reducing particles, and vinyl chloride. The CAAQS and NAAQS are listed together in Table 3.2-4.

CARB and regional air districts bear responsibility for achieving California's air quality standards. The standards are to be achieved through district-level air quality management plans, which are incorporated into the SIP. In California, EPA has delegated authority to prepare SIPs to CARB, which, in turn, has delegated that authority to individual air districts, such as the BAAQMD. CARB has traditionally established state air quality standards, maintained oversight authority for air quality planning, developed programs for reducing emissions from motor vehicles, developed air emissions inventories, collected air quality and meteorological data, and approved SIPs.

The California CAA substantially increases the authority and responsibilities of air districts. The California CAA designates air districts as lead air quality planning agencies, requires air districts to prepare air quality plans, and grants air districts the authority to implement transportation control measures. The California CAA also emphasizes control over "indirect and area-wide sources" of air pollutant emissions. The California CAA gives local air pollution control districts explicit authority to regulate indirect sources and establish traffic control measures.



### ***Statewide Truck and Bus Regulation***

CARB adopted the Truck and Bus Regulation in 2008 to focus its efforts on reducing emissions of DPM, NO<sub>x</sub>, and other criteria pollutants from diesel-fueled vehicles. This regulation applies to any diesel-fueled vehicle as well as any dual-fuel or alternative-fuel diesel vehicle that travels on public highways; yard trucks with on-road engines; yard trucks with off-road engines used for agricultural operations; school buses; and vehicles with a GVWR of more than 14,000 pounds. The purpose of the regulation is to require trucks and buses registered in the state to have 2010 or newer engines by 2023. Compliance schedules have been established for lighter vehicles (GVWR of 14,000–26,000 pounds) and heavier vehicles (GVWR of more than 26,001 pounds).<sup>19</sup> As of January 1, 2020, only vehicles that met the requirements of the Trucks and Bus Regulation were allowed to register with the California Department of Motor Vehicles.

### ***Air Toxic Control Measure***

In 2004, CARB developed multiple measures under its air toxic control measures (ATCMs) to address specific mobile- and stationary-source issues that adversely affect public health. The ATCMs focused on reducing the public's exposure to DPM and TAC emissions. The "Limit Diesel-Fueled Commercial Motor Vehicle Idling" ATCM required drivers of heavy-duty trucks with a GVWR of more than 10,000 pounds to not idle the primary engine for more than 5 minutes at any given time or operate an auxiliary power system for more than 5 minutes within 100 feet of a restricted area.<sup>20</sup> In addition, CARB set operating requirements for new emergency standby engines (i.e., diesel-fueled compression-ignition engines of less than 50 brake horsepower). Specifically, new engines shall not operate more than 50 hours per year for maintenance and testing purposes. This does not limit engine operation for emergency use or the emissions testing required to show compliance with ATCM Section 93115.6(a)(3).

### ***Toxic Air Contaminant Regulation***

California regulates TACs primarily through the Tanner Act (AB 1807) and the Hot Spots Act (AB 2588). The Tanner Act (AB 1807) created California's program to reduce exposure to air toxics. CARB defines TACs as air pollutants that may cause or contribute to an increase in mortality or an increase in serious illness or that may pose a present or potential hazard to human health. CARB has formally identified over 200 substances and groups of substances as TACs.<sup>21</sup> Direct exposure to these pollutants has been shown to cause cancer, birth defects, damage to the brain and nervous system, and respiratory disorders. The Hot Spots Act (AB 2588) supplements the AB 1807 program by requiring a statewide air toxics inventory, notification of people exposed to a significant health risk, and facility plans to reduce these risks. The California OEHHA is required to develop guidelines for health risk assessments under the Air Toxics Hot Spots Program. These guidelines

---

<sup>19</sup> California Air Resources Board. 2020. *CARB Truck Rule Compliance Required for DMV Registration*. July. Available: [https://ww3.arb.ca.gov/msprog/truckstop/pdfs/sb1\\_faqeng.pdf](https://ww3.arb.ca.gov/msprog/truckstop/pdfs/sb1_faqeng.pdf). Accessed: July 1, 2021.

<sup>20</sup> California Air Resources Board. 2005. *Final Regulation Order, Regulation for In-Use Off-Road Diesel Vehicles*. Available: <https://ww3.arb.ca.gov/regact/2007/ordiesl07/frooal.pdf>. Accessed: July 1, 2021.

<sup>21</sup> California Air Resources Board. 2021. *CARB-Identified Toxic Air Contaminants*. Available: <https://ww2.arb.ca.gov/resources/documents/carb-identified-toxic-air-contaminants>. Accessed: July 1, 2021.

provide the scientific basis for the values used to assess the risk of emissions exposure from facilities and new sources.<sup>22</sup>

### ***Off-Road Diesel Vehicle Regulation***

Off-road vehicles include, but are not limited to, diesel compression-ignition equipment; spark-ignition gasoline and liquefied petroleum gas equipment; support equipment at ports, airports, and railways; and marine vehicles. In 2007, CARB aimed to reduce emissions of DPM, NO<sub>x</sub>, and other criteria pollutants from off-road diesel-fueled equipment with adoption of the In-Use Off-Road Diesel-Fueled Fleets Regulation (Off-Road Regulation). The Off-Road Regulation applies to all diesel-fueled equipment or alternative-fuel diesel equipment with a compression-ignition engine greater than 25 horsepower (e.g., tractors, bulldozers, backhoes) as well as dual-fuel equipment. The regulation also applies to all equipment that is rented or leased.<sup>23</sup> The purpose of the regulation is to reduce emissions by retiring, repowering, or replacing older, dirtier engines with newer, cleaner engines. The regulation established a compliance schedule for owners of small, medium, and large fleets. The schedule for large and medium fleets requires full implementation by 2023; small fleets have until 2028.<sup>24</sup>

## **Local Regulations**

### ***Bay Area Air Quality Management District (BAAQMD)***

At the local level, responsibilities of air quality districts include overseeing stationary-source emissions, approving permits, maintaining emissions inventories, maintaining air quality stations, overseeing agricultural burning permits, and reviewing air quality-related sections of environmental documents required by the California Environmental Quality Act (CEQA). The air quality districts are also responsible for establishing and enforcing local air quality rules and regulations that address the requirements of federal and state air quality laws and for ensuring that NAAQS and CAAQS are met.

The project falls under the jurisdiction of the BAAQMD. The BAAQMD has local air quality jurisdiction over projects in the SFBAAB including Marin County. The BAAQMD developed advisory emission thresholds to assist CEQA lead agencies in determining the level of significance of a project's emissions, which are outlined in its *California Environmental Quality Act, Air Quality Guidelines* (CEQA Guidelines).<sup>25</sup> The BAAQMD has also adopted air quality plans to improve air

---

<sup>22</sup> Office of Environmental Health Hazard Assessment. 2015. *Air Toxics Hot Spots Program Guidance Manual for the Preparation of Health Risk Assessments*. Air, Community, and Environmental Research Branch, Office of Environmental Health Hazard Assessment, California Environmental Protection Agency. February. Available: <https://oehha.ca.gov/media/downloads/crnrr/2015guidancemanual.pdf>. Accessed: July 1, 2021.

<sup>23</sup> California Air Resources Board. 2008. *Final Regulation Order, Airborne Toxic Control Measure to Limit Diesel-Fueled Commercial Motor Vehicle Idling*. Available: <https://ww3.arb.ca.gov/regact/idling/fro1.pdf>. Accessed: July 1, 2021.

<sup>24</sup> Ibid.

<sup>25</sup> Bay Area Air Quality Management District. 2017. *California Environmental Quality Act, Air Quality Guidelines*. May. Available: [https://www.baaqmd.gov/~/\\_media/files/planning-and-research/ceqa/ceqa\\_guidelines\\_may2017-pdf.pdf?la=en](https://www.baaqmd.gov/~/_media/files/planning-and-research/ceqa/ceqa_guidelines_may2017-pdf.pdf?la=en). Accessed: July 1, 2021.

quality, protect public health, and protect the climate, including the 2017 Clean Air Plan: Spare the Air, Cool the Climate (2017 Clean Air Plan).<sup>26</sup>

The 2017 Clean Air Plan was adopted by the BAAQMD on April 19, 2017. The 2017 Clean Air Plan updates the prior 2010 Bay Area ozone plan and outlines feasible measures to reduce ozone; provides a control strategy to reduce particulate matter, air toxics, and greenhouse gases (GHGs) in a single, integrated plan; and establishes emission control measures to be adopted or implemented. The 2017 Clean Air Plan contains the following primary goals; consistency with these goals is evaluated in this section.

- **Protect Air Quality and Health at the Regional and Local Scale:** Attain all state and national air quality standards, and eliminate disparities among Bay Area communities in cancer health risk from TACs.
- **Protect the Climate:** Reduce Bay Area GHG emissions to 40 percent below 1990 levels by 2030 and 80 percent below 1990 levels by 2050; the 2017 Clean Air Plan is the most current applicable air quality plan for the air basin and consistency with this plan is the basis for determining whether the project would conflict with or obstruct implementation of an air quality plan.

In addition to air quality plans, the BAAQMD also adopts rules and regulations to improve existing and future air quality. The Proposed Project may be subject to the following district rules.

- **Regulation 2, Rule 2 (New Source Review)**—This regulation contains requirements for Best Available Control Technology and emission offsets.
- **Regulation 2, Rule 5 (New Source Review of Toxic Air Contaminants)**—This regulation outlines guidance for evaluating TAC emissions and their potential health risks.
- **Regulation 6, Rule 1 (Particulate Matter)**—This regulation restricts emissions of particulate matter (PM) darker than No. 1 on the Ringlemann Chart to less than 3 minutes in any 1 hour.
- **Regulation 7 (Odorous Substances)**—This regulation establishes general odor limitations on odorous substances and specific emission limitations on certain odorous compounds.
- **Regulation 8, Rule 3 (Architectural Coatings)**—This regulation limits the quantity of reactive organic gases (ROG) in architectural coatings.
- **Regulation 9, Rule 6 (Nitrogen Oxides Emission from Natural Gas-Fired Boilers and Water Heaters)**—This regulation limits emissions of nitrogen oxides (NO<sub>x</sub>) generated by natural gas-fired boilers.
- **Regulation 9, Rule 8 (Stationary Internal Combustion Engines)**—This regulation limits emissions of NO<sub>x</sub> and carbon monoxide (CO) from stationary internal combustion engines of more than 50 horsepower.

---

<sup>26</sup> Bay Area Air Quality Management District. 2017. *Final 2017 Clean Air Plan*. Adopted April 19. Available: [https://www.baaqmd.gov/~media/files/planning-and-research/plans/2017-clean-air-plan/attachment-a\\_-proposed-final-cap-vol-1-pdf.pdf?la=en](https://www.baaqmd.gov/~media/files/planning-and-research/plans/2017-clean-air-plan/attachment-a_-proposed-final-cap-vol-1-pdf.pdf?la=en). Accessed: July 1, 2021.

*Town of Fairfax General Plan 2010-2030 (General Plan)*

The Town of Fairfax General Plan 2010-2030 (General Plan) includes the following goals and policies associated with air quality:

**Goal CON-2: Air Quality.**

**Policy CON-2.1.1:** Support development approaches and usage measures near the Town Center to reduce individual motorized transportation requirements.

**Policy CON-2.1.2:** All planning decisions shall require application of existing air quality guidelines and best practices to minimize air quality impact.

**Policy CON-2.1.3:** Improve air quality by encouraging green building techniques for all new and remodel construction within the Town of Fairfax.

**Policy CON-2.2.1:** Reduce particulate and toxic air contaminant emissions from wood-burning stoves and fireplaces.

**Policy CON-2.3.1:** Support local air quality initiatives from the BAAQMD and ABAG.

**Policy CON-2.3.2:** Support air quality initiatives from the State of California.

*Town of Fairfax Climate Action Plan 2030 (CAP)*

The Town of Fairfax Climate Action Plan (CAP) was adopted in 2021 and establishes GHG reduction targets that exceed the State's goals. The Fairfax community's goal is a 100 percent GHG emissions reduction target by the year 2030 from a 2005 baseline. The CAP provides community outreach and engagement, transportation, renewable energy and electrification, energy efficiency, waste reduction, and water conservation strategies necessary to minimize Fairfax's impacts on climate change and meet the established GHG reduction target. Strategies include increasing electric vehicle (EV) use within the town, encouraging walking as an alternative to vehicular travel, promoting smart growth development, assisting residents and businesses in switching to 100 percent renewable electricity, promoting and expanding energy efficiency programs, enforcing the Town construction and demolition debris material recycling ordinance, and reducing indoor and outdoor water use.

## Impact Analysis

---

### SIGNIFICANCE CRITERIA

For the purposes of this EIR, a significant impact would occur if the Proposed Project would:

- Criterion 1: Conflict with or obstruct implementation of the applicable air quality plan.**
- Criterion 2: Result in a cumulatively considerable net increase in any criteria pollutant for which the project region is classified as a nonattainment area under an applicable federal or state ambient air quality standard.**
- Criterion 3: Expose sensitive receptors to substantial pollutant concentrations.**
- Criterion 4: Result in other emissions (such as those leading to odors) that would adversely affect a substantial number of people.**

As discussed above, all pollutants that would be generated by the Proposed Project are associated with some form of health risk (e.g., asthma, lower respiratory problems). Regional pollutants can be transported over long distances and affect ambient air quality far from the emissions source. Localized pollutants affect ambient air quality near the emissions source. As discussed above, the primary pollutants of concern generated by the Proposed Project are ozone precursors (ROG and NO<sub>x</sub>), CO, PM, and TAC (including DPM and asbestos). Emission thresholds that can be used to evaluate the significance level of regional and localized pollutants are discussed in the following subsections. Thresholds and guidance for evaluating potential odors associated with the Proposed Project area also presented.

### Regional Emissions

This analysis evaluates the impacts of regional emissions generated by the Proposed Project using a two-tiered approach that considers both project- and plan-level guidance recommended by the BAAQMD in its CEQA Guidelines.<sup>27</sup>

First, this analysis considers whether the Project would conflict with the most recent air quality plan (2017 Clean Air Plan), consistent with the BAAQMD guidance for programmatic analyses.<sup>28,29</sup> The impact analysis evaluates whether the Project supports the primary goals of the 2017 Clean Air Plan, including applicable control measures from the 2017 Clean Air Plan, and whether it would disrupt or hinder implementation of any 2017 Clean Air Plan control measure.

---

<sup>27</sup> Bay Area Air Quality Management District. 2017. *California Environmental Quality Act, Air Quality Guidelines*. May. Available: [https://www.baaqmd.gov/~media/files/planning-and-research/ceqa/ceqa\\_guidelines\\_may2017-pdf.pdf?la=en](https://www.baaqmd.gov/~media/files/planning-and-research/ceqa/ceqa_guidelines_may2017-pdf.pdf?la=en). Accessed: July 1, 2021.

<sup>28</sup> Bay Area Air Quality Management District. 2017b. *California Environmental Quality Act, Air Quality Guidelines*. May. Available: [https://www.baaqmd.gov/~media/files/planning-and-research/ceqa/ceqa\\_guidelines\\_may2017-pdf.pdf?la=en](https://www.baaqmd.gov/~media/files/planning-and-research/ceqa/ceqa_guidelines_may2017-pdf.pdf?la=en). Accessed: July 1, 2021.

<sup>29</sup> Bay Area Air Quality Management District. 2017. *Final 2017 Clean Air Plan*. Adopted: April 19. Available: [https://www.baaqmd.gov/~media/files/planning-and-research/plans/2017-clean-air-plan/attachment-a\\_-proposed-final-cap-vol-1-pdf.pdf?la=en](https://www.baaqmd.gov/~media/files/planning-and-research/plans/2017-clean-air-plan/attachment-a_-proposed-final-cap-vol-1-pdf.pdf?la=en). Accessed: July 1, 2021.

Second, calculated regional criteria pollutant emissions for Proposed Project operations are compared to the BAAQMD's project-level thresholds. The BAAQMD's thresholds are summarized in Table 3.2-5 and are recommended by the air district to evaluate the significance of a project's regional criteria pollutant emissions.<sup>30</sup> Construction-related emissions have not been quantified and are not evaluated with respect to the thresholds. According to the BAAQMD, projects with emissions in excess of the thresholds shown in Table 3.2-5 would be expected to have a significant cumulative impact on regional air quality because an exceedance of the thresholds is anticipated to contribute to CAAQS and NAAQS violations.

**Table 3.2-5: BAAQMD Project-Level Regional Criteria Pollutant Emission Thresholds**

Analysis Scenario	BAAQMD Thresholds
Regional Criteria Pollutants (Construction)	ROG: 54 lb/day NO <sub>x</sub> : 54 lb/day PM <sub>10</sub> : 82 lb/day (exhaust only) PM <sub>2.5</sub> : 54 lb/day (exhaust only)
Regional Criteria Pollutants (Operations)	ROG: 54 lb/day NO <sub>x</sub> : 54 lb/day PM <sub>10</sub> : 82 lb/day (includes fugitive and exhaust emissions) PM <sub>2.5</sub> : 54 lb/day (includes fugitive and exhaust emissions)

Sources: Bay Area Air Quality Management District. 2017. *California Environmental Quality Act, Air Quality Guidelines*. May. Available: [https://www.baaqmd.gov/~media/files/planning-and-research/ceqa/ceqa\\_guidelines\\_may2017-pdf.pdf?la=en](https://www.baaqmd.gov/~media/files/planning-and-research/ceqa/ceqa_guidelines_may2017-pdf.pdf?la=en). Accessed: August 1, 2023.

lb = pounds  
 ROG = reactive organic gases  
 NO<sub>x</sub> = nitrogen oxides  
 PM<sub>10</sub> = coarse particulate matter that is 10 microns in diameter and smaller  
 PM<sub>2.5</sub> = fine particulate matter that is 2.5 microns in diameter and smaller

The BAAQMD's project-level thresholds were developed to analyze emissions generated by a single project, and thus, do not lend well to an evaluation of emissions from a land use plan being evaluated at a programmatic level. Large-scale land use plans that consist of numerous individual projects will, by their nature, produce more criteria pollutants than single projects, even if the plans include efficiency measures to reduce future emissions. Use of the project-level thresholds to evaluate land use plans may therefore unfairly penalize the plans, yielding a significant and unavoidable conclusion simply due to scale. However, because a comparison to the project-level thresholds is informative to the analysis of the Proposed Project's impacts to air quality, this analysis accounts for both sets of thresholds.

<sup>30</sup> Bay Area Air Quality Management District. 2017. *California Environmental Quality Act, Air Quality Guidelines*. May. Available: [https://www.baaqmd.gov/~media/files/planning-and-research/ceqa/ceqa\\_guidelines\\_may2017-pdf.pdf?la=en](https://www.baaqmd.gov/~media/files/planning-and-research/ceqa/ceqa_guidelines_may2017-pdf.pdf?la=en). Accessed: July 1, 2021.

## **Health-Based Thresholds for Project-Generated Pollutants of Human Health Concern**

The California Supreme Court's 2018 decision in *Sierra Club v. County of Fresno* (6 Cal. 5<sup>th</sup> 502), hereafter referred to as the Friant Ranch Decision, reviewed the long-term regional air quality analysis contained in the environmental impact report (EIR) for the proposed Community Plan Update and Friant Ranch Specific Plan (Friant Ranch Project). The Friant Ranch Project proposed a 942-acre master-plan development in unincorporated Fresno County, within the San Joaquin Valley Air Basin, which is currently designated as a nonattainment area with respect to the NAAQS and CAAQS for O<sub>3</sub> and PM<sub>2.5</sub>. The court found that the EIR's air quality analysis was inadequate because it failed to provide enough detail "for the public to translate the bare [criteria pollutant emissions] numbers provided into adverse health impacts or to understand why such a translation is not possible at this time." The court's decision notes that environmental documents must attempt to connect a project's air quality impacts to specific health effects or explain why it is not technically feasible to perform such an analysis.

All criteria pollutants generated by the Proposed Project would be associated with some form of health risk (e.g., asthma, lower respiratory problems). Criteria pollutants can be classified as either regional pollutants or localized pollutants. Regional pollutants can be transported over long distances and affect ambient air quality far from the emissions source. Localized pollutants affect ambient air quality near the emissions source. O<sub>3</sub> is considered a regional criteria pollutant, whereas CO, NO<sub>2</sub>, SO<sub>2</sub>, and lead are localized pollutants. Particulate matter can be both a local and a regional pollutant, depending on its composition. The primary criteria pollutants of concern generated by the Proposed Project would be O<sub>3</sub> precursors (ROG and NO<sub>x</sub>), CO, and particulate matter, including DPM.

The sections that follow discuss thresholds and analysis considerations for regional and local project-generated criteria pollutants with respect to their human health implications.

### **Regional Project-Generated Criteria Pollutants (Ozone Precursors and Regional Particulate Matter)**

Adverse health effects from regional criteria pollutant emissions, such as O<sub>3</sub> precursors and particulate matter, generated by the Proposed Project are highly dependent on a multitude of interconnected variables (e.g., cumulative concentrations, local meteorology and atmospheric conditions, the number and character of exposed individuals [e.g., age, gender]). Therefore, O<sub>3</sub> precursors (ROG and NO<sub>x</sub>) contribute to the formation of ground-borne O<sub>3</sub> on a regional scale. Emissions of ROG and NO<sub>x</sub> generated in an area may not correlate to a specific O<sub>3</sub> concentration in that same area. Similarly, some types of particulate pollutants may be transported over long distances or formed through atmospheric reactions. As such, the magnitude and locations of specific health effects from exposure to increased O<sub>3</sub> or regional particulate matter concentrations are the product of emissions generated by numerous sources throughout a region, as opposed to a single individual project. Moreover, exposure to regional air pollution does not guarantee that an individual will experience an adverse health effect. As discussed above, there are large individual differences in the intensity of symptomatic responses to air pollutants. These differences are influenced, in part, by the underlying health condition of an individual, which cannot be known.

Models and tools have been developed to correlate regional criteria pollutant emissions to potential community health impacts. Appendix D summarizes many of these tools, identifies the analyzed

pollutants, describes their intended application and resolution, and analyzes whether they could be used to reasonably correlate project-level emissions to specific health consequences. Although models are capable of quantifying O<sub>3</sub> and any secondary particulate matter formation and associated health effects, these tools were developed to support regional planning and policy analysis and have limited sensitivity to small changes in criteria pollutant concentrations induced by individual projects. Therefore, translating project-generated criteria pollutants to the locations where specific health effects could occur or the resultant number of additional days of nonattainment is not possible with any degree of accuracy.

The technical limitations of existing models (e.g., for correlating project-level regional emissions to specific health consequences) are recognized by air quality management districts throughout the state, including the San Joaquin Valley Air Pollution Control District (SJVAPCD) and South Coast Air Quality Management District (SCAQMD), which provided amici curiae briefs for the Friant Ranch Project's legal proceedings. In its brief, the SJVAPCD acknowledged that HRAs for localized air toxics, such as DPM, are common; however, "it is not feasible to conduct a similar analysis for criteria air pollutants because currently available computer modeling tools are not equipped for this task."<sup>31</sup> The SJVAPCD further notes that emissions solely from the Friant Ranch Project, which equate to less than one-tenth of one percent of total NO<sub>x</sub> and volatile organic compounds in the valley, is not likely to yield valid information and that any such information would not be "accurate when applied at the local level." SCAQMD presents similar information in its brief, stating that "it takes a large amount of additional precursor emissions to cause a modeled increase in ambient O<sub>3</sub> levels."<sup>32,33</sup>

As discussed above, air districts develop region-specific CEQA thresholds of significance in consideration of existing air quality concentrations as well as attainment or nonattainment designations under the NAAQS and CAAQS. The NAAQS and CAAQS are informed by a wide range of scientific evidence that demonstrates that there are known safe concentrations of criteria pollutants. Although recognizing that air quality is a cumulative problem, air districts typically consider projects that generate criteria pollutant and O<sub>3</sub> precursor emissions that are below the thresholds to be minor in nature. Such projects would not adversely affect air quality or exceed the NAAQS or CAAQS. Emissions generated by the Proposed Project could increase photochemical reactions and the formation of tropospheric O<sub>3</sub> and secondary particulate matter, which, at certain concentrations, could lead to increased incidences of specific health consequences. Although these health effects are associated with O<sub>3</sub> and particulate pollution, the effects are a result of cumulative and regional emissions. Therefore, the Proposed Project's incremental contribution cannot be traced to specific health outcomes on a regional scale, and a quantitative correlation of project-generated regional criteria pollutant emissions to specific human health impacts is not included in this analysis. It is foreseeable that unmitigated construction-related and operational emissions of O<sub>3</sub> precursors and particulate matter, in excess of the BAAQMD thresholds, could contribute to

---

<sup>31</sup> San Joaquin Valley Air Pollution Control District. 2015. *Amicus Curiae Brief of San Joaquin Valley Unified Air Pollution Control District in Support of Defendant and Respondent, County of Fresno and Real Party in Interest and Respondent, Friant Ranch, L.P.* Available: <https://www.courts.ca.gov/documents/7-s219783-ac-san-joaquin-valley-unified-air-pollution-control-dist-041315.pdf>. Accessed: July 1, 2021.

<sup>32</sup> South Coast Air Quality Management District. 2015. *Application of the South Coast Air Quality Management District for Leave to File Brief of Amicus Curiae in Support of Neither Party and [Proposed] Brief of Amicus Curiae.* Available: <https://www.courts.ca.gov/documents/9-s219783-ac-south-coast-air-quality-mgt-dist-041315.pdf>. Accessed: July 1, 2021.

<sup>33</sup> For example, SCAQMD's analysis of its 2012 Air Quality Attainment Plan showed that the modeled NO<sub>x</sub> and ROG reductions of 432 and 187 tons per day, respectively, reduced ozone levels by only 9 parts per billion.



cumulative and regional health impacts. In such cases, all feasible mitigation would be applied, and emissions would be reduced to the extent possible.

### **Localized Project-Generated Criteria Pollutant Emissions (CO and Particulate Matter) and Air Toxics (DPM and Asbestos)**

Localized pollutants generated by a project can affect populations near the emissions source. Because these pollutants dissipate with distance, emissions from individual projects can result in direct and material health impacts on adjacent sensitive receptors. The localized pollutants of concern that would be generated by the Proposed Project are CO, particulate matter, DPM, and asbestos. The applicable thresholds for each pollutant are described below.

#### ***Carbon Monoxide***

Heavy traffic congestion can contribute to high levels of CO, and individuals exposed to such hot spots may have a greater likelihood of developing adverse health effects. The BAAQMD has adopted screening criteria that provides a conservative indication of whether project-generated traffic would cause a potential CO hot spot. If the screening criteria are not met, a quantitative analysis through site-specific dispersion modeling of project-related CO concentrations would not be necessary, and the project would not cause localized violations of the CAAQS for CO. The BAAQMD's CO screening criteria are summarized below.

- The project traffic would not increase traffic volumes at affected intersections to more than 44,000 vehicles per hour.
- The project traffic would not increase traffic volumes at affected intersections to more than 24,000 vehicles per hour where vertical and/or horizontal mixing is substantially limited (e.g., tunnel, parking garage, bridge underpass, natural or urban street canyon, below-grade roadway).
- The project is consistent with an applicable congestion management program established by the county congestion management agency for designated roads or highways, regional transportation plan, and local congestion management agency plans.

#### ***Particulate Matter***

The BAAQMD adopted an incremental PM<sub>2.5</sub> concentration-based significance threshold in which a "substantial" contribution at the project level for an individual source is defined as total (i.e., exhaust and fugitive) PM<sub>2.5</sub> concentrations exceeding 0.3 µg/m<sup>3</sup>. This is the same threshold used to evaluate the placement of new receptors that would be exposed to individual PM<sub>2.5</sub> emissions sources. In addition, the BAAQMD considers projects to have a cumulatively considerate PM<sub>2.5</sub> impact if sensitive receptors are exposed to PM<sub>2.5</sub> concentrations from local sources within 1,000 feet, including existing sources, project-related sources, and reasonably foreseeable future sources, that exceed 0.8 µg/m<sup>3</sup>.

The BAAQMD has not established PM<sub>10</sub> concentration-based thresholds of significance. BAAQMD's PM<sub>2.5</sub> thresholds apply to both new receptors and new sources. However, the BAAQMD considers mass emissions of fugitive PM<sub>10</sub> from earth moving activities to be less than significant with applicable of the BAAQMD's Basic Construction Mitigation Measures.

### *Diesel Particular Matter*

DPM has been identified as a TAC and is particularly concerning because long-term exposure can lead to cancer, birth defects, and damage to the brain and nervous systems. The BAAQMD has adopted incremental cancer and hazard thresholds to evaluate receptor exposure to single sources of DPM emissions. The “substantial” DPM threshold defined by the BAAQMD is exposure of a sensitive receptor to an individual emissions source, resulting in an excess cancer risk level of more than 10 in 1 million or a non-cancer (i.e., chronic or acute) hazard index (HI) greater than 1.0.

The air district considers projects to have a cumulative considerable DPM impact if they contribute to DPM emissions, that when combined with cumulative sources within 1,000 feet of sensitive receptors, result in excess cancer risk levels of more than 100 in 1 million or an HI greater than 10.0. The BAAQMD considers projects to have a significant cumulative impact if it introduces new receptors at a location where the combined exposure of all cumulative sources within 1,000 feet is in excess of cumulative thresholds.

### *Asbestos*

The BAAQMD considers a project to have a significant impact if it does not comply with the applicable regulatory requirements outlined in Regulation 11, Rule 2.

### *Odors*

The BAAQMD and CARB have identified several types of land uses as being commonly associated with odors, such as landfills, wastewater treatment facilities, and animal processing centers.<sup>34,35</sup> The BAAQMD’s CEQA Guidelines recommend that plan-level analyses identify the location of existing and planned odor sources and include policies to reduce potential odors impacts in the plan area.

## **METHODOLOGY AND ASSUMPTIONS**

Air quality impacts associated with construction and operation of the Proposed Project were assessed and quantified (where applicable) using standard and accepted software tools, methodologies, and emission factors. A summary of the methodology is provided below. A full list of assumptions can be found in Appendix D.

### **Construction**

As discussed in Chapter 2, *Project Description*, of this draft EIR, the Proposed Project would facilitate development of up to 598 new housing units.<sup>36</sup> The residential land uses that could be developed under the Proposed Project would generate construction-related emissions from mobile and stationary construction equipment exhaust, employee and haul truck vehicle exhaust and fugitive dust, fugitive dust from land clearing and material movement, and off-gassing emissions

---

<sup>34</sup> Bay Area Air Quality Management District. 2017. *California Environmental Quality Act, Air Quality Guidelines*. May. Available: [https://www.baaqmd.gov/~media/files/planning-and-research/ceqa/ceqa\\_guidelines\\_may2017-pdf.pdf?la=en](https://www.baaqmd.gov/~media/files/planning-and-research/ceqa/ceqa_guidelines_may2017-pdf.pdf?la=en). Accessed: July 1, 2021.

<sup>35</sup> California Air Resources Board. 2005. *Air Quality and Land Use Handbook: A Community Health Perspective*. April. Available: <https://ww3.arb.ca.gov/ch/handbook.pdf>. Accessed: July 1, 2021.

<sup>36</sup> The air quality modeling analysis was conducted based on the development anticipated at that time. Although the net amount of development has since changed, the air quality analysis represented in this section is conservative, because it assumes a greater amount of net development than may actually occur.

from paving and application of architectural coatings. The specific size, location, construction techniques and scheduling that would be utilized for each future individual development project occurring within the Planning Area from implementation of the Proposed Project is not currently known. With an anticipated buildout year of 2031, development of the housing units associated with the Proposed Project would occur over an extended period of time and would depend on factors such as local economic conditions, market demand, and other financing considerations. As such, without specific project-level details it is not possible to develop a refined construction inventory.<sup>37</sup> Consequently, the determination of construction air quality impacts for each individual development project, or a combination of these projects, would require the Town to speculate regarding such potential future project-level environmental impacts. Thus, in the absence of the necessary construction information required to provide an informative and meaningful analysis, the evaluation of potential construction-related impacts resulting from implementation of the Proposed Project is conducted qualitatively in this EIR.

## **Operations**

Long-term (i.e., operational) regional emissions of criteria air pollutants and precursors, including mobile-, energy-, and area-source emissions, were quantified for the Proposed Project. As stated in Chapter 2, *Project Description*, buildout of the eight-year planning horizon of the Proposed Project includes existing development, pipeline development, and new development. The land uses categorized as “existing development” would remain unchanged through 2031, land uses categorized as “pipeline development” included projects that are being reviewed or have been approved by the Town, but not yet constructed, and “new development” includes the future development within the Planning Area. Since existing development would remain unchanged, the air quality analysis focuses on the net change in development which would include the land uses associated with the pipeline and new development categories.

### ***Operational Mobile Source Emissions***

Criteria pollutant emissions from motor vehicles were estimated using emission factors from CARB’s most recent version of its Emissions Factor model, version 2021 (EMFAC2021) and daily vehicle trips and daily vehicle miles traveled (VMT) from as described in the Section 3.13, *Transportation* and Appendix E of this EIR. Daily trips and VMT accounted for trip reductions achieved by quantifiable policies, including proximity to transit and mixed-use design. Upon full buildout, the Proposed Project would result in a net increase of 3,197 daily trips and daily home-based VMT of 142,900. Criteria pollutants emissions from vehicles were calculated by multiplying the VMT estimates by the appropriate emission factors provided by EMFAC2021. These emissions were added to process emissions (i.e., emission from vehicle starts, running losses, etc.), which were calculated by multiplying the daily trips by the appropriate emission factors provided by EMFAC2021. Please refer to Appendix E for detailed summary of data utilized in this analysis.

---

<sup>37</sup> Project-level information includes details such as the size and scale of the project to be constructed, construction schedule, equipment fleet, construction worker crew estimates, and demolition, and grading quantities.

### *Operational Area, Energy, and Stationary Source Emissions*

Area and energy emissions were estimated using the most recent version of the California Emission Estimator Model (CalEEMod), version 2022.1. Area sources include emissions from natural gas combustion in fireplaces, use of landscape maintenance equipment, repainting of buildings, and consumer products (cleaners, detergents, degreasers, etc.).<sup>38</sup> Energy sources include the combustion of natural gas for building heating and hot water. Area- and energy- source emissions for the industrial land uses to be removed were quantified using a baseline year of 2019. The Proposed Project's emissions were estimated using a buildout year of 2031. Because operational details for each individual development project proposed under the Proposed Project are currently unknown, CalEEMod defaults were assumed based on the anticipated land uses. Stationary sources such as emergency generators and boilers that would be developed for each individual development project, or a combination of these projects, would be subject to the permitting requirements by the BAAQMD. Stationary sources are discussed qualitatively, because details of future projects and their stationary sources are currently unknown.

## **RELEVANT PROPOSED GOALS AND POLICIES**

**Policy 1-3** Promote mixed use developments with a residential component in Downtown Fairfax to provide workforce housing and locate higher density residential development in proximity to employment, shopping, transit, recreation, and other services.

**Program 1-A Develop and Adopt Town Center Plan.** The General Plan includes an optional Town Center Element proposing adoption of a Town Center Plan that envisioned reinforcing the role of the downtown and strengthening the Town's economic base. Through this program, the Town will develop and adopt a Plan including goals, policies, and objective standards that will allow more development of the Town Center. Policies should provide for increasing residential development in an area that offers easier access to shops, services, and public transit. Additional residential development in the downtown will also support the vitality of existing commercial retail and service uses. Policies should include regulatory incentives to encourage residential and mixed-use development.

**Responsibility: Planning and Building**

**Timeframe: Adopt Town Center Plan by the end of 2026**

**Objective: Integrate workforce housing into Downtown Fairfax**

**Funding: General Fund**

---

<sup>38</sup> Per BAAQMD, wood-burning devices of any kind are not allowed to be installed in new homes or buildings being constructed in the Bay Area. Only emissions from natural gas fireplaces were included in the analysis. Bay Area Air Quality Management District. 2020. Wood Smoke Pollution. Last updated March 11. Available: <https://www.baaqmd.gov/rules-and-compliance/wood-smoke>. Accessed: July 1, 2021.

**Program 1-B School Street Plaza.** Centrally located on Broadway in Downtown Fairfax, this approximately 2-acre site is adjacent to Contratti Field and within easy walking distance of shops, restaurants, Fairfax Market, and transit services. The property owner has had pre-application consultations with Town staff regarding a high-density, mixed income residential development with an affordability component. Through this program, the Town will:

- Establish objective standards for workforce housing in high density residential developments, including design criteria and affordability requirements;
- Meet quarterly with the property owner to help advance site planning;
- Work with the property owner to identify incentives (such as reduced common open space requirements in view of park adjacency and shared parking provisions) that can be offered to facilitate provision of affordable housing units onsite;
- Ensure that the residents of the 13 existing live/work units onsite have first right of refusal on new units, including rental or sales price concessions, and/or receive relocation assistance, consistent with the requirements of State law.

**Responsibility: Planning and Building**

**Timeframe: Initiate quarterly meetings in Q3 2023; target completion of construction in 2028**

**Objective: 175 new housing units by 2028, including 35 affordable units**

**Funding: General Fund**

**Program 1-D Shopkeeper Housing.** Shopkeeper units are dwelling units that are physically separated from a commercial space used for a business operated by the occupant of the associated residential unit. The commercial spaces are typically ground-floor retail or office spaces below living spaces where commercial spaces can only be leased to occupants of the residential spaces. Amending the Zoning Code to allow shopkeeper units as a type of residential use will provide an opportunity for those who want to live in proximity to their place of work. The Town will amend the Zoning Code to allow shopkeeper units on designated streets in all commercial districts subject to objective standards, density/intensity limits, and parking requirements to ensure that the residents of units will not be subject to adverse impacts from surrounding nonresidential uses and that the residential use will not interfere with commercial establishments on the same or surrounding properties.

**Responsibility: Planning and Building**

**Timeframe: Adopt the Code amendments by Q3 2025**

**Objective: Five shopkeeper units by 2031**

**Funding: General Fund and State planning grants**

**Program 1-E Live-Work Units.** In contrast to shopkeeper units, live-work units are a commercial use that allows residential occupancy incidental to an approved non-residential use. Zoning Code amendments will be developed that are appropriate for the Town based on live-work requirements enacted by other jurisdictions and will include definitions, use classifications, development standards, parking requirements, and other regulations for this use. The Town will amend the Zoning Code to allow live-work units in all commercial districts subject to objective design standards and density/intensity limits to ensure that this use will not interfere with or diminish the viability of commercial establishments on the same or surrounding properties.

**Responsibility: Planning and Building**

**Timeframe: Adopt the Code amendments by Q3 2025**

**Objective: Five live-work units by 2031**

**Funding: General Fund and State planning grants**

**Program 2-A Workforce Housing Overlay.** California Assembly Bill (AB 2011) of 2022 provides a streamlined ministerial approval pathway for multifamily projects on commercially zoned land that pay prevailing wages for construction work and meet specified affordable housing targets. The Town will adopt Zoning Code amendments in the form of a Workforce Housing Overlay District, to implement these provisions and provide an alternative to AB2011 as a means of promoting the construction of housing for teachers, restaurant and service workers, firefighters, police officers, and others employed in Fairfax and Marin County. The overlay will apply to properties shown on Map 3-5 in the CL, CH, and CC zones, providing property owners with the option to redevelop their land with housing or mixed use projects should they elect to do so. Two subzones are envisioned: one for high density workforce housing in the downtown area, and another for medium density workforce housing along Sir Francis Drake Boulevard. The workforce housing overlay will:

- Allow for mixed use development and 100 percent residential buildings on commercial properties within in the overlay;
- Establish an “as of right” base density with a minimum percentage of affordable housing (40 units per acre in downtown and 20 dwelling units per acre along Sir Francis Drake Boulevard);
- Permit additional density on larger sites with additional on-site amenities and designs that provide transitions to adjacent lower density uses;
- Create a sliding scale that provides bonus density in exchange for a greater commitment to affordability;
- Incorporate objective design and development standards to accommodate higher density development and ensure appropriate buffering of adjacent residential land uses.

**Responsibility: Planning and Building**

**Timeframe: Adopt the Workforce Housing Overlay by January 31, 2024**

**Objective: 159 moderate and lower income RHNA units by 2030**

**Funding: General Fund**

**Program 2-I Buildings and Construction Code Requirements.** In September 2021, the Town enacted requirements for all-electric building design based on its location along the wildland-urban interface and susceptibility to seismic and flooding hazards. The requirements are also to implement the Fairfax Climate Action Plan and Climate Emergency Declaration (Resolution No. 1904). This regulation anticipates State mandates that will ban the sale of natural gas appliances in 2030 and a change in the State Building Code that went into effect at the beginning of 2023. Although the cost difference between electric and gas appliances is not significant, the cost to operate electric appliances has historically been higher than the cost of gas, although that was not the case in 2022. The Housing Action Plan includes a program to monitor the effect of this requirement on the housing expenses of low- and moderate-income households and evaluate options for minimizing this impact.

**Responsibility: Planning and Building**

**Timeframe: End of Q1 each year of the planning period, with reporting through Annual Progress Reports**

**Objective: Recommend programs for minimizing housing expenses for low- and moderate-income residents**

**Funding: General Fund**

## IMPACTS

**Impact 3.2-1 Implementation of the Proposed Project would not conflict with or obstruct the implementation of the applicable air quality plan. (*Less than Significant*)**

The CAA requires that a SIP or an air quality control plan be prepared for areas with air quality violating the NAAQS. The SIP sets forth the strategies and pollution control measures that states will use to attain the NAAQS. The CAA requires attainment plans to demonstrate a five percent per year reduction in nonattainment air pollutants or their precursors, averaged every consecutive 3-year period, unless an approved alternative measure of progress is developed. Air quality attainment plans (AQAP) outline emissions limits and control measures to achieve and maintain these standards by the earliest practical date. The current AQAP for the SFBAAB is the 2017 Clean Air Plan.<sup>39</sup>

---

<sup>39</sup> Bay Area Air Quality Management District. 2017. *Final 2017 Clean Air Plan*. Adopted April 19. Available: [https://www.baaqmd.gov/~/media/files/planning-and-research/plans/2017-clean-air-plan/attachment-a\\_-proposed-final-cap-vol-1-pdf.pdf?la=en](https://www.baaqmd.gov/~/media/files/planning-and-research/plans/2017-clean-air-plan/attachment-a_-proposed-final-cap-vol-1-pdf.pdf?la=en). Accessed: July 1, 2021.

According to the BAAQMD's CEQA Guidelines, to meet the Threshold of Significance for operational-related criteria air pollutant and precursor impacts for plans (other than regional plans), a proposed plan must satisfy the following criteria.<sup>40</sup>

- Consistency with current air quality plan (AQP) control measures (this requirement applies to project-level as well as plan-level analyses).
- A proposed plan's projected VMT or vehicle trips (VT) (either measure may be used) increase is less than or equal to its projected population increase.

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

#### *Consistency with the 2017 Clean Air Plan*

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

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

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

---

<sup>40</sup> Bay Area Air Quality Management District. 2022. California Environmental Quality Act. Air Quality Guidelines. Available: <https://www.baaqmd.gov/plans-and-climate/california-environmental-quality-act-ceqa/updated-ceqa-guidelines>. Accessed: August 16, 2023.



**Table 3.2-6: BAAQMD 2017 Clean Air Plan Control Measure Consistency**

Applicable 2017 Clean Air Plan Control Measures	Proposed Project Consistency
<b>Transportation Control Measures</b>	
TR2: Trip Reduction Programs	Inconsistent. See Impact 3.13-2 in Section 3.13, <i>Transportation</i> , for a detailed discussion of why trip reduction strategies are not feasible for the Proposed Project.
TR10: Land Use Strategies	Consistent. As outlined under Proposed Project Program 2-A, the workforce housing overlay will permit high density workforce housing in the downtown area, and another for medium density workforce housing along Sir Francis Drake Boulevard transit corridor. The overlay is anticipated to accommodate 188 moderate- and lower-income units. As such, the Proposed Project incorporates land use changes which serve to reduce VMT.
<b>Building Control Measures</b>	
BL1: Green Buildings	Consistent. New development facilitated by the Proposed Project would be subject to the Town's Green Building Requirements (Town Code Chapter 15.04.080), which expand upon the mandatory statewide sustainable building practices identified in the CalGreen Code.
BL2: Decarbonize Buildings	Consistent. New development facilitated by the Proposed Project would be subject to the Town's Green Building Requirements, which set forth several energy efficiency options for new residential development. Chapter 15.05 of the Town Code requires that newly constructed buildings be all-electric buildings. Project compliance with the Town Code would support the long-term decarbonization of buildings.
<b>Waste Management Control Measures</b>	
WA4: Recycling and Waste Reduction	Consistent. New development facilitated by the Proposed Project would meet the requirements of the Town Code. Chapter 8.14 specifies that the percentage of incoming waste from construction, demolition, and alteration activities that is diverted from landfill disposal meets a required minimum of 70 percent.

<b>Water Control Measures</b>	
WR2: Support Water Conservation	Consistent. New development facilitated by the Proposed Project would be required to comply with the requirements of the CalGreen Code, which sets forth maximum flow rates for water fixtures, including showerheads, bathroom and kitchen faucets, and toilets.

As shown in Table 3.2-6 and the analysis above, the Proposed Project would support the primary goals of the CAP and would be consistent with applicable control measures contained in the CAP. Therefore, the Proposed Project would have a less than significant impact with respect to conflicts with the 2017 Clean Air Plan.

#### *Projected VMT and Population Increase*

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

Based on the above analysis, the Proposed Project would support implementation of the 2017 Clean Air Plan. Accordingly, the Proposed Project would not fundamentally conflict with the 2017 Clean Air Plan and would have a less-than-significant air quality impact.

#### *Mitigation Measures*

None required.

**Impact 3.2-2      Implementation of the Proposed Project would result in a cumulatively considerable net increase of criteria pollutants for which the Project region is nonattainment under an applicable federal or State ambient air quality standard. (*Less than Significant with Mitigation Incorporated*)**

#### *Construction*

Construction associated with new land use developments under the Proposed Project would result in the temporary generation of ozone precursors (ROG, NO<sub>x</sub>), CO, and particulate matter emissions that could result in short-term impacts on ambient air quality within the Planning Area. Emissions would originate from mobile and stationary construction equipment exhaust, employee and haul truck vehicle exhaust, fugitive dust emissions from land clearing, soil movement, and demolition, and off-gassing emissions from architectural coatings and asphalt paving. Construction-related emissions would vary substantially depending on the level of activity, length

of the construction period, specific construction operations, types of equipment, number of personnel, wind and precipitation conditions, and soil moisture content.

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

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

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

Due to uncertainty related to where development activities would occur within the Planning Area, it is not possible at this time to identify project-specific impacts that could occur under implementation of the Proposed Project; however, it is anticipated some of, if not all, development projects over the next eight years would require the utilization of project-specific mitigation measures. To ensure projects achieve consistency with the BAAQMD's construction screening

criteria or, if consistency with the construction screening criteria cannot be demonstrated, the Town is incorporating **Mitigation Measure AQ-1 and AQ-2** into future project development projects. MM AQ-1 requires future project development projects to implement the BAAQMD's Basic Construction Measures to control fugitive dust emissions generated during construction activities. MM AQ-2 requires future projects that cannot meet construction screening criteria to prepare a detailed construction air quality impact assessment to: 1) estimate potential project construction emissions; 2) compare potential project construction emissions against BAAQMD project-level construction thresholds of significance; and 3) incorporate measures to reduce construction emission impacts to levels below the BAAQMD's construction thresholds of significance for criteria air pollutants and TACs. As such, this impact would be less than significant with mitigation.

### *Operations*

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

**Table 3.2-7: Estimated Unmitigated Criteria Pollutant Emissions from Operation of the Proposed Project**

Scenario/Source Category	Maximum Daily Emissions (lb/day) <sup>a</sup>				
	ROG	NO <sub>x</sub>	CO	PM <sub>10</sub>	PM <sub>2.5</sub>
<i>Existing Conditions</i>					
Mobile Sources	14.7	11.6	103.0	18.3	4.7
Area Sources	312.6	21.9	399.6	1.9	1.8
Energy Sources	3.3	58.1	36.7	4.6	4.6
<b>Existing to be Removed Total</b>	<b>330.6</b>	<b>91.6</b>	<b>539.3</b>	<b>24.8</b>	<b>11.1</b>
<i>Proposed Project</i>					
Mobile Sources	13.6	8.8	92.1	23.9	6.1
Area Sources	334.5	26.6	438.2	2.3	2.2
Energy Sources	3.5	61.3	38.1	4.8	4.8
<b>Proposed Project Total</b>	<b>351.6</b>	<b>96.7</b>	<b>568.4</b>	<b>31</b>	<b>13.1</b>
<b>Proposed Project Net Total</b>	<b>21</b>	<b>5.1</b>	<b>29.1</b>	<b>6.2</b>	<b>1</b>
BAAQMD Threshold	54	54	—	82	54
<b>Exceeds Threshold?</b>	<b>No</b>	<b>No</b>	<b>—</b>	<b>No</b>	<b>No</b>

---

Source: See Appendix D for modeling files.

<sup>a</sup>. Values may not add up due to rounding.

ROG = reactive organic gases; NO<sub>x</sub> = nitrogen oxide; CO = carbon monoxide; PM<sub>10</sub> = particulate matter no more than 10 microns in diameter; PM<sub>2.5</sub> = particulate matter no more than 2.5 microns in diameter; BAAQMD = Bay Area Air Quality Management District

---

As shown in Table 3.2-7, the Proposed Project's net operational emissions would not exceed the BAAQMD's significance thresholds for any of the pollutants. The increase in ROG emissions is primarily attributed to consumer product use in residential land uses, while mobile source emissions contribute a majority of NO<sub>x</sub>, PM<sub>10</sub>, and PM<sub>2.5</sub> emissions. Given that the operation of the Proposed Project would not exceed BAAQMD's significance thresholds, operational air quality impacts are less than significant.

### *Mitigation Measures*

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

- a) All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
- b) All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- c) All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- d) All vehicle speeds on unpaved roads shall be limited to 15 mph.
- e) All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- f) Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
- g) All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- h) Post a publicly visible sign with the telephone number and person to contact at the Town regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

- MM-AQ-2: Prepare Project-level Construction Emissions Assessment.** The Town shall require new development projects to submit a quantitative project-level construction criteria air pollutant and toxic air contaminant emissions analysis prior to the start of construction activities that shows project construction activities would not exceed BAAQMD project-level thresholds of significance. The analysis may rely on BAAQMD construction screening criteria to demonstrate that a detailed assessment of criteria air pollutant and toxic air contaminant construction emissions is not required for the project. If the project does not satisfy all BAAQMD construction screening criteria, the analysis shall estimate and compare construction criteria air pollutant and toxic air contaminant emissions against the project-level thresholds of significance maintained by BAAQMD and, if emissions are shown to be above BAAQMD thresholds, then the project must implement measures to reduce emissions below BAAQMD thresholds. Mitigation measures to reduce emissions could include, but are not limited to:
- a) Watering exposed surfaces at a frequency adequate to maintain a minimum soil moisture content of 12 percent, as verified by moisture probe or lab sampling;
  - b) Suspending excavation, grading, and/or demolition activities when average wind speeds exceed 20 miles per hour;
  - c) Selection of specific construction equipment (e.g., specialized pieces of equipment with smaller engines or equipment that will be more efficient and reduce engine runtime);
  - d) Installing wind breaks that have a maximum 50 percent air porosity;
  - e) Restoring disturbed areas with vegetative ground cover as soon as possible;
  - f) Limiting simultaneous ground-disturbing activities in the same area at any one time (e.g., excavation and grading);
  - g) Scheduling/phasing activities to reduce the amount of disturbed surface area at any one time;
  - h) Installing wheel washers to wash truck and equipment tires prior to leaving the site;
  - i) Minimizing idling time of diesel-powered construction equipment to no more than two minutes or the shortest time interval permitted by manufacturer's specifications and specific working conditions;
  - j) Requiring equipment to use alternative fuel sources (e.g., electric-powered and liquefied or compressed natural gas), meet cleaner emission standards (e.g., U.S. EPA Tier IV Final emissions standards for equipment greater than 50-horsepower), and/or utilizing added exhaust devices (e.g., Level 3 Diesel Particular Filter);
  - k) Requiring that all construction equipment, diesel trucks, and generators be equipped with Best Available Control Technology for emission reductions of NOx and PM;

- l) Requiring all contractors use equipment that meets CARB's most recent certification standard for off-road heavy-duty diesel engines; and
- m) Applying coatings with a volatile organic compound (VOC) that exceeds the current regulatory requirements set forth in BAAQMD regulation 8, Rule 3 (Architectural Coatings).

*Significance after mitigation:* Less than significant

**Impact 3.2-3 Implementation of the Proposed Project would expose sensitive receptors to substantial pollutant concentrations. (Less than Significant with Mitigation Incorporated)**

Sensitive land uses are generally considered to include those uses where an exposure to pollutants could result in health-related risks for individuals. Per the BAAQMD, typical sensitive receptors are residences, hospitals, and schools. Parks and playgrounds where sensitive receptors (e.g., children and seniors) are present would also be considered sensitive receptors.<sup>41</sup> Sensitive receptors are located throughout the Planning Area at residences, schools, and parks (see Figure 3.2-1). Development of the Proposed Project has the potential to expose sensitive receptors to health effects from regional criteria pollutants, localized concentrations of CO, airborne dust containing asbestos, DPM, and PM<sub>2.5</sub>. These pollutant emissions via Proposed Project construction and operations are discussed below.

**Construction TAC Emissions**

Future development pursuant to the Project would result in short-term construction-related emissions. Some of these construction emissions would be TACs, which could have an adverse effect on receptors who are exposed to them. Specifically, heavy-duty off-road construction equipment, as well as haul trucks for any soil import / export, would generate exhaust PM<sub>2.5</sub>, with a portion of the exhaust PM<sub>2.5</sub> consisting of DPM, which is a TAC.

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

Based on the preceding discussion and analysis, implementation of the Proposed Project could have a potentially significant impact with regard to construction TAC emissions that would be generated during construction, which requires mitigation. Accordingly, the Town would implement **Mitigation Measure AQ-1 and AQ-2** into future project development projects. MM AQ-1 requires

---

<sup>41</sup> Bay Area Air Quality Management District. 2017. *California Environmental Quality Act, Air Quality Guidelines*. May. Available: [https://www.baaqmd.gov/~media/files/planning-and-research/ceqa/ceqa\\_guidelines\\_may2017-pdf.pdf?la=en](https://www.baaqmd.gov/~media/files/planning-and-research/ceqa/ceqa_guidelines_may2017-pdf.pdf?la=en). Accessed: July 1, 2021.

future project development projects to implement the BAAQMD's Basic Construction Measures to control fugitive dust emissions generated during construction activities. MM AQ-2 requires future projects that cannot meet construction screening criteria to prepare a detailed construction air quality impact assessment to: 1) estimate potential project construction emissions; 2) compare potential project construction emissions against BAAQMD project-level construction thresholds of significance; and 3) incorporate measures to reduce construction emission impacts to levels below the BAAQMD's construction thresholds of significance for criteria air pollutants and TACs.

In addition, **Mitigation Measure AQ-3** would require individual developments to review and identify permitted stationary sources within 1,000 feet of the project that may result in risks and hazards to new receptors. If screening-level information indicates potential stationary source risks and hazards would exceed the BAAQMD's thresholds, the project applicant shall: 1) incorporate site and building design measures into the project that reduce exposure to pollutants; or 2) conduct refined, site-specific modeling, using the latest information and guidance from the BAAQMD, demonstrating sources risks and hazards would not exceed BAAQMD thresholds for new receptors. Therefore, with the implementation of Mitigation Measures AQ-1 through AQ-3, TAC construction emissions associated with the Proposed Project would not result in significant adverse health risks at receptor locations. This impact would be less than significant with mitigation.

### **Operational TAC Emissions**

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

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

### ***Localized Carbon Monoxide Hot Spots***

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



Maximum traffic volumes along Sir Francis Drake Boulevard (SFD Blvd), the town's major arterial, would be less than the BAAQMD's recommended screening criterion of 44,000 vehicles per hour.<sup>42</sup> Also, intersection traffic volumes would not exceed the screening criterion of 24,000 vehicles per hour that the BAAQMD recommends for areas where vertical and/or horizontal mixing is substantially limited. The Proposed Project would not result in, or contribute to, a localized concentration of CO that would exceed the applicable NAAQS or CAAQS. This impact would be less than significant.

#### *Mitigation Measures*

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

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

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

*Significance after mitigation:* Less than significant

**Impact 3.2-4 Implementation of the Proposed Project would not result in other emissions (such as those leading to odors) adversely affecting a substantial number of people. (*Less than Significant*)**

Although offensive odors rarely cause physical harm, they can be unpleasant, leading to considerable distress among the public and often generating citizen complaints to local governments and air districts. Odor impacts on residential areas and other sensitive receptors, such as hospitals, day-care centers, and schools, warrant the closest scrutiny, but consideration should

---

<sup>42</sup> According to analysis conducted by the Proposed Project's traffic engineers, Fehr and Peers, existing weekday ADT for SFD Blvd between Butterfield Road and Willow Avenue is 19,400 and is projected to be 21,700 with implementation of the Proposed Project.

also be given to other land uses where people may congregate, such as recreational facilities, work sites, and commercial areas.

According to the BAAQMD, land uses associated with odor complaints typically include wastewater treatment plants, landfills, confined animal facilities, composting stations, food manufacturing plants, refineries, and chemical plants.<sup>43</sup> Residential development does not create substantial odors. Potential odor emitters during construction include diesel exhaust and evaporative emissions generated by asphalt paving and the application of architectural coatings. Construction-related activities near existing receptors would be temporary in nature, and construction activities would not result in nuisance odors. Potential odor emitters during operations would include exhaust from vehicles and fumes from the reapplication of architectural coatings as part of ongoing building maintenance. However, odor impacts would be limited to circulation routes, parking areas, and areas immediately adjacent to recently painted structures. Although such brief exhaust- and paint-related odors may be considered adverse, they would not be atypical of developed suburban areas and would not affect a substantial number of people or rise to the level of a significant impact under CEQA. Because the Proposed Project would not result in a new, substantial, or long-term source of odors, this impact would be less than significant.

#### *Mitigation Measures*

None required.

---

<sup>43</sup> Bay Area Air Quality Management District. 2017. *California Environmental Quality Act, Air Quality Guidelines*. May. Available: [https://www.baaqmd.gov/~media/files/planning-and-research/ceqa/ceqa\\_guidelines\\_may2017-pdf.pdf?la=en](https://www.baaqmd.gov/~media/files/planning-and-research/ceqa/ceqa_guidelines_may2017-pdf.pdf?la=en). Accessed: July 1, 2021.

## 3.3 Biological Resources

This section describes the environmental and regulatory setting for biological resources. It also describes impacts related to biological resources that would result from implementation of the Proposed Project and mitigation for significant impacts where feasible and appropriate. The section describes existing biological resources in the Planning Area, including habitats, wetlands and other waters, critical habitat, and special-status species, as well as relevant federal, state, and local regulations and programs.

There were 13 responses to the Notice of Preparation (NOP) regarding topics covered in this section. All comments are located in Appendix B of the DEIR. Commenters expressed concerns over the Proposed Project impacts on biological diversity, including special-status species such as the Northern spotted owl and Yellow-Legged Frog. Other commenters had concerns about the Proposed Project impacts to open space preservation. The California Department of Fish and Wildlife (CDFW) submitted comments regarding regulatory requirements applicable to the Proposed Project as well as baseline information and impact analysis requirements. CDFW also submitted a list of special-status species that are known to occur or have the potential to occur in or near the Planning Area. These comments are addressed in the Environmental and Regulatory Setting sections and incorporated into the following analysis. Specifically, concerns about special status species and are addressed under Impact 3.3-1, while concerns about open space preservation are addressed under Impact 3.3-2, and concerns about CDFW regulatory requirements are addressed under Impact 3.3-2 as well.

## Environmental Setting

---

### PHYSICAL SETTING

#### Habitat Types

Located in the Upper Ross Valley, the Town of Fairfax contains a wide variety of natural and biological resources, including trees, hillsides, ridgelines, and creeks. The Town's location in a valley between wooded hillsides provides a natural habitat for flora and fauna, including some endangered and threatened plant and wildlife species, while the riparian corridors along Bothin Creek, Deer Park Creek, Fairfax Creek and San Anselmo Creek provide habitat and movement corridors for wildlife.

A variety of current vegetation mapping sources were reviewed for this EIR, including Marin County's 106-class Fine Scale Vegetation Map and 26-class Forest Lifeform Map, (GGNRA and Tukman Geospatial LLC 2021a). While natural communities and landcover in the Planning Area

were not field-verified, a comparison of the broad-scale 26-class Forest Life Form Map with the broad-scale vegetation mapping in the 2007 Marin Countywide Plan (CWP) Update DEIR vegetation map confirmed that natural communities and landcover continue to be accurately represented. While there may have been some changes of those features in the last 15 years, the 2007 CWP Update DEIR map still reflects the overall natural communities and landcovers that are present in the Planning Area. Focused field surveys and review of the vegetation communities mapped at the fine scale will be necessary to accurately map vegetation communities and landcover types for future individual Housing Element projects.

Natural communities in the Town of Fairfax support a wide diversity of plant and animal species, including a high number of special-status species. Consistent with the 2007 Marin Countywide Plan (CWP) Update EIR, there are five natural communities present within Ross (See Exhibit 4.6-1 of the 2007 CWP Update DEIR). These vegetation communities include oak/bay woodland, oak woodland, grassland/agriculture, and freshwater marsh.

### **Special-Status Species**

Special-status species are defined as:

- Species that are listed as threatened or endangered under the U.S. Fish and Wildlife Service (USFWS) Endangered Species Act or designated as candidates for listing;
- Species that are listed as rare (plants), threatened, or endangered under the California Department of Fish and Wildlife (CDFW) California Endangered Species Act or designated as candidates for listing;
- Wildlife species designated as species of special concern or fully protected by the CDFW;
- Plant species with a California Rare Plant Rank (CRPR), designated as List 1A, List 1B, List 2, and List 3 by the California Native Plant Society (CNPS) Inventory of Rare and Endangered Vascular Plants of California, online edition;
- Species that meet the definition of rare or endangered under the California Environmental Quality Act (CEQA) (under Section 15380 of CEQA, a species not included on any formal list “shall nevertheless be considered rare or endangered if the species can be shown to meet the criteria” for listing); and/or
- Bat species ranked by the Western Bat Working Group as species with a “moderate” or “high” designation status under CEQA.<sup>1</sup>

Information regarding the occurrences of special-status species in the vicinity of the Planning Area was obtained from a query of the CDFW’s California Natural Diversity Database (CNDDB). The CNDDB is regularly updated to track occurrences of previously documented special-status species; however, it contains only those records that have been submitted to CDFW. Therefore, there may be additional occurrences of special-status species within the area that have not yet

---

<sup>1</sup> Western Bat Working Group. 2017. Species Matrix, Based on the Western Bat Working Group Workshop Held in Reno, Nevada, February 9–13, 1998. Available: <http://wbwg.org/matrices/species-matrix/>. Accessed: May 27, 2021.

been surveyed and/or mapped. A lack of information in the CNDDB about a species or an area does not imply that the species does not occur or that there is a lack of diversity in that area.

Based on the records search, Table 3.3-1 and Table 3.3-2 list 41 special-status plant species and 19 special-status wildlife species that were identified as having the potential to occur within a five-mile radius of the Planning Area. The CNDDB is regularly updated to track occurrences of previously documented special-status species; however, it contains only those records that have been submitted to CDFW. Therefore, there may be additional occurrences of special-status species within the area that have not yet been surveyed and/or mapped. A lack of information in the CNDDB about a species or an area does not imply that the species does not occur or that there is a lack of diversity in that area. In addition, species shown in Figure 3.3-1 have the potential to occur outside the area delineated in the figures.

**Table 3.3-1: Special-Status Plant Species with the Potential to Occur in the Planning Area**

<b>Scientific Name</b>	<b>Common Name</b>	<b>Status</b>
<i>Amorpha californica</i> var. <i>napensis</i>	Napa false indigo	CRPR
<i>Amsinckia lunaris</i>	bent-flowered fiddleneck	CRPR
<i>Arctostaphylos montana</i> ssp. <i>montana</i>	Mt. Tamalpais manzanita	CRPR
<i>Arctostaphylos virgata</i>	Marin manzanita	CRPR
<i>Astragalus pycnostachyus</i> var. <i>pycnostachyus</i>	coastal marsh milk-vetch	CRPR
<i>Calamagrostis crassiglumis</i>	Thurber's reed grass	CRPR
<i>Cardamine angulata</i>	seaside bittercress	CRPR
<i>Carex lyngbyei</i>	Lyngbye's sedge	CRPR
<i>Ceanothus masonii</i>	Mason's ceanothus	CRPR
<i>Chloropyron maritimum</i> ssp. <i>palustre</i>	Point Reyes salty bird's-beak	CRPR
<i>Chorizanthe cuspidata</i> var. <i>cuspidata</i>	San Francisco Bay spineflower	CRPR
<i>Cirsium hydrophilum</i> var. <i>vaseyi</i>	Mt. Tamalpais thistle	CRPR
<i>Collinsia corymbosa</i>	round-headed Chinese-houses	CRPR
<i>Dermatocarpon meiophyllizum</i>	silverskin lichen	CRPR
<i>Dirca occidentalis</i>	western leatherwood	CRPR
<i>Entosthodon kochii</i>	Koch's cord moss	CRPR
<i>Eriogonum luteolum</i> var. <i>caninum</i>	Tiburon buckwheat	CRPR
<i>Fissidens pauperculus</i>	minute pocket moss	CRPR
<i>Fritillaria lanceolata</i> var. <i>tristulis</i>	Marin checker lily	CRPR
<i>Gilia capitata</i> ssp. <i>chamissonis</i>	blue coast gilia	CRPR
<i>Gilia millefoliata</i>	dark-eyed gilia	CRPR
<i>Helianthella castanea</i>	Diablo helianthella	CRPR
<i>Hemizonia congesta</i> ssp. <i>congesta</i>	congested-headed hayfield tarplant	CRPR
<i>Hesperolinon congestum</i>	Marin western flax	CRPR, FT, ST
<i>Holocarpha macradenia</i>	Santa Cruz tarplant	CRPR, FT, SE
<i>Horkelia tenuiloba</i>	thin-lobed horkelia	CRPR
<i>Kopsiopsis hookeri</i>	small groundcone	CRPR
<i>Lessingia micradenia</i> var. <i>micradenia</i>	Tamalpais lessingia	CRPR
<i>Microseris paludosa</i>	marsh microseris	CRPR
<i>Mielichhoferia elongata</i>	elongate copper moss	CRPR
<i>Navarretia rosulata</i>	Marin County navarretia	CRPR
<i>Pentachaeta bellidiflora</i>	white-rayed pentachaeta	CRPR, FE, SE
<i>Pleuropogon hooverianus</i>	North Coast semaphore grass	ST, CRPR
<i>Polygonum marinense</i>	Marin knotweed	CRPR
<i>Quercus parvula</i> var. <i>tamalpaisensis</i>	Tamalpais oak	CRPR
<i>Sidalcea calycosa</i> ssp. <i>rhizomata</i>	Point Reyes checkerbloom	CRPR
<i>Sidalcea hickmanii</i> ssp. <i>viridis</i>	Marin checkerbloom	CRPR

<b>Scientific Name</b>	<b>Common Name</b>	<b>Status</b>
<i>Stebbinsoseris decipiens</i>	Santa Cruz microseris	CRPR
<i>Streptanthus batrachopus</i>	Tamalpais jewelflower	CRPR
<i>Streptanthus glandulosus ssp. pulchellus</i>	Mt. Tamalpais bristly jewelflower	CRPR
<i>Trifolium amoenum</i>	two-fork clover	CRPR

*1. FP = state fully protected under Fish and Game Code; FE = federally listed as endangered under the Endangered Species Act (ESA); FT = federally listed as threatened under ESA; FC = a candidate for listing under ESA; SE = state listed as endangered under CESA; ST = state listed as threatened under CESA; SC = a candidate for listing under CESA; SSC = state Species of Special Concern; CRPR = California Rare Plant; SR = state listed as Rare pursuant to Native Plant Protection Act of 1977; ICP = California Terrestrial and Vernal Pool Invertebrates of Conservation Priority*

*Source: CNDDB GIS Data, California Department of Fish and Wildlife, 2022*

**Table 3.3-2: Special-Status Animal Species with the Potential to Occur in the Planning Area**

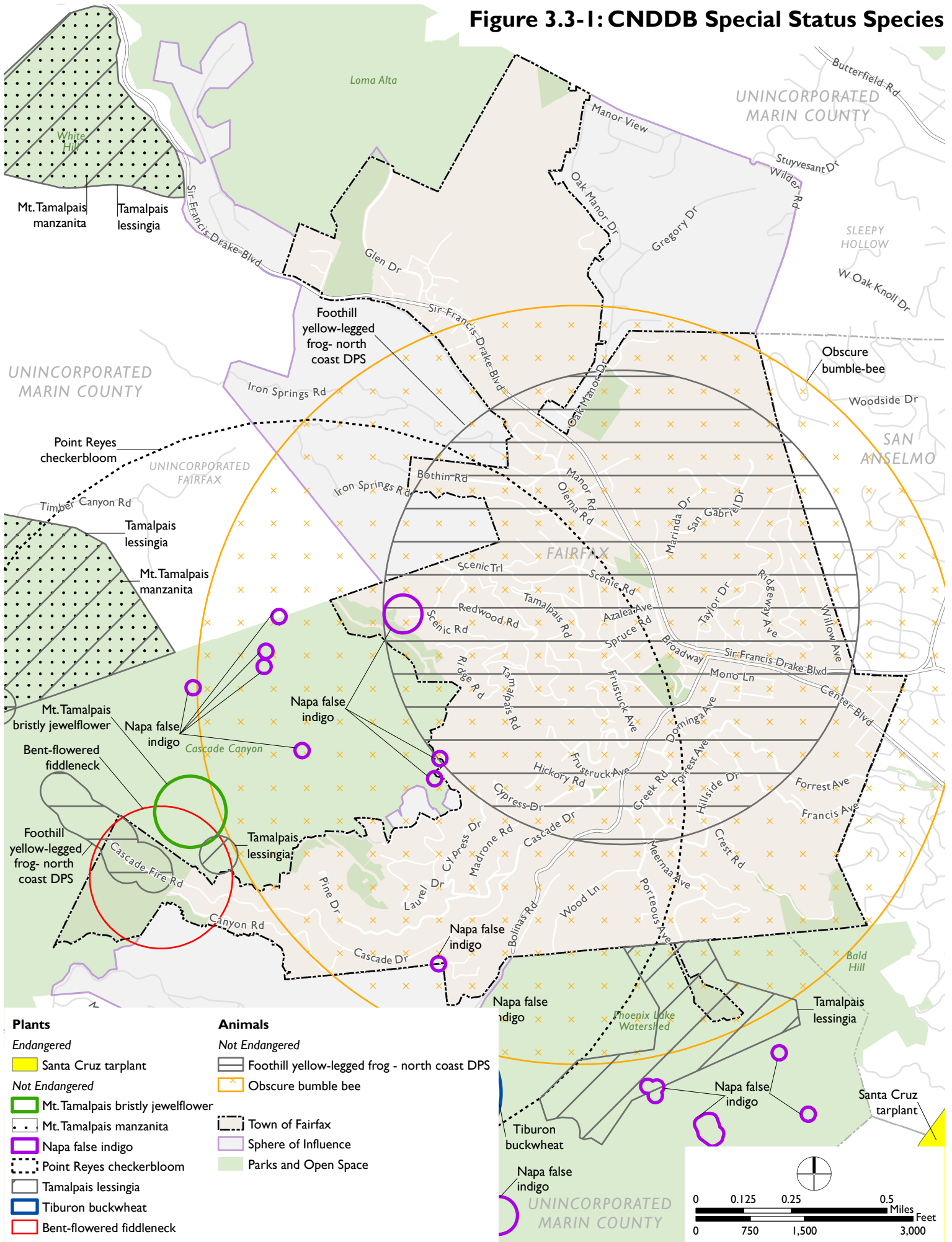
<b>Scientific Name</b>	<b>Common Name</b>	<b>Status</b>
<i>Acipenser medirostris pop. 1</i>	green sturgeon	FT
<i>Antrozous pallidus</i>	pallid bat	SSC
<i>Applodontia rufa phaea</i>	Point Reyes mountain beaver	SSC
<i>Athene cunicularia</i>	burrowing owl	SSC
<i>Bombus caliginosus</i>	obscure bumble bee	ICP
<i>Bombus occidentalis</i>	western bumble bee	ICP
<i>Corynorhinus townsendii</i>	Townsend's big-eared bat	SSC
<i>Dicamptodon ensatus</i>	California giant salamander	SSC
<i>Emys marmorata</i>	western pond turtle	SSC
<i>Eucyclogobius newberryi</i>	tidewater goby	FE
<i>Hesperoleucus venustus subditus</i>	southern coastal roach	SSC
<i>Laterallus jamaicensis coturniculus</i>	California black rail	FP, ST
<i>Melospiza melodia samuelis</i>	San Pablo song sparrow	SSC
<i>Oncorhynchus kisutch pop. 4</i>	coho salmon - central California coast ESU	FE, SE
<i>Oncorhynchus mykiss irideus pop. 8</i>	steelhead - central California coast DPS	FT
<i>Rallus obsoletus obsoletus</i>	California Ridgway's rail	FP, FE, SE
<i>Rana boylei pop. 1</i>	foothill yellow-legged frog - north coast DPS	SSC
<i>Reithrodontomys raviventris</i>	salt-marsh harvest mouse	FE, SE, FP
<i>Strix occidentalis caurina</i>	Northern spotted owl	ST, FT

1. FP = state fully protected under Fish and Game Code; FE = federally listed as endangered under the Endangered Species Act (ESA); FT = federally listed as threatened under ESA; FC = a candidate for listing under ESA; SE = state listed as endangered under CESA; ST = state listed as threatened under CESA; SC = a candidate for listing under CESA; SSC = state Species of Special Concern; CRPR = California Rare Plant; SR = state listed as Rare pursuant to Native Plant Protection Act of 1977; ICP = California Terrestrial and Vernal Pool Invertebrates of Conservation Priority

Source: CNDDDB GIS Data, California Department of Fish and Wildlife, 2022



### Figure 3.3-1: CNDDDB Special Status Species



Sources: CNDDDB, 2023; MarinMap, 2022; Town of Fairfax, 2022; Dyett & Bhatia, 2022

## **Sensitive Habitats**

### *Critical Habitat*

Critical habitat is defined by the federal Endangered Species Act as a specific geographic area that contains features essential for the conservation of a threatened or endangered species and may require special management and protection. There is no critical habitat, as designated by the USFWS, within the Planning Area. Designated critical habitats for the Northern spotted owl are located just west of the Town limits.

### *Wildlife and Habitat Connectivity*

The California Essential Habitat Connectivity Project: A Strategy for Conserving a Connected California was designed to support land use planning and transportation. The report was produced by a multidisciplinary team of representatives from 62 agencies, along with a smaller technical advisory team and steering committee. The report includes a statewide essential habitat connectivity map, data collected to delineate areas shown on the map, recommendations for correcting the fragmentation caused by roads, and guidance for developing and implementing local and regional connectivity plans. Analysis was conducted to determine where mitigation would be most effective and how best to enhance connectivity while lessening vehicle/wildlife collisions.<sup>2</sup>

The Planning Area is set in a valley between wooded hillsides, providing limited wildlife and habitat connectivity opportunities. Thus, the Planning Area is not within any known regional wildlife movement corridor, as indicated by CDFW's Biogeographic Information and Observations System Habitat Connectivity Viewer.<sup>3</sup>

### *Wetlands and Other Waters*

Wetlands and other waters are within the Planning Area. Wetlands are areas where water covers the soil or is present either at or near the surface of the soil all year or for varying periods of time during the year, including during the growing season. Water saturation (hydrology) largely determines how the soil develops and the types of plant and animal communities living in and on the soil. Wetlands may support both aquatic and terrestrial species. The prolonged presence of water creates conditions that favor the growth of specially adapted plants (hydrophytes) and promote the development of characteristic wetland (hydric) soils. Other waters encompass feature types that contain or convey water, including marine, estuarine, riverine, and lacustrine features. Wetlands and other waters provide a multitude of ecological, economic, and social benefits. They provide habitat for fish, wildlife, and plants; allow for groundwater recharge; reduce flooding; and

---

<sup>2</sup> Spencer, W.D., P. Beier, K. Penrod, K. Winters, C. Paulman, H. Rustigian-Romsos, J. Strittholt, M. Parisi, and A. Pettler. 2010. California Essential Habitat Connectivity Project: A Strategy for Conserving a Connected California. Prepared for California Department of Transportation, California Department of Fish and Game, and Federal Highways Administration.

<sup>3</sup> California Department of Fish and Wildlife. n.d. Biogeographic Information and Observation System. Version 5.96.99. Available: <https://apps.wildlife.ca.gov/bios/?bookmark=648>. Accessed: May 28, 2021.

support cultural and recreational activities. As discussed within the Regulatory Framework section, technical standards for delineating wetlands and other waters have been developed by the U.S. Army Corps of Engineers (USACE) and the USFWS. Based on existing information from the USFWS National Wetlands Inventory (2021), there are riverine (other water) features within the Planning Area. These features support (or have the potential to support) seasonal wetland vegetation within their beds and riparian vegetation along their banks; however, this does not preclude future identification of wetlands during site-specific studies.

## **REGULATORY SETTING**

### **Federal Regulations**

#### *Federal Endangered Species Act*

USFWS and the National Marine Fisheries Service (NMFS) administer the federal Endangered Species Act (FESA). FESA requires each agency to maintain lists of imperiled native species and affords substantial protections to these “listed” species. NMFS’ jurisdiction under FESA is limited to the protection of marine mammals, marine fishes, and anadromous fishes; all other species are subject to USFWS jurisdiction.

USFWS and NMFS may “list” a species if it is endangered (at risk of extinction throughout all or a significant portion of its range) or threatened (likely to become endangered within the foreseeable future). Section 9 of FESA prohibits the “take” of any wildlife species listed as endangered and most species listed as threatened. Take, as defined by FESA, means “to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect or to attempt to engage in any such conduct.” Harm is defined as “any act that kills or injures the species, including significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering” (50 Code of Federal Regulations 17.3).

FESA includes exceptions to general take prohibition that allow an action to be carried out, despite the fact that the action may result in take of listed species where conservation measures are included for the species. Section 7 of FESA provides an exception for actions authorized (e.g., under a Section 404 permit), funded, or carried out by a federal agency, and Section 10 provides an exception for actions that do not involve a federal agency.

#### *Federal Clean Water Act, Section 404*

The Clean Water Act (CWA) is the primary federal law that protects the quality of the nation’s waters, including wetlands, lakes, rivers, and coastal areas. Section 404 of the Clean Water Act regulates the discharge of dredged or fill material into the waters of the United States, including wetlands. The Clean Water Act holds that all discharges into the nation’s waters are unlawful unless specifically authorized by a permit; issuance of such permits constitutes its principal regulatory tool.

The USACE is authorized to issue Section 404 permits, which allow the placement of dredged or fill materials into jurisdictional waters of the United States under certain circumstances. The USACE issues two types of permits under Section 404: general permits, which are either

nationwide permits or regional permits, and standard permits, which are either letters of permission or individual permits. General permits are issued by the USACE to streamline the Section 404 permitting process for nationwide, statewide, or regional activities that have minimal direct or cumulative environmental impacts on the aquatic environment. Standard permits are issued for activities that do not qualify for a general permit because they may have more than a minimal adverse environmental impact.

#### ***Federal Clean Water Act, Section 401***

Under the Clean Water Act Section 401, applicants for a federal license or permit to conduct activities that may result in the discharge of a pollutant into waters of the United States must obtain certification from the State in which the discharge would originate. Therefore, all projects that have a federal component and may affect State water quality, including projects that require federal agency approval, such as issuance of a Section 404 permit, must also comply with Clean Water Act Section 401 and the State's Porter-Cologne Water Quality Control Act. In California, Section 401 certification is handled by the nine Regional Water Quality Control Boards (RWQCBs) and the State Water Resources Control Board (SWRCB). Ross falls under the jurisdiction of the San Francisco Bay RWQCB. The San Francisco Bay RWQCB must certify that the discharge will comply with State water quality standards and other requirements of the Clean Water Act.

#### ***Migratory Bird Treaty Act***

The Migratory Bird Treaty Act of 1918 (MBTA), as amended, implements various treaties and conventions between the United States and Canada, Japan, Mexico, and the former Soviet Union for the protection of migratory birds. Under the MBTA, taking, killing, or possessing migratory birds is unlawful, as is taking of any parts, nests, or eggs of such birds (16 United States Code 703). Take is defined more narrowly under the MBTA than under FESA and includes only death or injury involving individuals of a migratory bird species or its eggs. As such, take under the MBTA does not include the concepts of harm and harassment, as defined under FESA.

### **State Regulations**

#### ***California Endangered Species Act***

Administered by the CDFW, the California Endangered Species Act (CESA) prohibits the take of listed species and also species formally under consideration for listing in California, referred to as *candidate species*. Under CESA, "take" means "hunt, pursue, catch, capture, or kill or attempt to hunt, pursue, catch, capture, or kill." (California Fish and Game Code Section 86.) Under this definition, in contrast to FESA, CESA does not prohibit "harm" to a listed species. Furthermore, take under CESA does not include "the taking of habitat alone or the impacts of the taking." However, the killing of a listed species that is incidental to an otherwise lawful activity and not the primary purpose of the activity constitutes take under CESA. CESA does not protect insects but, with certain exceptions, does prohibit take of plants on private land.

#### ***Natural Community Conservation Planning Act***

The Natural Community Conservation Planning Act was enacted to implement broad-based planning and provide effective protection and conservation of California's wildlife heritage while

allowing appropriate development and growth. The Natural Community Conservation Planning Act does not focus on only listed species. It is broader in its orientation and objectives compared with FESA and CESA. The Natural Community Conservation Planning Act encourages local, State, and federal agencies to prepare comprehensive conservation plans that maintain the continued viability of species and biological communities that have been affected by human changes to the landscape. The Natural Community Conservation Planning Act provides for incidental take authorization such that covered activities resulting in incidental take of listed species may be carried out without violating CESA. Permits issued under the Natural Community Conservation Planning Act can also be broad and may include both listed species and non-listed species.

#### *State Fish and Game Code, Sections 1600–1616*

The CDFW has jurisdictional authority over streams and lakes, as well as wetland resources associated with these aquatic systems, under California Fish and Game Code Section 1600 et seq. The CDFW has the authority to regulate work that will “substantially divert or obstruct the natural flow of, or substantially change or use any material from, the bed, channel, or bank of any river, stream, or lake or deposit or dispose of debris waste or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake” (California Fish and Game Code Section 1602.). An entity that proposes to carry out such an activity must first inform the CDFW. Where the CDFW concludes that the activity will “substantially adversely affect an existing (2014) fish or wildlife resource,” the entity proposing the activity must negotiate an agreement with the CDFW that specifies terms under which the activity may be carried out in a way that protects the affected wildlife resource.

CDFW also has authority over actions that may disturb or destroy active nest sites or take birds. Fish and Game Code sections 3503, 3503.5, and 3513 protect birds, their eggs, and nests.

#### *Porter-Cologne Water Quality Control Act*

California Water Code Section 13260 requires “any person discharging waste, or proposing to discharge waste, in any region that could affect the waters of the State to file a report of discharge (an application for waste discharge requirements [WDRs]).” Under the Porter-Cologne Water Quality Control Act definition, *waters of the State* are “any surface water or groundwater, including saline waters, within the boundaries of the State.” Although all waters of the United States that are within the borders of California are also waters of the State, the reverse is not true. Accordingly, California retains authority to regulate discharges of waste into any waters of the State, regardless of whether the USACE has concurrent jurisdiction under CWA Section 404. If USACE determines that a wetland is not subject to regulation under Section 404, CWA Section 401 water quality certification is not required. However, the RWQCB may impose WDRs if fill material is placed into waters of the State.

#### *California Native Plant Protection Act*

The California Native Plant Protection Act of 1977 (CNPPA) prohibits importation of rare and endangered plants into California, take of rare and endangered plants, and the sale of rare and endangered plants. CESA defers to the CNPPA, which ensures that State-listed plant species are

protected when State agencies are involved in projects subject to CEQA. In that case, plants listed as rare under the CNPPA are not protected under CESA but rather under CEQA.

## **Local Regulations**

### *Town of Fairfax 2010-2040 General Plan (General Plan)*

The General Plan includes the following goals and policies associated with biological resources:

#### **Goal CON-5: Soils and vegetation.**

**Policy 5.1:** Educate residents of the Town on soil conservation and erosion issues.

**Policy 5.2:** Maintain and restore native vegetation where appropriate for habitat value, aesthetics, reference habitat, and riparian habitat.

#### **Goal CON-6: Wildlife conservation.**

**Policy 6.1:** Identify special-status species and resident and migrant wildlife, and their habitats, within the Fairfax Planning Area.

**Policy 6.2:** Protect special-status species and resident and migrant wildlife, and their habitats, within the Fairfax Planning Area.

**Policy 6.3:** Develop education and outreach materials regarding special-status species, resident and migrant wildlife, and their habitats in the Fairfax Planning Area.

#### **Goal OS-1: Protect and preserve open space land and native biotic resources within the Fairfax Planning Area.**

**Policy 1.2:** Identify all significant undeveloped and underdeveloped parcels within the Fairfax Planning Area.

### *Fairfax Town Code*

Chapter 17.040.040 of the Fairfax Town Code establishes that no building, accessory building, structure or swimming pool shall be constructed closer to the top of the stream bank of the Fairfax and San Anselmo creeks than 20 feet or two times the average depth of the bank, whichever is greater, without authorization by variance, except for retaining walls and bulkheads which replace failing structures and which do not increase the height, width, length or configuration of the original structure.

In addition, the Town of Fairfax Tree Chapter (Chapter 8.36) aims to provide reasonable regulations for the maintenance and removal of trees in the town and establish a stable and sustainable urban forest. Further, a tree protection plan may be required on project construction sites where significant or protected trees may be impacted. The tree protection plan shall include a certified arborist's report on existing conditions as well as a plan for tree protection during construction.

## **Impact Analysis**

---

### **SIGNIFICANCE CRITERIA**

For the purposes of this EIR, a significant impact would occur if implementation of the Proposed Project would:

- Criterion 1:** Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service;
- Criterion 2:** Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service;
- Criterion 3:** Have a substantial adverse effect on federally protected wetlands, as defined by Section 404 of the Clean Water Act (including, but not limited to, marshes, vernal pools, coastal areas, etc.), through direct removal, filling, hydrological interruption, or other means;
- Criterion 4:** 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;
- Criterion 5:** Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance; or
- Criterion 6:** Conflict with the provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or State habitat conservation plan.

### **METHODOLOGY AND ASSUMPTIONS**

The Proposed Project's Planning Area was compared against existing biological conditions to determine potential impacts on biological resources that could result from implementation of the Proposed Project. No field studies or other research were conducted for preparation of this Draft EIR because existing resources contained information on all pertinent aspects of biological resources in the Planning Area at an appropriate level of detail for a program-level environmental assessment. The CDFW submitted comments regarding baseline natural resource information and special-status species that are known to occur or have the potential to occur in or near the Planning Area which informed the analysis. Information regarding the occurrences of these special-status species in the vicinity of the Planning Area was obtained from a query of the CDFW's California Natural Diversity Database (CNDDB) using a five-mile radius of the Planning Area. Future project-specific detailed biological surveys may be necessary to confirm the presence or absence of sensitive resources on future development sites. Impacts associated with future

development as a result of the Proposed Project implementation are analyzed qualitatively at a program level.

## **IMPACTS**

**Impact 3.3-1      Implementation of the Proposed Project would not have a substantial adverse effect, either directly or through habitat modifications, on species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service. (*Less than Significant with Mitigation Incorporated*)**

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

As shown in Tables 3.3-1 and 3.3-2, there are 41 special-status plant species and 19 special-status wildlife species with potential to occur within a five-mile radius of the Planning Area. However, buildout of the Proposed Project would occur within the town limits and primarily consist of infill development on underutilized commercial sites and ADUs and on existing single family residential lots. The majority of these special-status species, including 33 plant species and 17 animal species, have not been documented on or near the Proposed Project's sites identified for housing development. These species include the Marin manzanita, Thurber's reed grass, Mason's ceanothus, San Francisco Bay spineflower, Mt. Tamalpais thistle, silverskin lichen, western leatherwood, Marin checker lily, congested-headed hayfield tarplant, Marin western flax, thin-lobed horkelia, small groundcone, marsh microseris, Marin County navarretia, white-rayed pentachaeta, Tamalpais oak, Marin checkerbloom, Tamalpais jewelflower, two-fork clover, coastal marsh milk-vetch, seaside bittercress, Lyngbye's sedge, Point Reyes salty bird's-beak, round-headed Chinese-houses, Koch's cord moss, minute pocket moss, blue coast gilia, dark-eyed gilia, Diablo helianthella, elongate copper moss, North Coast semaphore grass, Marin knotweed, Santa Cruz microseris, green sturgeon, Point Reyes mountain beaver, burrowing owl, pallid bat, western bumble bee, California giant salamander, western pond turtle, tidewater goby, southern coastal roach, California black rail, San Pablo song sparrow, coho salmon, steelhead, California Ridgway's rail, salt-marsh harvest mouse, Northern spotted owl, and Townsend's big-eared bat.

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



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

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

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

Impacts would be further reduced through **Mitigation Measure BIO-1**, which would require site assessments by a qualified professional for development applications that may adversely affect sensitive biological resources. **Mitigation Measure BIO-2** would require implementation of a worker environmental awareness training program to train construction staff on the needs of protecting sensitive biological resources and the ramifications for not complying with applicable laws. **Mitigation Measure BIO-3** would require the installation of temporary flagging or barrier fencing to protect sensitive biological resources adjacent to the work area. Further, **Mitigation Measures BIO-4 through BIO-6** outline additional construction requirements to ensure the protection of special-status plant species, the obscure bumble bee, and the foothill yellow-legged

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

### ***Mitigation Measures***

**MM-BIO-1: Conduct Preconstruction Surveys for Special Status Species.** Prior to ground-disturbing activities and during the appropriate identification periods for special-status plants and wildlife listed in Tables 3.3-1 and 3.3-2, project applicants proposing development on sites with the potential for special-status species to occur shall engage a licensed biologist with prior experience conducting surveys for subject species in Marin County to conduct field surveys within work areas and the immediately adjacent areas to determine the presence of habitat for special-status plant and wildlife species. The field surveys are to be conducted when special-status species that could occur in the area are evident and identifiable, generally during the blooming or breeding period. One or more surveys shall be conducted as needed to account for different special-status species identification periods. The results of field surveys shall be summarized in an accompanying report documenting all proposed work areas and the presence or absence of any sensitive resources that could be affected by development. Additionally, the report shall outline where species and/or habitat-specific mitigation measures (as required under Mitigation Measures BIO-2 through BIO-6) are required. This report will provide the basis for any applicable permit applications and consultations with regulatory agencies where incidental take may occur.

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

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

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

**MM-BIO-4: Avoid and Minimize Disturbance to Special-Status Plant Species.** If necessary pursuant to the results of surveys conducted under Mitigation Measure BIO-1, the work area shall be modified to the extent feasible to avoid indirect or direct impacts on special-status plants. If complete avoidance of special-status plants is not feasible, at a minimum the special-status plant species shall be relocated on-site, at least 20 feet away from construction directly relating to the project. All site preparation, seed/cutting/root collection, grow-out, and plant installation shall be conducted by a landscape company approved by the Town of Fairfax with experience working on restoration projects and within the habitats present on-site. Following the relocation, the plantings/seedlings shall be monitored annually for three to five years by a licensed biologist paid for and hired by the applicant to determine the success of the relocation. For individual plants, the success criteria would be the establishment of new viable occurrences equal to or greater in number than the number of plants impacted. On-site maintenance of the relocated plants shall be contracted to a landscaping company which will also be paid for and hired by the applicant. An annual report by a licensed biologist detailing the success of the relocation shall be drafted and submitted to all responsible agencies (e.g., CDFW, USFWS) for their review.

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

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

including negative findings, shall be submitted to CDFW and the Town prior to groundbreaking within 14 days of completing the take avoidance survey.

**MM-BIO-6: Disturbance to Foothill Yellow-Legged Frog (FYLF).** If required pursuant to Mitigation Measure BIO-1, in order to minimize disturbance to dispersing or foraging FYLF, all grading activity within 100 feet of aquatic habitat shall be conducted during the dry season, generally between May 1 and October 15, or before the onset of the rainy season,<sup>4</sup> whichever occurs first, unless exclusion fencing is utilized. Construction that commences in the dry season may continue into the rainy season if exclusion fencing is placed between the construction site and Bothin Creek, Fairfax Creek, or San Anselmo Creek, and includes drainage features to keep the frog from entering the construction area. Additionally, the following measures shall be implemented to lessen impacts to FYLF:

- a) Prior to building permit issuance the applicant shall submit evidence to the building department to demonstrate that they have retained a licensed biologist with experience with FYLF to implement each of the following measures.
- b) No more than 14 days before the start of ground disturbance activities, pre-construction surveys for FYLF shall be conducted by a qualified biologist and shall cover the project site, access areas, and aquatic features within 200 feet of the project site. Additionally, for construction activity within 100 feet of Bothin Creek, Fairfax Creek or San Anselmo Creek, a survey shall be conducted by a qualified biologist every morning before construction activities commence for the day to ensure that no FYLF are present in the construction area. If FYLF are observed in the construction area or access areas, all work in the vicinity of the FYLF shall be stopped and the USFWS shall be consulted immediately. The biologist shall submit a summary of their surveyed findings to the town planner by email within 14 days prior to groundbreaking.
- c) Exclusion fencing shall be installed around any work area within 100 feet of a drainage, wetland, or Bothin Creek, Fairfax Creek or San Anselmo Creek, unless construction activity will be completed in one day or less at that location. A qualified biologist shall be present to monitor the installation of the exclusion fence.
- d) Because dusk and dawn are often the times when FYLF are most actively foraging, all construction activities shall cease one half hour before sunset and shall not begin prior to one half hour before sunrise. Construction activities shall not occur during rain events, which are any occurrences of rain that result in an accumulation of 0.1 inches or more in 24 hours, unless a survey is conducted by a licensed biologist each day prior to the start of

---

<sup>4</sup> The rainy season includes periods when a ½-inch of rain or more is predicted within a 24-hour period and is generally between October and April.

construction activities and one-half hour before sunset to ensure that no FYLF are observed in the construction area or access areas.

- e) Any open holes or trenches shall be covered using timber mats or an equally effective material at the end of each working day to prevent FYLF from becoming entrapped.
- f) A Spill Prevention and Control Plan shall be created and made part of the plans for the building permit application. The plan shall outline equipment and procedures to prevent and respond to a spill. Containers (tanks, drums, totes) are required to have sized secondary containment and overfill prevention. The plan and materials necessary to implement it shall be accessible on-site. Heavy equipment shall be checked daily for leaks. Equipment with leaks shall not be used until leaks are fixed. Refueling shall occur at designated sites outside of active stream channels or above the ordinary high water mark.
- g) Any disturbed ground shall receive erosion control treatment pursuant to Chapter 8.32 of the Town Code and native seed mix within seven days following completion of construction or within seven days following a seasonal stoppage of construction.
- h) All workers shall ensure that food scraps, paper wrappers, food containers, cans, bottles, and other trash from the construction area are deposited in covered or closed trash containers. The trash containers shall not be left open and unattended overnight.

*Significance after mitigation:* Less than significant

**Impact 3.3-2      Implementation of the Proposed Project would not have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service. (*Less than Significant*)**

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

As discussed under Impact 3.3-1, future development under the Proposed Project would take place primarily in previously developed portions of the Planning Area, limiting the potential for disruption to undeveloped habitat areas. Even so, the Town of Fairfax General Plan introduces several policies that aim to reduce any potentially significant impacts of development that is adjacent to natural areas General Plan Policies CON-5.2, CON-6.1, CON-6.2, and CON-6.3 require the protection of threatened and endangered species and habitat, riparian vegetation, and

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

#### *Mitigation Measures*

None required.

**Impact 3.3-3      Implementation of the Proposed Project would not have a substantial adverse effect on federally protected wetlands, as defined by Section 404 of the Clean Water Act (including, but not limited to, marshes, vernal pools, coastal areas, etc.) through direct removal, filling, hydrological interruption, or other means. (*Less than Significant*)**

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

As discussed under Impact 3.3-1, future development under the Proposed Project would take place primarily in previously developed portions of the Planning Area and existing single family residential lots, limiting the potential for disruption to undeveloped wetland habitat in the Planning Area. Future development under the Proposed Project would be subject to the requirements of Clean Water Act Section 404 and 401 permitting requirements, which would limit and/or mitigate impacts from projects that would discharge pollutants or dredged or fill materials into waters of the state, including wetlands. Future development would also be subject to the CDFW Lake and Streambed Alteration Program, which would require any project that could substantially divert or obstruct the flow of, substantially change or use any material from, or deposit debris into a river, stream, or lake to agree to measures that would protect existing fish or wildlife resources.

General Plan Policies CON-5.2, CON-6.1, CON-6.2, and CON-6.3 require the protection of threatened and endangered species and habitat, riparian vegetation, and tree canopies. As stated in CON 5.2, the Town will maintain and restore native vegetation where appropriate for habitat

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

#### *Mitigation Measures*

None required.

#### **Impact 3.3-4      Implementation of the Proposed Project would not 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. (*Less than Significant*)**

The Planning Area is not within any known regional wildlife movement corridor, as indicated by CDFW's Biogeographic Information and Observations System Habitat Connectivity Viewer.<sup>5</sup> However, the riparian corridors along Bothin Creek, Fairfax Creek and San Anselmo Creek may serve as movement corridors for wildlife species. The Planning Area's riparian habitat may provide movement corridors for aquatic and riparian species, such as Foothill Yellow-Legged Frog. Housing sites identified in the Proposed Project are located in riparian areas and in the western and southern portions of the town that contain woodlands. As such, construction could potentially adversely affect the movement of fish or wildlife species.

The Town of Fairfax General Plan introduces several policies that reduce any potentially significant impacts of Town-owned sites that are adjacent to riparian habitat and can potentially impede wildlife movement. General Plan Policies CON-5.2, CON-6.1, CON-6.2, and CON-6.3 require the protection of threatened and endangered species and habitat, riparian vegetation, and tree canopies. As stated in CON 5.2, the Town will maintain and restore native vegetation where appropriate for habitat value, aesthetics, reference habitat, and riparian habitat. Policies CON-6.1 and CON-6.2 call for the Town to identify and protect special-status species and resident and migrant wildlife, and their habitats within the Fairfax Planning Area. Further, Chapter 17.040.040 of the Fairfax Town Code establishes that no building, accessory building, structure or swimming pool shall be constructed closer to the top of the stream bank of the Fairfax and San Anselmo

---

<sup>5</sup> California Department of Fish and Wildlife. n.d. Biogeographic Information and Observation System. Version 5.96.99. Available: <https://apps.wildlife.ca.gov/bios/?bookmark=648>. Accessed: May 28, 2021.

creeks than 20 feet or two times the average depth of the bank, whichever is greater, without authorization by variance, except for retaining walls and bulkheads which replace failing structures and which do not increase the height, width, length or configuration of the original structure.

However, structures and trees in the Planning Area could provide nesting habitat for native wildlife—specifically, bats, and native resident and migratory birds, thereby potentially affecting native wildlife nurseries. Thus, development anticipated by the Proposed Project would be required to adhere to the existing Town of Fairfax Trees Ordinance (Chapter 8.36). This ordinance aims to provide reasonable regulations for the maintenance and removal of trees in the town and establish a stable and sustainable urban forest. Further, a tree protection plan may be required on project construction sites where significant or protected trees may be impacted. Compliance with these policies would ensure less-than-significant impacts on trees that could provide nesting habitat for wildlife.

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

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

*Significance after mitigation:* Less than significant

**Impact 3.3-5      Implementation of the Proposed Project would not conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance. (Less than Significant)**

A significant impact would occur if the Proposed Project would conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance. General Plan Policies CON-5.2, CON-6.1, CON-6.2, and CON-6.3 require the protection of threatened and endangered species and habitat, riparian vegetation, and tree canopies. As stated in CON 5.2, the Town will maintain and restore native vegetation where appropriate for habitat value, aesthetics, reference habitat, and riparian habitat. Policies CON-6.1 and CON-6.2 call for the Town to identify and protect special-status species and resident and migrant wildlife, and their habitats within the Fairfax Planning Area. Further, Chapter 17.040.040 of the Fairfax Town Code establishes that no building, accessory building, structure or swimming pool shall be



constructed closer to the top of the stream bank of the Fairfax and San Anselmo creeks than 20 feet or two times the average depth of the bank, whichever is greater, without authorization by variance, except for retaining walls and bulkheads which replace failing structures and which do not increase the height, width, length or configuration of the original structure.

The Fairfax Town Code Chapter 8.36 also states the Town derives much of its character and beauty from its large trees and natural setting, requiring project applications to be reviewed by the Tree Committee when tree removals or alterations are proposed. The chapter also outlines what is required to obtain a tree removal permit such as a tree protection plan. The Proposed Project would be required to adhere to this existing ordinance. As a result, the Proposed Project would not conflict with any local policies or ordinances protecting biological resources, and a less than significant impact would occur.

*Mitigation Measures*

None required.

**Impact 3.3-6      Implementation of the Proposed Project would not conflict with the provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or State habitat conservation plan. (*No Impact*)**

A significant impact would occur if a project would conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. There are no Habitat Conservation Plans in Marin County.<sup>6</sup> Therefore, development of the Proposed Project would not conflict with any Habitat Conservation Plan. No impact would occur.

*Mitigation Measures*

None required.

---

<sup>6</sup> CDFW. 2021. Natural Community Conservation Planning (NCCP). California Regional Conservation Plans Map. <<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=68626&inline>>. Accessed: July 25, 2023.

## 3.4 Cultural and Tribal Cultural Resources

This section describes the environmental and regulatory setting for cultural and tribal cultural resources. It also describes impacts related to historic, archaeological, and tribal cultural resources (including human remains) that would result from implementation of the Proposed Project and mitigation for significant impacts where feasible and appropriate. Cultural resources refer broadly to prehistoric and historic buildings, structures, objects, districts, and sites exhibiting important historical, cultural, scientific, or technological associations. This definition extends to tribal cultural resources which refer to sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe. For the purposes of CEQA, cultural resources are separated into three subcategories: historical resources, archaeological resources, and Native American tribal resources and remains. This section describes the historical setting of the Planning Area as well as the context for cultural resources in the Planning Area. Appendix C includes relevant background materials related to cultural resources and consultation.

There were four responses to the Notice of Preparation (NOP) regarding topics covered in this section. All comments are located in Appendix B of the DEIR. The Native American Heritage Commission (NAHC) provided a brief summary of portions of Assembly Bill (AB) 52 and Senate Bill (SB) 18 as well as the NAHC's recommendations for conducting cultural resources assessments. In accordance with the NAHC's comment letter, a summary of AB 52 and SB 18 is included in the Regulatory Setting section of this chapter and the NAHC's recommendations for conducting cultural resources assessments are incorporated into the following analysis.

### Environmental Setting

---

#### GEOLOGIC SETTING

The Town of Fairfax sits at an elevation of approximately 115 feet above sea level.<sup>1</sup> The Town is located within the Coast Ranges Geomorphic Province of Northern California, a relatively geologically young and seismically active region on the western margin of the North American plate. The Coast Ranges are composed of thick Mesozoic and Cenozoic sedimentary strata. The northern Coast Ranges are dominated by irregular, knobby, landslide-topography of the

---

<sup>1</sup> Fairfax. *Geographic Names Information System*. United States Geological Survey, United States Department of the Interior. Available: <https://edits.nationalmap.gov/apps/gaz-domestic/public/summary/277511>. Accessed: June 29, 2023.

Franciscan Complex. West of the San Andreas Fault is the Salinian Block, a granitic core extending from the southern extremity of the Coast Ranges to the north of the Farallon Islands.<sup>2</sup>

The weathering of bedrock and the growth of vegetation have resulted in the formation of relatively shallow (20 to 40 inches typical) soils on hillsides in the town. According to the Soil Survey of Marin County, California, the predominant soil type in the town limits is the Tocaloma-McMullin Urban Land Complex, which is a loam to very gravelly loam.<sup>3</sup> These are well-drained soils derived from sandstone and found in upland areas.

## **PRECONTACT SETTING**

The precontact cultural chronology for the San Francisco Bay Area was developed through over a century of organized archaeological survey, beginning with N.C. Nelson in 1906 to the present. Since the 1950s, archaeological work in Santa Clara, Alameda, and Contra Costa Counties led to further refinement of the cultural sequence to consist of the Early Holocene (Lower Archaic), Early Period (Middle Archaic), Lower Middle Period (Initial Upper Archaic), Upper Middle Period (Late Upper Archaic), Initial Late Period (Lower Emergent), and Terminal Late Period (Protohistoric Ambiguities).

The Early Holocene (Lower Archaic, calibrated [cal] 8000–3500 B.C.) is characterized by a mobile forager pattern, with the milling slab, handstone, and a variety of large, wide-stemmed and leaf-shaped projectile points, largely composed of local Franciscan chert dominating the assemblage.<sup>4</sup> During the Early Period (Middle Archaic, cal 3500–500 B.C.), several technological and social developments emerged, and new groundstone technology and the first cut shell beads in mortuaries signaled sedentism (living in one place for a period of time), regional symbolic integration, and increased regional trade in the San Francisco Bay Area.<sup>5</sup> The Lower Middle Period (Initial Upper Archaic, cal 500 B.C.–cal A.D. 430) is marked by a “major disruption in symbolic integration systems,”<sup>6</sup> and new bone tools appeared for the first time, including barbless fish spears, elk femur spatula, tubes, and whistles, as did coiled basketry manufacture.<sup>7</sup> The Upper

---

<sup>2</sup> California Geological Survey. 2002. California Geomorphic Provinces. Available: <https://www.conservation.ca.gov/cgs/Documents/Publications/CGS-Notes/CGS-Note-36.pdf>. Accessed: June 29, 2023.

<sup>3</sup> United States Department of Agriculture. 2019. Web Soil Survey. Available: <https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx>. Accessed: June 29, 2023.

<sup>4</sup> Hylkema, M. 2002. *Tidal Marsh, Oak Woodl* Accessed: *Cultural Florescence in the Southern San Francisco Bay Region*. Jon M. Erlandson and Terry L. Jones (eds.). Catalysts to Complexity: Late Holocene Societies of the California Coast, page 235. Perspectives in California Archaeology 6, J. E. Arnold, series editor. Institute of Archaeology, University of California, Los Angeles; Milliken, R., R. T. Fitzgerald, M. G. Hylkema, T. Origer, R. Groza, R. Wiberg, A. Leventhal, D. Bieling, A. Gottsfield, D. Gillette, V. Bellefemine, E. Strother, R. Cartier, and D. A. Fredrickson. 2007. *Punctuated Culture Change in the San Francisco Bay Area*. T. L. Jones and K. Klar (eds.), California Prehistory: Colonization, Culture, and Complexity, page 114. Walnut Creek, CA: Altamira Press.

<sup>5</sup> Vellanoweth, R. L. 2001. AMS Radiocarbon Dating and Shell Bead Chronologies: Middle Holocene Trade and Interaction in Western North America. In *Journal of Archaeological Science* 28:941–950.

<sup>6</sup> Milliken, R., et al. 2007. *Punctuated Culture Change in the San Francisco Bay Area*. In *California Prehistory: Colonization, Culture, and Complexity*, page 115. T. L. Jones and K. Klar (eds.). Altamira Press, Walnut Creek, CA.

<sup>7</sup> Bennyhoff, J. 1986. The Emeryville Site, Viewed 93 Years Later, page 70. In *Symposium: A New Look at Some Old Sites*. G. S. Breschini and T. Haversat (eds.). Archives of California Prehistory 6. Coyote Press, Salinas, CA; Bieling, D. G. 1998. *Archaeological Investigations at CA-MRN-254, the Dominican College Site, San Rafael, Marin*

Middle Period (Late Upper Archaic, A.D. cal 430–1050) experienced the abandonment of many sites from the previous period, and single-barbed bone fish spears, ear spools, and large mortars were developed.<sup>8</sup>

Following the Archaic Period, the Initial Late Period (Lower Emergent, A.D. cal 1050–1550) is marked by a new increased level of sedentism, status ascription, and ceremonial integration in lowland central California.<sup>9</sup> Evidence for increased social stratification throughout the San Francisco Bay Area after 1250 A.D. can be found in mortuary practices evidenced by the quality of burial items in high-status burials and cremations.<sup>10</sup> The Terminal Late Period (Protohistoric Ambiguities) is exhibited by changes in artifact types and mortuary objects and toggle harpoons, hopper mortars, plain corner-notched arrow-sized projectile points, clamshell disk beads, magnesite tube beads, and secondary cremation in the North Bay.

### **ETHNOGRAPHIC SETTING**

At the time of European contact, the Planning Area was included in the territory controlled by the Coast Miwok, as noted in the Fairfax General Plan. The Miwok were hunter-gatherers who lived in rich environments that allowed for dense populations with complex social structures. They settled in large, permanent villages about which were distributed seasonal camps and task-specific sites. Primary village sites were occupied continually throughout the year and other sites were visited in order to procure particular resources that were especially abundant or available only during certain seasons. Sites often were situated near freshwater sources and in areas where plant life and animal life were diverse and abundant.

### **HISTORIC SETTING**

The Town of Fairfax was incorporated in 1931, and according to the Fairfax General Plan, the Town was originally part of the 6,558-acre Canada de Herrera land grant given to Domingo Sais in 1839, by the Mexican government. By 1855, the owner of the land gifted the Town's namesake Charles Snowden Fairfax a 32-acre site. By 1911, there were 100 homes in Fairfax while in 1905 only five homes were present. The original development between 1907 and 1914 of winding streets and a wide range of lot sizes set the stage for future development of the built environment. The Town prior to World War II was primarily a summer resort for residents of San Francisco looking for warm and sunny weather.

---

*County, California*, page 218. Holman and Associates, San Francisco, CA. Submitted to Dominican College, San Rafael, and Davidson Homes, Walnut Creek, CA.

<sup>8</sup> Milliken, R., et al. 2007. Punctuated Culture Change in the San Francisco Bay Area, page 116. In *California Prehistory: Colonization, Culture, and Complexity*. T. L. Jones and K. Klar (eds.). Altamira Press, Walnut Creek, CA.

<sup>9</sup> Fredrickson, D. A. 1973. *Early Cultures of the North Coast Ranges, California*. Ph.D. dissertation. Department of Anthropology, University of California, Davis.

<sup>10</sup> Fredrickson, D. 1984. The North Coastal Region. In *California Archaeology*, pages 471–528. M. Moratto (ed.). Academic Press, Orlando, FL.

## **Historic Resources**

In order to determine the presence or absence of cultural and historical resources within the Proposed Project site and the surrounding area, a records search and literature review was requested for the Planning Area on February 6, 2023, at the NWIC, located at Sonoma State University. The purpose of this review was to access existing cultural resource survey reports, archaeological site records and historic maps, and evaluate whether any previously documented prehistoric or historic archaeological sites, architectural resources, cultural landscapes, or other resources exist within or near the town. Appendix C lists and describes all historic, archaeological, and tribal cultural resources NWIC identified in the Planning Area.

A historic resource is a building, structure, object, prehistoric or historic archaeological site, or district possessing physical evidence of human activities over 45 years old. Historic resources are often designated and listed on the national, state, or a local register, making them eligible for certain protections or other benefits. According to the State Office of Historic Preservation Building Environment Resources Directory (OHP) and NWIC base maps, there are 28 historic structures within the town limits, including 11 bridges and 17 historical buildings. Appendix C lists all historic structures located in the town, such as the Fairfax Theater and the Home of Lord Charles Snowden Fairfax, and Figure 3.4-1 shows the location of these historic resources throughout the Planning Area.

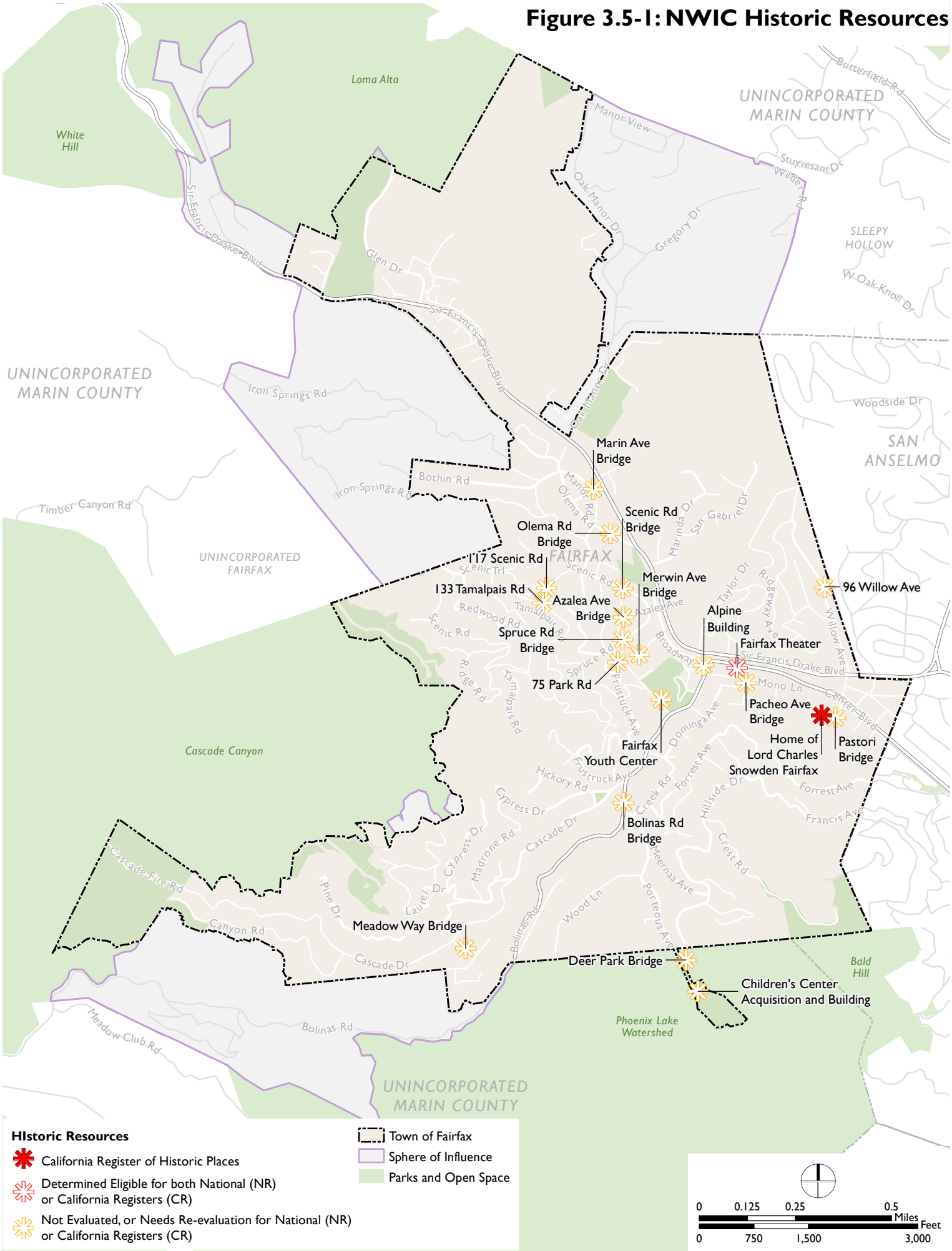
## **Archaeological Resources**

CEQA defines unique archaeological resources as an artifact, object or site that can help answer important scientific questions, is an exemplary illustration of its type, or is associated with an important prehistoric or historic event or person (Public Resources Code [PRC], Section 21083.2[g]). According to the 2023 NWIC records search, a review of historical literature and maps indicated historic-period activity within the Town of Fairfax. There are five recorded archaeological resources in the Town of Fairfax. There have been thirty-eight cultural resource studies that in total cover approximately less than ten percent of the Town. The Town area contains three recorded Native American archaeological resources; including tool processing areas, habitation sites, and burial sites, as well as two historic-period archaeological resources; including a road and a pavilion area. Horace site and Mrn-75/Fairfax Pavilion. With this in mind, there is a high potential for unrecorded historic-period archaeological resources to be within the proposed Town of Fairfax Proposed Project Planning Area.

## **Tribal Cultural Resources**

A tribal cultural resource is a site, feature, place, cultural landscape, sacred place, or object with cultural value to a tribe that is included or determined to be eligible for inclusion in the CRHR, included in a local register of historical resources, or otherwise determined to be significant by the lead agency of an environmental review process. According to the NWIC records search, the Town of Fairfax contains three recorded Native American archaeological resources; including tool processing areas, habitation sites, and burial sites.

Figure 3.5-1: NWIC Historic Resources



### ***Potential Resources***

Based on an evaluation of the environmental setting and features associated with known sites, Native American resources in this part of Marin County have been found in areas marginal to the San Francisco Bayshore, and inland on ridges, midslope benches, in valleys, near intermittent and perennial watercourses and near areas populated by oak, buckeye, manzanita, and pine, as well as near a variety of plant and animal resources. The Town of Fairfax project area is located in Marin County, the Town of Fairfax is situated between the towns of Sleepy Hollow and San Anselmo on its Eastern Boundary and Woodacre, formerly Bothin to its Northwest. The project area is located at the northern portion of Ross Valley and is bisected by Fairfax Creek, San Anselmo Creek and Deer Park Creek. The project area is East of White Hill, Blue Ridge and Pams Blue Ridge. Current aerial maps indicate a high percentage of densely wooded areas, as well as areas of bare dirt, areas including buildings, roads, landscaped areas, etc. Given the similarity of these environmental factors and the ethnographic and archaeological sensitivity of the project area, there is a high potential for unrecorded Native American resources to be within the proposed Town of Fairfax General Plan and Housing Element Update project area.

### **Native American Consultation**

To determine sensitivity for Native American resources within the Planning Area, consultation with NAHC and local Native American groups was conducted. NAHC was contacted in October 2021, with a request for the following information:

- CEQA Tribal Consultation List (AB 52)
- General Plan (SB 18) – per Government Code Section 65352.3
- Identification by NAHC of any Native American resources within the subject lands that are listed in the Sacred Lands File

A response from NAHC was received on November 7, 2021 and stated that a search of the Sacred Lands File to identify sacred lands in the Planning Area was negative. However, the absence of specific site information in the SLF does not indicate the absence of cultural resources in the project area, and there is still potential for the Planning Area to contain tribal cultural resources from past Native American activities.

The response from NAHC also included the following list of individuals and tribal representatives who might have an interest in the Proposed Project:

- Greg Sarris, Federated Indians of Graton Rancheria
- Donald Duncan, Guidiville Indian Rancheria
- Kenneth Woodrow, Wuksache Indian Tribe/Eshorn Valley Band

These individual and tribal representatives were sent formal notification under SB 18 and AB 52 on March 2, 2022. One response and formal request for tribal consultation has been received by the Federated Indians of Graton Rancheria.

The environmental setting in the Planning Area and the sites of known Native American archaeological resources in the Planning Area indicate that there is potential for the Planning Area to contain tribal cultural resources from past Native American activities.

## **REGULATORY SETTING**

### **Federal Regulations**

Although the Proposed Project is not anticipated to require compliance with Section 106 of the National Historic Preservation Act, the NRHP and federal guidelines related to the treatment of cultural resources are relevant for the purposes of determining whether cultural resources, as defined under CEQA, are present and guiding the treatment of such resources. The sections below summarize the relevant federal regulations and guidelines.

#### *National Historic Preservation Act and National Register of Historic Places*

The National Historic Preservation Act (16 United States Code [U.S.C.] 470f) requires federal agencies to consider effects on historic properties when projects involve federal funding or permitting or occur on federal land. The National Historic Preservation Act establishes the NRHP, which provides a framework for resource evaluation and informs the process of determining impacts on historic properties, which can also be considered historical resources under CEQA.

The NRHP is the nation's official comprehensive inventory of historic properties. Administered by the National Park Service, the NRHP includes buildings, structures, sites, objects, and districts that possess historic, architectural, engineering, archaeological, or cultural significance at the national, state, or local level. Typically, a historic property that is more than 50 years of age is eligible for listing in the NRHP if it meets any one of the four eligibility criteria and retains sufficient historical integrity. A resource less than 50 years old may be eligible if it can be demonstrated that it is of "exceptional importance" or a contributor to a historic district. NRHP criteria are defined in *National Register Bulletin Number 15: How to Apply the National Register Criteria for Evaluation*.

#### *National Native American Graves Protection and Repatriation Act*

The Native American Graves Protection and Repatriation Act (NAGPRA) was passed in 1990 to provide for the protection of Native American graves. The act conveys to Native American's of demonstrated lineal descent, the human remains, including the funerary or religious items, that are held by federal agencies and federally supported museums, or that have been recovered from federal lands. NAGPRA makes the sale or purchase of Native American remains illegal, whether or not they were derived from federal or Native American lands.

### **State Regulations**

#### *California Environmental Quality Act*

CEQA, as codified in PRC Section 21000 et seq. and implemented through the CEQA Guidelines (14 California Code of Regulations [CCR] Section 15000 et seq.), is the principal statute governing the environmental review of projects in the state. In order to be considered a historical resource, it



generally must be at least 50 years old. Section 21084.1 of CEQA and Section 15064.5 of the CEQA Guidelines define a historical resource for purposes of CEQA. A historical resource includes:

- A resource listed in, or determined to be eligible by the State Historical Resources Commission for listing in, the CRHR (PRC Section 5024.1, Title 14 CCR, Section 4850 et seq.);
- A resource included in a local register of historical resources, as defined in Section 5020.1(k) of the PRC or identified as significant in a historical resource survey meeting the requirements of Section 5024.1(g) of the PRC, shall be presumed to be historically or culturally significant. Public agencies must treat any such resource as significant unless the preponderance of evidence demonstrates that it is not historically or culturally significant;
- Any object, building, structure, site, area, place, record, or manuscript that a lead agency determines to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California may be considered to be a historical resource, provided the lead agency's determination is supported by substantial evidence in light of the whole record. Generally, a resource shall be considered by the lead agency to be "historically significant" if the resource meets the criteria for listing in the CRHR (PRC Section 5024.1, Title 14 CCR, Section 4852).

The fact that a resource is not listed in, or determined to be eligible for listing in, the CRHR; not included in a local register of historical resources, pursuant to PRC Section 5020.1(k); or identified in a historical resources survey meeting the criteria of PRC Section 5024.1(g) does not preclude a lead agency from determining that the resource may be a historical resource, as defined in PRC Sections 5020.1(j) or 5024.1.

#### *California Register of Historical Resources*

The CRHR is "an authoritative listing and guide to be used by state and local agencies, private groups, and citizens in identifying the existing historical resources of the state and indicating which resources deserve to be protected, to the extent prudent and feasible, from substantial adverse change" (PRC Section 5024.1(a)). Certain resources are determined by CEQA to be automatically included in the CRHR, including California properties formally eligible for or listed in the NRHP. To be eligible for the CRHR as a historical resource, a resource must be significant at the local, state, and/or federal level under one or more of the following evaluative criteria, as defined in PRC Section 5024.1(c):

1. The resource is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage.
2. The resource is associated with the lives of persons important in our past.
3. The resource embodies the distinctive characteristics of a type, period, region, or method of construction; represents the work of an important creative individual; or possesses high artistic values.

4. The resource has yielded, or may be likely to yield, information important in prehistory or history.

As with the NRHP, a significant historical resource must possess integrity in addition to meeting the significance criteria to be considered eligible for listing in the CRHR. Consideration of integrity for evaluation of CRHR eligibility follows the definitions and criteria from the National Park Service's *National Register Bulletin 15*.

#### ***California Historic Resources***

OHP offers four different registration programs, including the California Historical Landmarks, California Points of Historical Interest, CRHR, and the NRHP. Each registration program is unique in the benefits offered and procedures required. If a resource meets the criteria for registration, it may be nominated by any individual, group, or local government to any program at any time. Resources do not need to be locally designated before being nominated to a state program nor do they need to be registered at the state level before being nominated to the National Register. The California Register includes buildings, the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California. Resources on the California Register have met criteria for designation or have been included due to their presence on the NRHP, the State Historical Landmark program, or the California Points of Historical Interest program.

#### **State Historical Landmark Program**

California Historical Landmarks are buildings, structures, sites, or places that have been determined to have statewide historical significance by meeting at least one of several criteria. The resource must be the first, last, only, or most significant of its type in the state or within a large geographic region; associated with an individual or group having a profound influence on California history; or be a prototype of, or outstanding example of, a period, style, architectural movement, or construction, or be one of the more notable works or best surviving work in a region of a pioneer, designer, or master builder.

#### **California Points of Historical Interest**

California Points of Historical Interest are sites, buildings, features, or events of local (city or county) significance, having anthropological, cultural, military, political, architectural, economic, scientific or technical, religious, experimental, or other value. Criteria are the same as those for Historical Landmarks but directed to local areas. Points of Historical Interest designated after December 1997 and recommended by the State Historical Resources Commission are also listed in the California Register. No historical resource may be designated as both a Landmark and a Point; if a Point is subsequently granted status as a Landmark, the Point designation will be retired.

#### ***California Government Code Section 65040.2(g)***

California Government Code Section 65040.2(g) provides guidelines for consulting with Native American tribes for the following: (1) the preservation of, or the mitigation of impacts on places, features, and objects described in Sections 5097.9 and 5097.993 of the PRC; (2) procedures for identifying through NAHC the appropriate California Native American tribes; (3) procedures for continuing to protect the confidentiality of information concerning the specific identity, location,

character, and use of those places, features, and objects; and (4) procedures to facilitate voluntary landowner participation to preserve and protect the specific identity, location, character, and use of those places, features, and objects.

### ***Senate Bill 18***

Signed into law in September 2004, and effective March 1, 2005, SB 18 permits California Native American tribes recognized by the NAHC to hold conservation easements on terms mutually satisfactory to the tribe and the landowner. The term “California Native American tribe” is defined as “a federally recognized California Native American tribe or a non-federally recognized California Native American tribe that is on the contact list maintained by the NAHC.” The bill also requires that, prior to the adoption or amendment of a city or county’s general plan, the city or county consult with California Native American tribes for the purpose of preserving specified places, features, and objects located within the city or county’s jurisdiction. SB 18 also applies to the adoption or amendment of specific plans. This bill requires the planning agency to refer to the California Native American tribes specified by the NAHC and to provide them with opportunities for involvement.

### ***Assembly Bill 52***

Tribal cultural resources were originally identified as a distinct CEQA environmental category with the adoption of AB 52 in September 2014. For all projects subject to CEQA that received a notice of preparation, notice of negative declaration, or mitigated negative declaration on or after July 1, 2015, AB 52 requires the lead agency on a proposed project to consult with the geographically affiliated California Native American tribes. The legislation creates a broad new category of environmental resources, “tribal cultural resources,” which must be considered under CEQA. AB 52 requires a lead agency to not only consider the resource’s scientific and historical value but also whether it is culturally important to a California Native American tribe.

AB 52 defines tribal cultural resources as sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are included or determined to be eligible for inclusion in the CRHR; included in a local register of historical resources, as defined in PRC Section 5020.1(k); or determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to the criteria of PRC Section 5024.1(c) (CEQA Section 21074).

AB 52 also sets up an expanded consultation process. For projects initiated after July 1, 2015, lead agencies are required to provide notice of the proposed projects to any tribe that is traditionally and culturally affiliated with the geographic area that requested to be informed by the lead agency, following PRC Section 21018.3.1(b). If, within 30 days, a tribe requests consultation, the consultation process must begin before the lead agency can release a draft environmental document. Consultation with the tribe may include discussion of the type of review necessary, the significance of tribal cultural resources, the significance of the project’s impacts on the tribal cultural resources, and alternatives and mitigation measures recommended by the tribe. The consultation process will be deemed concluded when either (1) the parties agree to mitigation measures or (2) any party concludes, after a good-faith effort, that an agreement cannot be reached. Any mitigation measures agreed to by the tribe and lead agency must be recommended for inclusion in the environmental document. If a tribe does not request consultation, or to otherwise assist in identifying mitigation measures during the consultation process, a lead agency

may still consider mitigation measures if the agency determines that a project will cause a substantial adverse change to a tribal cultural resource.

#### ***Assembly Bill 168***

AB 168, adopted in September 2020, provides additional protection for tribal cultural resources as defined in AB 52. This bill applies in situations where a developer seeks to streamline approval under SB 35 and, in doing so, bypass CEQA requirements. AB 168 rectifies a loophole in SB 35 that allowed developers to apply for fast-tracked approval without notifying Native American tribes affiliated with the Planning Area. Instead, under AB 168 projects would be ineligible for SB 35 and subject to CEQA if (1) the site of the proposed development is a tribal cultural resource that is on a national, state, tribal, or local historic register list, (2) the local government and the California Native American tribe do not agree that no potential tribal cultural resource would be affected by the proposed development, or (3) the local government and California Native American tribe find that a potential tribal cultural resource could be affected by the proposed development and the parties do not document an enforceable agreement regarding the methods, measures, and conditions for treatment of those tribal cultural resources, as provided.

#### ***California Public Resources Code***

##### **Section 5097.98**

The treatment of Native American human remains is regulated by PRC Section 5097.98, as amended by Assembly Bill 2641, which addresses the disposition of Native American burials, protects remains, and appoints the NAHC to resolve disputes. In addition, California Health and Safety Code Section 7050.5 includes specific provisions for the protection of human remains in the event of discovery, and Section 7052 makes the willful mutilation, disinterment, or removal of human remains a felony. The Health and Safety Code is applicable to any project where ground disturbance would occur.

##### **Sections 5097–5097.6**

Sections 5097–5097.6 of the California PRC outline the requirements for cultural resource analysis prior to the commencement of any construction project on state lands. The state agency proposing the project may conduct the cultural resource analysis or they may contract with the State Department of Parks and Recreation. In addition, this section stipulates that the unauthorized disturbance or removal of archaeological, historical, or paleontological resources located on public lands is a misdemeanor. It prohibits the knowing destruction of objects of antiquity without a permit (expressed permission) on public lands and provides for criminal sanctions. This section was amended in 1987 to require consultation with the California NAHC whenever Native American graves are found. Violations for the taking or possessing remains or artifacts are felonies.

##### **Sections 5097.9-991**

The PRC Section 5097.9-991, regarding Native American heritage, outlines protections for Native American religion from public agencies and private parties using or occupying public property. Also protected by this code are Native American sanctified cemeteries, places of worship, religious or ceremonial sites, or sacred shrines located on public property.

## **Local Regulations**

### ***Town of Fairfax General Plan 2010-2030 (General Plan)***

The Town of Fairfax General Plan 2010-2030 (General Plan) includes the following goals and policies associated with historic, cultural, and tribal cultural resources:

**Goal LU-7:** Preserve a human-centered scale, mixed use, and sense of community.

Policy LU-7.1. Preserve and enhance the community's small-town scale and sense of community.

**Goal LU-9:** Preserve and restore local historic buildings, features, and sites.

Policy LU-9.1.1. The Town of Fairfax shall undertake a historic survey and maintain an inventory of buildings, features, important eras, and sites of local, regional, and national significance.

Policy LU-9.1.2. The Town of Fairfax shall ensure the preservation of historical resources pertaining to pre-European settlement, including those of the Miwok tribe.

Policy LU-9.1.3. The Town of Fairfax shall chronicle and preserve buildings, features, and sites related to the community's music-related 1960's era.

Policy LU-9.1.4. Structures designated as historic which are noteworthy in terms of age, individual style, notable architect or builder, on the site of an historic event, associated with a famous person, industry or activity that is part of local history, shall be preserved and the long-established historic nature of the Town center should be enhanced. The overall physical attributes of the Town Center should be protected from damage or substantial change.

**Goal H-3:** Create transit-oriented housing in the Town Center area that is less dependent on automobile travel, thereby minimizing traffic impacts to the greatest extent possible while providing support for transit.

Policy H-3.1.1 The Town Council will appropriately rezone area to promote a mix of land uses that are transit-supportive and complement the historic nature of the Town – as articulated in the 2010-2030 Land Use Element.

**Goal H-6:** Create opportunities for the development of second units.

Policy H-6.1.1. New second unit approach. Permit construction of well-designed second units in both new and existing residential neighborhoods, consistent with parking and street capacity standards. Of the programs outlined to achieve this, one states an ordinance will be enacted to impose standards on second units that include but are not limited to parking, height, setbacks, lot coverage, architectural review, maximum unit size, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places.

**Goal TC-2:** Maintain and enhance the historic qualities of the Town Center area.

Policy TC-2.1.3. New and/or renewed development shall be compatible with the existing scope, scale, and design aesthetic of the Town Center Planning Area. A Significant Buildings and Structures Plan should be created by staff. This plan should inventory and establish policies for preservation of significant structures in the Town Center.

**Goal OS-3:** Preserve the sensory qualities of open space for recreational, cultural, educational, and spiritual experiences.

Policy OS-3.1.1. Identify and map the existing recreational trails in and between open space lands in the Fairfax Planning Area. This inventory will include trails that have been historically used by the public for recreation since 1950 and continue to be used.

**Goal CON-8:** Historic and cultural preservation.

Policy CON-8.1.1. Pursue a program to identify, document, and evaluate the historical and cultural resources in the Fairfax Planning Area.

Policy CON-8.1.1. Fully integrate the consideration of historical and cultural resources in the larger land use planning process.

Policy CON-8.1.3. Foster government to government relationships with tribes that inhabited the Fairfax Planning Area.

Policy CON-8.1.4. Designate locally-significant historical and cultural resources for current and future generations.

Policy CON-8.2.1. Protect, maintain, rehabilitate, and enhance the Town's important historic and cultural resources.

Policy CON-8.2.2. Encourage and facilitate private preservation, maintenance, rehabilitation, and enhancement of historic and cultural resources within the Fairfax Planning Area.

Policy CON-8.2.3. Ensure that development respects and complements the development patterns, scope, and scale of the Town's historic and natural landscape.

Policy CON-8.3.1. Support the efforts of local citizens, appointed committees or other designated public agencies and private institutions that are working to conserve historic and culturally significant resources.

Policy CON-8.3.2. Foster awareness within distinct communities of local historic and/or culturally significant resources and encourage community participation in preservation activities focused on such specific resources.

Policy CON-8.3.3. Promote broad educational outreach efforts to highlight historic and culturally significant issues and sites within the Fairfax Planning Area.

**Goal S-1:** Minimize risks due to geologic hazards.

Policy S-1.1.6. Town codes and ordinances will be enforced and updated as needed to reflect current scientific data and technical standards, including provisions to preserve historic structures in the case of an earthquake.

### *Fairfax Town Code*

Chapter 15.04.100 of the Fairfax Town Code adopts the California Historical Building Code (CHBC) in Part 8. The CHBC provides alternative building regulations for permitting repairs, alterations and additions necessary for the preservation, rehabilitation, relocation, related construction, change of use, or continued use of a “qualified historical building or structure.”

For projects that potentially impact historic resources, the Town requires a project’s Historic Application to be reviewed by the Planning Commission.

## **Impact Analysis**

---

### **SIGNIFICANCE CRITERIA**

For the purposes of this EIR, a significant impact would occur if the Proposed Project would:

**Criterion 1:** Cause a substantial adverse change in the significance of a historical resource pursuant to Section 15064.5;

**Criterion 2:** Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5, or

**Criterion 3:** Disturb any human remains, including those interred outside of formal cemeteries.

**Criterion 4:** Cause a substantial adverse change in the significance of a tribal cultural resource, defined in PRC Section 21074 as either a site, feature, place, cultural landscape, sacred place, or object with cultural value to a California Native Tribe and that is:

Listed or eligible for listing in the California Register of Historical Resources or in a local register of historical resources as defined in PRC Section 5020.1(k), or

A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of PRC Section 5024.1. In applying the criteria set forth in subdivision (c) of PRC Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

## **IMPACTS**

**Impact 3.4-1    Implementation of the Proposed Project would not cause a substantial adverse change in the significance of a historical resource, as defined as physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of a historic resource would be materially impaired (Guidelines Section 15064.5). (*Less than Significant with Mitigation Incorporated*)**

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

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

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



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

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

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

#### *Mitigation Measures*

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

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

**MM-CUL-2: Avoidance or Minimization of Effects on Identified Historic Resources.** The project applicant shall consult with Town staff to determine whether a project can be feasibly redesigned or revised to avoid significant adverse impacts on listed and identified eligible historic resource(s), including historic districts. If a local landmark or historic district is part of a proposed development, the project's Historic Application must be reviewed by the Town's Planning Commission. If

avoidance of historic resource(s) is not feasible, where feasibility is defined as "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors," the project sponsor shall seek to reduce the effect on historic resource(s) to a less-than-significant level pursuant to CEQA Guidelines Section 15364. Projects that conform to the Secretary of the Interior's Standards for the Treatment of Historic Properties are considered to have a less-than-significant effect on historic architectural resources.

*Significance After Mitigation: Less than Significant*

**Impact 3.4-2      Implementation of the Proposed Project would not cause an adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5. (*Less than Significant with Mitigation Incorporated*)**

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

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

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

If avoidance is not feasible, then adverse effects to the deposit shall be mitigated as specified by PRC Section 21083.2 and CEQA Guidelines Sections 21083.2 (c) through 21083.2 (f). This mitigation enforced by the Town may include, but is not limited to, deeding archaeological sites

into permanent conservation easements, capping or covering archaeological sites, planning open space to incorporate archaeological sites, or conducting excavation as mitigation. All such recommendations shall also be in accordance with section 5097.98 of the California Public Resources Code, and section 7050.5 of the California Health and Safety Code, as applicable.

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

#### *Mitigation Measures*

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

*Significance After Mitigation:* Less than significant

**Impact 3.4-3      Implementation of the Proposed Project would not have the potential to disturb human remains, including those interred outside of formal cemeteries. (*Less than Significant with Mitigation Incorporated*)**

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

*Mitigation Measures*

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

*Significance After Mitigation:* Less than significant

**Impact 3.4-4 Implementation of the Proposed Project would not cause an adverse change in the significance of a tribal cultural resource, defined in PRC Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American Tribe, and that is:**

- (a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in PRC Section 5020.1(k), or**
- (b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of PRC Section 5024.1. In applying the criteria set forth in subdivision (c) of PRC Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe. (*Less than Significant with Mitigation Incorporated*)**

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

Nevertheless, NWIC records search results indicate that there is a high potential for unrecorded Native American resources to be within the Town limits, especially in the vicinity of Fairfax Creek and San Anselmo Creek. Therefore, future development or redevelopment projects allowed under the Proposed Project could result in indirect impacts through grading, overland construction vehicle travel, or other ground-disturbing activities, or through facilitation of public access to culturally significant sites. The impact of such activities would be considered significant if they were to cause a substantial adverse change to the resources as defined by PRC Section 21074. As previously discussed, the response from the NAHC stated that a search of the Sacred Lands File to identify sacred lands in the Planning Area was negative. However, according to the NWIC records search, the Town of Fairfax contains three recorded Native American archaeological resources. While the exact location of these resources is not public information, consultation with the tribes per SB 18 and AB 52 provides the opportunity for Native American tribes to identify if known resources could be compromised by implementation of the Proposed Project. Such

consultation is also intended to arrive at consensus regarding mitigation measures or ways to avoid a significant effect on tribal cultural resources. One response and formal request for tribal consultation has been received by the Federated Indians of Graton Rancheria. Multiple attempts have been made by phone to contact the Federated Indians of Graton Rancheria to continue the consultation process, but no response has been received as documented in supporting materials and correspondence located in Appendix C of the DEIR.

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

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

#### ***Mitigation Measures***

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

*Significance After Mitigation:* Less than significant

## 3.5 Energy

This section describes the environmental and regulatory setting for energy resources and efficiency. It also describes impacts related to wasteful, inefficient, or unnecessary consumption of energy resources during implementation of the Proposed Project.

There was one comment concerned about energy efficient construction and operational activities of the Proposed Project. All comments are in Appendix B of the DEIR. This comment is addressed under Impact 3.5-1 and incorporated into the following analysis.

### Environmental Setting

---

#### ENERGY

Energy resources in the State of California include natural gas, electricity, water, wind, oil, coal, solar, geothermal, and nuclear resources. Energy production and energy use both result in the depletion of nonrenewable resources, such as oil, natural gas, and coal, and result in the emissions of pollutants.

This section discusses the existing conditions related to energy statewide, regionally, and in the Planning Area.

#### State Energy Resources and Use

California has a diverse portfolio of energy resources that produced 2,152 trillion British thermal units (BTUs) in 2021.<sup>1</sup> Excluding offshore areas, the State ranked seventh in the nation in crude oil production in 2023, producing the 311 thousand barrels per day. In 2022, renewable resources, including hydroelectric power and small-scale, customer-sited solar power, accounted for 49 percent of California's in-state electricity generation. Natural gas fueled another 42 percent. Nuclear power supplied almost all the rest. Additionally, due to the mild Mediterranean climate and strict energy-efficiency conservation requirements, California has lower energy consumption rates than most parts of the United States. According to the U.S. Energy Information Administration, California was the second-largest total energy consumer among the states in 2020, but its per capita energy consumption was less than in all but three other states.

---

<sup>1</sup> U.S. Energy Information Administration. April, 2023. California State Energy Profile. Available: <https://www.eia.gov/state/print.php?sid=CA>. Accessed: July 23, 2023.

In 2021, natural gas accounted for the majority of energy consumption (2,217.8 trillion BTUs or 29 percent); followed by motor gasoline (1,494.9 trillion BTUs or 20 percent); renewable energy, including nuclear electric power, hydroelectric power, biomass, and other renewables (1,506.2 trillion BTUs or 20 percent); distillate and jet fuel (950.2 trillion BTUs or 13 percent); and interstate electricity (698.6 trillion BTUs or 9 percent); with the remaining 9 percent coming from a variety of other sources. Of the energy consumed in 2021, the transportation sector consumed approximately 2,785 trillion BTUs, followed by the industrial sector (1,704 trillion BTUs), the residential sector (1,473 trillion BTUs), and the commercial sector (1,397 BTUs).

Per capita energy consumption in general is declining because of improvements in energy efficiency and design. However, despite this reduction in per capita energy use, the State's total overall energy consumption (i.e., non-per capita energy consumption) is expected to increase over the next several decades as a result of growth in population, jobs, and vehicle travel.

### **Regional Energy Resources and Use**

Pacific Gas and Electric (PG&E) provides natural gas and electricity services to the majority of Northern California, including the Planning Area. PG&E's service extends from Eureka to Bakersfield (i.e., north to south) and from the Sierra Nevada to the Pacific Ocean (i.e., east to west). PG&E purchases gas and power from a variety of sources, including other utility companies. PG&E also obtains energy supplies from power plants and natural gas fields in northern California. PG&E operates a grid distribution system that channels all power produced at the various generation sources into one large energy pool for distribution throughout the service territory. PG&E provides all of the natural gas and electric infrastructure in Marin County.

PG&E's power comes from a mix of various sources, including solar, wind, geothermal, biomass and biowaste, and hydroelectric generation resources. In 2021, PG&E's electric power mix delivered to retail customers was 48 percent renewable, 39 percent nuclear, four percent large hydro, and nine percent natural gas.<sup>2</sup> PG&E also offers purchase up to 100 percent of their electricity from a community renewable program generating renewable power within California, without needing to install private rooftop solar panels. These two programs include PG&E's Solar Choice or Regional Renewable Choice. In addition, the Town offers a Community Choice Aggregation program through MCE, a public, not-for-profit electricity provider, that gives PG&E customers the choice of having between 60 and 100 percent of their electricity supplies from renewable resources such as solar, wind, bioenergy, geothermal, and hydroelectric as an alternative to PG&E's energy supply. MCE's service area includes all of Marin County and the provider replaces PG&E's electric generation services, while PG&E continues to provide all gas services, electric delivery, billing, and power line maintenance.

In Marin County, a total of 67.9 million therms of natural gas were consumed in 2021, which is about .6 percent of the State's total consumption in 2021.<sup>3</sup> In 2021, natural gas in Marin County was primarily consumed by the residential sector (73 percent), followed by the non-residential

---

<sup>2</sup> Pacific Gas and Electric Company. 2022. Corporate Sustainability Report. Available:

[https://www.pgecorp.com/corp\\_responsibility/reports/2022/assets/PGE\\_CSR\\_2022.pdf](https://www.pgecorp.com/corp_responsibility/reports/2022/assets/PGE_CSR_2022.pdf). Accessed: July 24, 2023.

<sup>3</sup> California Energy Commission (CEC). n.d. Gas Consumption by County—Marin County 2021. Available:

<https://ecdms.energy.ca.gov/gasbycounty.aspx>. Accessed: July 24, 2023.

sector (27 percent). In 2021, Marin County consumed a total of 1,347.57 million kilowatts of electricity, which is about five percent of the State's total consumption.<sup>4</sup> In the county, electricity was primarily consumed by the residential sector (53 percent), followed by the non-residential sector (47 percent) in 2021.

## **Planning Area Energy Resources and Use**

The 1,435-acre Planning Area, residential uses account for 720.6 acres, commercial uses occupy 46.3 acres, institutional uses occupy 53.1 acres, while parks and open space occupy 4.79 acres. Vacant land accounts for 338 acres. Utilities, roads, and right-of-way uses compose 186 acres of the Town.

The energy consumption analysis in this EIR is based on energy consumption from future development under the Proposed Project (pipeline projects and new development). Energy consumption associated with existing land uses within the Planning Area that are to remain were not evaluated; this assumption is consistent with the air quality, GHG emissions, and transportation analyses.

PG&E provides natural gas to the Planning Area, and MCE provides electricity using PG&E infrastructure, unless individuals choose to opt out of the MCE, in which case PG&E provides electricity. All buildings within the Planning Area have existing connections to infrastructure, although the vacant areas do not.

## **REGULATORY SETTING**

### **Federal**

There is currently no federal overarching law specifically related to energy resources or efficiency.

#### *Energy Star Program*

Energy Star is a joint program of the EPA and the U.S. Department of Energy (DOE). The program establishes criteria for energy efficiency for household products and labels energy efficient products with the Energy Star seal. For example, homes can earn the Energy Star certification if they are verified to meet the EPA's guidelines for energy efficiency. To earn the Energy Star certification in California, site-built or modular homes must meet energy efficiency the performance target as determined by energy modeling through a California Energy Commission– (CEC-) approved software program, construct the home using the preferred set of efficiency measures, and verify that the home meets every item on the National Rater Checklist through a Rater. Energy Star certified homes typically feature more efficient walls, windows, air ducts, HVAC system, and lighting and appliances that allow homeowners to operate their homes using less power and resources.

---

<sup>4</sup> California Energy Commission (CEC). n.d. Electricity Consumption by County—Marin County 2021. Available: <https://ecdms.energy.ca.gov/elecbycounty.aspx>. Accessed: July 24, 2023.



## **State**

### *Legislation Associated with Electricity Generation*

In 2002, the State passed legislation (SB 1078) that required 20 percent of electricity retail sales to be served by renewable resources by 2017, known as the Renewables Portfolio Standard (RPS) program. In 2015, this requirement was increased to 50 percent by 2030 (SB 350), and under SB 100 (2018), California utilities are now required to achieve 52 percent of their electric retail sales to end-use customers from renewable and zero-carbon resources by 2027, 60 percent by 2030, and 100 percent by 2045. SB 100 also requires the CEC, CPUC, and CARB to issue a joint policy report by 2021 and every four years thereafter; the 2021 SB 1000 Joint Agency Report assesses the costs and benefits of additional energy resources and resource building rates needed to achieve 100-percent clean electricity, which modeling results have shown is technically achievable through multiple pathways.<sup>5</sup>

### *Building Energy Efficiency Standards (Title 24, Part 6)*

The energy consumption of new residential and nonresidential buildings in California is regulated by the California Code of Regulations (CCR), Title 24, Part 6, Building Energy Efficiency Standards (California Energy Code). The CEC updates the California Energy Code every 3 years with more stringent design requirements to reduce energy consumption, resulting in lower GHG emissions. The 2019 California Energy Code, which took effect on January 1, 2020, requires builders to use more energy-efficient building technologies to comply with requirements regarding energy use. New residential units are required to include solar panels to offset the estimated electrical demands of each unit (California Solar Mandate, CCR, Title 24, Part 6, Section 150.1[c]14). CEC estimates that the 2019 California Energy Code's combination of required energy-efficient features and mandatory solar panels will result in new residential units that use 53 percent less energy than those that were designed to meet the 2016 California Energy Code. CEC also estimates that the 2019 California Energy Code will result in new commercial buildings that use 30 percent less energy than those that were designed to meet the 2016 California Energy Code, primarily through the transition to high-efficacy lighting.<sup>6</sup>

The 2022 Energy Code has been adopted by CEC and will take effect starting January 1, 2023. This update focuses on four key areas in new construction of homes and businesses that support the State's mission to achieve a 100-percent clean energy future: encouraging electric heat pump technology and use, establishing electric-ready requirements when natural gas is installed, expanding solar photovoltaic (PV) system and battery storage standards, and strengthening ventilation standards to improve indoor air quality. This means that all new homes are required to be electric-ready, with dedicated 240-volt outlets and space for electric appliances that will eventually replace installed gas appliances. Additionally, select businesses will have systems

---

<sup>5</sup> California Energy Commission, "SB 100 Joint Agency Report," September 2021, <https://www.energy.ca.gov/sb100>, accessed May 13, 2022.

<sup>6</sup> California Energy Commission, 2019 Building Energy Efficiency Standards: Frequently Asked Questions, March 2018, [https://www.energy.ca.gov/sites/default/files/2020-03/Title\\_24\\_2019\\_Building\\_Standards\\_FAQ\\_ada.pdf](https://www.energy.ca.gov/sites/default/files/2020-03/Title_24_2019_Building_Standards_FAQ_ada.pdf), accessed August 16, 2021.

maximized for onsite solar energy to avoid peak energy demand times and improved efficiency standards for building design and grid integration.<sup>7</sup>

### *Green Building Standards Code (Title 24, Part 11)*

The California Green Building Standards Code—Title 24, Part 11, California Code of Regulations—known as CALGreen, is the nation’s first mandatory green building standards code. In 2007, the California Building Standards Commission (CBSC) developed green building standards in an effort to meet the GHG reduction goals of AB 32. CBSC has the authority to propose CALGreen standards for nonresidential structures that include new buildings or portions of new buildings, additions and alterations, and all occupancies where no other State agency has the authority to adopt green building standards applicable to those occupancies. Voluntary green building measures can also be used to achieve CALGreen Tier 1 or Tier 2 levels, which comply with or exceed by at least 15 percent (respectively) the latest edition of “Savings By Design, Healthcare Modeling Procedures.”<sup>8</sup> The 2019 CALGreen Code is the current version that took effect January 1, 2020. The 2021 Triennial Code Adoption Cycle is currently underway, and once approved, the 2022 CALGreen Code will take effect January 1, 2023. Changes under the 2022 CALGreen Code include increased requirements for EV charging spaces and facilities for multifamily developments.

### *Clean Energy and Pollution Reduction Act of 2015*

SB 350 was approved by the California legislature in September 2015 and signed by Governor Brown in October 2015. Its key provisions require the following by 2030: 1) a renewables portfolio standard of 50 percent and 2) a doubling of energy efficiency by 2030, including improvements to the efficiency of existing buildings. These provisions will be implemented by future actions of the CPUC and CEC.

### *Transportation-Related Standards and Regulations*

In 2007, CARB adopted the Low-Carbon Fuel Standard to reduce the carbon intensity of California’s transportation fuels. The Low-Carbon Fuel Standard applies to fuels used by on-road motor vehicles as well as off-road vehicles, including construction equipment. In addition to regulations to address issues related to tailpipe emissions and transportation fuels, the State legislature has passed regulations to address issues related to the number of miles driven in on-road vehicles.

Known as “Pavley I,” Assembly Bill (AB) 1493 (California Health and Safety Code Section 42823) standards are the nation’s first GHG standards for automobiles. AB 1493 requires CARB to adopt vehicle standards that will lower GHG emissions from new light duty autos to the maximum extent

---

<sup>7</sup> California Energy Commission, 2022 Building Energy Efficiency Standards Summary, August 2021, [https://www.energy.ca.gov/sites/default/files/2021-08/CEC\\_2022\\_EnergyCodeUpdateSummary\\_ADA.pdf](https://www.energy.ca.gov/sites/default/files/2021-08/CEC_2022_EnergyCodeUpdateSummary_ADA.pdf), accessed May 19, 2022.

<sup>8</sup> Pacific Gas and Electric Company, 2016 Savings By Design Healthcare Baseline Procedures, April 2016, [https://www.calmac.org/publications/2016\\_Savings\\_by\\_Design\\_Healthcare\\_Baseline\\_Study\\_Final.pdf](https://www.calmac.org/publications/2016_Savings_by_Design_Healthcare_Baseline_Study_Final.pdf), accessed June 16, 2022.

feasible beginning in 2009. Additional strengthening of the Pavley standards (previously referred to as “Pavley II,” now referred to as the “Advanced Clean Cars” measure) has been proposed for vehicle model years 2017–2025. Together, the two standards are expected to increase average fuel economy to roughly 54.5 miles per gallon by 2025. In June 2009, EPA granted California’s waiver request enabling the state to enforce its GHG emissions standards for new motor vehicles beginning with the current model year. As discussed under the SAFE I Rule and CAFE Preemption, CARB continues to maintain regulative authority over GHG emissions.

EO B-16-12 orders CARB, the CEC, and the California Public Utilities Commission (CPUC), to support the rapid commercialization of zero-emission vehicles (ZEVs) and achieve various benchmarks related to ZEVs. In response, CARB established the Advanced Clean Cars program (now referred to as Advanced Clean Cars 1) that set more stringent GHG emission standards and fuel efficiency standards for fossil fuel-powered on-road vehicles. These regulations are projected to reduce GHG emissions from new vehicles by approximately 40 percent in 2025 relative to 2012 model-year vehicles.<sup>9</sup> In addition, the program’s ZEV regulation requires battery, fuel cell, and plug-in hybrid electric vehicles (EVs) to make up a growing percentage of California’s new vehicle sales. By 2025, when the rules are fully implemented, the statewide fleet of new cars and light-duty trucks will emit 75 percent less smog-forming pollution than the statewide fleet in 2012.<sup>10</sup> The proposed Advanced Clean Cars 2 program lays out California’s legally binding path (Executive Order N-79-20) to achieving 100 percent ZEV sales in 2035. Additionally, Executive Order B-48-18, signed into law in January 2018, requires all State entities to work with the private sector to have at least 5 million ZEVs on the road by 2030, 200 hydrogen fueling stations available, and 250,000 EV charging stations installed by 2025. Furthermore, it specifies that 10,000 of these charging stations must be direct-current fast chargers.

Since passage of the Sustainable Communities and Climate Protection Act (SB 375) in 2008, CARB has required metropolitan planning organizations (MPOs) to adopt plans that show reductions in GHG emissions from passenger cars and light-duty trucks in their respective regions for 2020 and 2035.<sup>11</sup> These plans, known as Sustainable Communities Strategies (SCS) link land use and housing allocations to transportation planning and related mobile-source emissions. The Metropolitan Transportation Commission (MTC) serves as the MPO for the nine counties in the Bay Area region, including Marin County, which is where the Planning Area site is located.

Under SB 743, in 2013, the Governor’s Office of Planning and Research (OPR) implemented changes to the California Environmental Quality Act (CEQA) Guidelines, including the addition of Section 15064.3, which requires CEQA transportation analyses to move away from a focus on vehicle delay and level of service (LOS).<sup>12</sup> In support of these changes, OPR published its Technical

---

<sup>9</sup> California Air Resources Board, Advanced Clean Cars Program, 2021, <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-cars-program/about>, accessed August 16, 2021.

<sup>10</sup> Ibid.

<sup>11</sup> California Air Resources Board, SB 375 Regional Greenhouse Gas Emissions Reduction Targets, Approved by the California Air Resources Board on March 22, 2018, <https://www.arb.ca.gov/cc/sb375/finaltargets2018.pdf>, accessed August 16, 2021.

<sup>12</sup> Governor’s Office of Planning and Research, Proposed Updates to the CEQA Guidelines, November 2017, [http://opr.ca.gov/docs/20171127\\_Comprehensive\\_CEQA\\_Guidelines\\_Package\\_Nov\\_2017.pdf](http://opr.ca.gov/docs/20171127_Comprehensive_CEQA_Guidelines_Package_Nov_2017.pdf), accessed August 16, 2021.

Advisory on Evaluating Transportation Impacts in CEQA, which recommends that the determination of the transportation impact of a project be based on whether project-related vehicle miles traveled (VMT) per capita (or VMT per employee) would be 15 percent lower than that of existing development in the region.<sup>13</sup> OPR's technical advisory explains that this criterion is consistent with Section 21099 of the California Public Resources Code, which states that the criteria for determining significance must "promote the reduction in greenhouse gas emissions."<sup>14</sup> This metric is intended to replace the use of vehicle delay and LOS to measure transportation-related impacts.

In response to executive orders N-19-19 and N-79-20, the California State Transportation Agency (CalSTA) adopted the Climate Action Plan for Transportation Infrastructure (CAPTI) in July 2021 to support state goals for reducing GHG emissions in transportation, which account for more than 40 percent of all polluting emissions. CAPTI outlines strategies and actions that will advance more sustainable, equitable, and healthy modes of transportation and accelerate the transition to ZEV technology. CAPTI also helps California plan for how to best administer potential new sources of federal climate-related transportation funding.

## **Local**

### *Fairfax Climate Action Plan 2030*

The Town of Fairfax Climate Action Plan (CAP) was adopted in 2021 and outlines a path towards reducing local greenhouse gas (GHG) emissions through the year 2030. The CAP provides community outreach and engagement, transportation, renewable energy and electrification, energy efficiency, waste reduction, and water conservation strategies necessary to minimize the town's impacts on climate change and meet the established greenhouse gas emission reduction target. Specific strategies outlined in the plan include identifying funding strategies, increasing electric vehicle (EV) usage, encouraging smart growth development patterns, installing renewable energy generation and storage systems, and developing energy efficiency ordinances and programs.

### *Town of Fairfax 2010-2030 General Plan (General Plan)*

The Town of Fairfax 2010-2030 General Plan (General Plan) includes the following goals and policies associated energy:

**Goal TC-3:** Define and implement a Town Center Plan.

**Policy TC-3.2.14:** Consider siting renewable energy techniques on public property.

**Goal CON-1:** Energy conservation and climate.

---

<sup>13</sup> Governor's Office of Planning and Research, Technical Advisory on Evaluating Transportation Impacts in CEQA, November 2017, [http://www.opr.ca.gov/docs/20171127\\_Transportation\\_Analysis\\_TA\\_Nov\\_2017.pdf](http://www.opr.ca.gov/docs/20171127_Transportation_Analysis_TA_Nov_2017.pdf), accessed August 16, 2021.

<sup>14</sup> Ibid.

**Policy CON-1.1.1:** Develop and implement a Climate Action Plan (CAP) for Fairfax, including within its scope both the operations of the Town government and the activities of citizens, and including both stationary and mobile sources.

**Policy CON-1.1.3:** Encourage green building techniques for all new and remodel construction within the Town of Fairfax.

**Policy CON-1.1.4:** Participate in statewide and county-wide efforts toward energy conservation, renewable energy generation and GHG reduction.

**Policy CON-1.2.1:** Implement energy efficiency and use of sustainable energy re- sources by Town government.

**Policy CON-1.2.2:** Create an infrastructure to facilitate the use of plug-in hybrid electric vehicles (PHEVs) and electric vehicles (EVs).

#### *Fairfax Town Code*

Chapter 15.04, Construction Codes, of the Fairfax Town Code adopts by reference Title 24, California Code of Regulations. Section 15.04.070 of the chapter establishes green building requirements for the purpose of meeting or exceeding all applicable mandatory measures of the 2022 California Green Building Standards Code (Title 24, Part 11) of the California Code of Regulations. In addition, the section aims to enhance the long-term public health and welfare by contributing to the overall reduction of greenhouse gas emissions and improving the environmental and economic health of the county through the efficient design, construction, operation, maintenance and deconstruction of buildings and site development by incorporating green building practices and materials.

## Impact Analysis

---

For the purposes of this EIR, a significant impact would occur if the Proposed Project would:

**Criterion 1:** Result in potentially significant environmental impact due to wasteful, inefficient, and unnecessary consumption of energy during project construction, operation, and/or maintenance; or,

**Criterion 2:** Conflict with or obstruct a state or local plan for renewable energy or energy efficiency.

## METHODOLOGY AND ASSUMPTIONS

Energy consumption resulting from future development under the Proposed Project would include energy directly consumed for space heating and cooling, electricity- and gas-powered equipment, and interior and exterior lighting of buildings in the Planning Area. Indirect energy consumption resulting from future development under the Proposed Project would include fuels consumed for the generation of electricity at power plants and the energy used for the treatment of water and the transportation of water to and from the Planning Area. Transportation-related energy consumption includes the fuels and electricity used to power automobiles, trucks, buses, railways, and ridesharing. Energy would also be consumed by equipment and vehicles used during construction and maintenance of roadways, buildings, and landscaping. As a General Plan Update, a programmatic approach is used for evaluating potential impacts that relies primarily on a qualitative analysis.

## RELEVANT PROPOSED GOALS AND POLICIES

Policy 1-3 Promote mixed use developments with a residential component in Downtown Fairfax to provide workforce housing and locate higher density residential development in proximity to employment, shopping, transit, recreation, and other services.

## IMPACTS

**Impact 3.5-1 Implementation of the Proposed Project would not cause wasteful, inefficient, or unnecessary consumption of energy resources during project construction or operation. (*Less than Significant*)**

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

regional transportation system associated with potential development could increase fuel consumption.

### *Construction*

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

### *Operation*

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

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

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

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

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

#### *Mitigation Measures*

None required.

### **Impact 3.5-2      Implementation of the Proposed Project would not conflict with or obstruct a State or local plan for renewable energy or energy efficiency. (*Less than Significant*)**

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

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

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



zero energy system, climate goal by 2040.<sup>15</sup> As noted in MCE's 2021 IRP, MCE's renewable power content targets continue to exceed California's minimum RPS requirements and will continue to do so through 2030.<sup>16</sup> Therefore, buildout of the Proposed Project would not conflict with or obstruct State or local plans for renewable energy or energy efficiency and this impact would be less than significant.

### *Mitigation Measures*

None required.

---

<sup>15</sup> Pacific Gas and Electric Company. 2022. Integrated Resource Plan. Available: [https://www.pge.com/en\\_US/for-our-business-partners/energy-supply/integrated-resource-plan/integrated-resource-plan.page](https://www.pge.com/en_US/for-our-business-partners/energy-supply/integrated-resource-plan/integrated-resource-plan.page). Accessed: July 24, 2023.

<sup>16</sup> MCE. 2021. Operational Integrated Resource Plan. Available: [https://www.mcecleanenergy.org/wp-content/uploads/2022/11/MCE-2022-Integrated-Resource-Plan\\_11012022.pdf](https://www.mcecleanenergy.org/wp-content/uploads/2022/11/MCE-2022-Integrated-Resource-Plan_11012022.pdf). Accessed: July 24, 2023.

## 3.6 Geology and Soils

This section describes the environmental and regulatory setting for geology and soils, including those related to geologic and seismic hazards and soil stability. It also describes impacts related to geology, soils, and seismicity that would result from implementation of the Proposed Project and mitigation for significant impacts where feasible and appropriate.

There were seven responses to the Notice of Preparation (NOP) regarding topics covered in this section. Responses are located in Appendix B of the DEIR. Commenters had concerns about the feasibility of development sites located in steep areas and subsequent public safety concerns regarding soil instability and landslides. These comments are addressed in the following analysis under Impact 3.6-2 and Impact 3.6-3.

## Environmental Setting

---

### PHYSICAL SETTING

#### Geology and Soils

##### *Regional Geology*

The Town of Fairfax is located within the Coast Ranges Geomorphic Province, a relatively geologically young and seismically active region on the western margin of the North American plate.<sup>1</sup> The ranges and valley trend northwest, sub-parallel to the San Andreas fault. The Coast Ranges are composed of thick Mesozoic and Cenozoic sedimentary strata. The northern and southern ranges are separated by a depression containing the San Francisco Bay.

##### *Planning Area Geology*

The Planning Area is located in the seismically active San Francisco Bay Area.<sup>2</sup> The seismic setting in the region is dominated by stress associated with the collision between the Pacific tectonic plate and the North American tectonic plate. The San Andreas Fault system is the boundary between the

---

<sup>1</sup> California Geological Survey (CGS). 2002. California Geomorphic Provinces. (Note 36.)

Available; <https://www.conservation.ca.gov/cgs/Documents/Publications/CGS-Notes/CGS-Note-36.pdf>. Accessed: June 26, 2023.

<sup>2</sup> Ryan, H.F., Ross, S.L., Graymer, R.W. n.d.. Earthquakes, Faults, and Tectonics.

[https://pubs.usgs.gov/circ/c1198/chapters/037-046\\_Earthquakes.pdf](https://pubs.usgs.gov/circ/c1198/chapters/037-046_Earthquakes.pdf). Accessed: July 5, 2023.

two tectonic plates, which extends nearly 700 miles along a northwest trend from Mexico to offshore northern California and about 50 miles wide.

### *Topography*

The Planning Area is characterized by a small valley that contains the Fairfax creek running north and bending west in northern Fairfax and the San Anselmo creek running north and bending east in central Fairfax. Flat land is adjacent to the creeks, with hills surrounding the area on the east and west sides, which range in elevations between 100 and 550 feet. Where the creek bends northwest in the northern part of the planning area, some hills lie north, reaching about 320 feet in elevation.<sup>3</sup> Both the westernmost and easternmost areas reach up to approximately 600 feet. The southeastern boundary extends into Cascade Canyon Preserve and the southern boundary reaches elevations around 200 feet. The northern boundary elevations extend up to approximately 600 feet.

### *Soil Properties*

Soil is generally defined as the unconsolidated mixture of mineral grains and organic material that mantles the land surfaces of the earth. The characteristics of soil reflect the five major influences on their development: topography, climate, biological activity, parent (source) material, and time.

Table 3.6-1 and Figure 3.6-1 show the surface soil types in the Planning Area that have been mapped by the Natural Resources Conservation Service (NRCS). As shown in Table 3.6-1, Tocaloma-McMullin complex and Xerorthents-Urban land complex are the predominant soil units within the Planning Area. In addition, all soils in the Planning Area are slightly to moderately expansive. Expansive soils can shrink and swell in response to the presence of water, causing foundation and wall cracks, heaving sidewalks, and flaws in paved areas. In addition, proximity to water features, such as the rivers running through the Planning Area, increases the potential for expansion. The most expansive soils underly most of the central portion of the Planning Area and on the fringes in the higher elevation areas. Generally, projects in areas with expansive soil may require special building foundations or grade preparation, such as the removal of expansive soils and replacement with engineered soils.

---

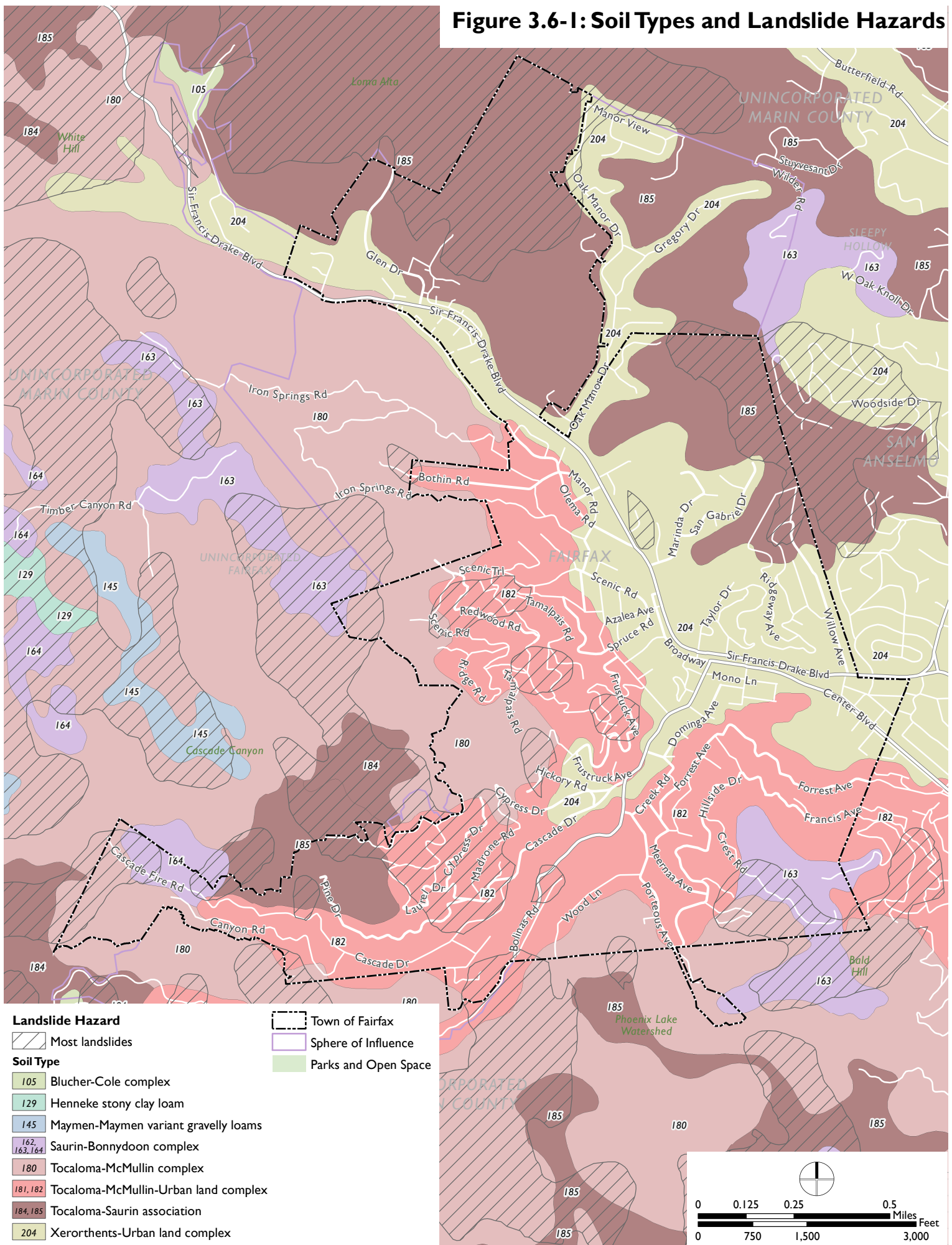
<sup>3</sup> USGS, 2023. US Topo Maps. Available: <https://apps.nationalmap.gov/downloader/#/maps>. Accessed: July 5, 2023.

**Table 3.6-1: Soil Types in the Planning Area**

<i>Soil Unit</i>	<i>Slope Percentage</i>	<i>Approximate Percentage of the Planning Area</i>	<i>Portions of Planning Area</i>
Totaloma-McMullin-Urban land complex	30-50%	35.2%	Central portion
Totaloma-McMullin complex	50-75%	11.8%	Western and southern portion
Totaloma-Saurin association	Extremely steep	24.4%	Northeastern and southwestern portion
Xerorthents-Urban land complex	0-9%	25.2%	Northeastern portion
Saurin-Bonnydoon complex	30-50%	2.5%	Southeast corner and central eastern portion
Saurin-Bonnydoon complex	50-75%	1.0%	Southeastern corner

Sources: USDA Natural Resources Conservation Service, 2023.

### Figure 3.6-1: Soil Types and Landslide Hazards



## **Seismicity**

### *Regional Faults*

Generally, earthquakes occur when tectonic plates of the Earth's crust collide or slide past one another along their boundaries or faults, and accumulated stress is released, resulting in seismic slippage. California is particularly susceptible to such plate movements, notably, the largely horizontal or "strike-slip" movement of the Pacific Plate as it impinges on and slides past the west margin of the North American Plate. The performance of man-made structures during a major seismic event varies widely due to a number of factors: location with respect to active fault traces or areas prone to liquefaction or seismic-induced landslides; the type of building construction (i.e., wood frame, unreinforced masonry, non-ductile concrete frame); the proximity and magnitude of the seismic event; and many other factors. In general, evidence from past earthquakes shows that wood frame structures tend to perform well, especially when their foundations are properly designed and anchored. Older, unreinforced masonry structures, on the other hand, do not perform as well, especially if they have not undergone appropriate seismic retrofitting. Applicable building code requirements include seismic requirements that are designed to ensure the satisfactory performance of building materials under seismic conditions.

The entire San Francisco Bay Area is located within the San Andreas fault system, a complex of active faults forming the boundary between the North American and Pacific lithospheric plates. Movement of the plates relative to one another results in the accumulation of strain along the faults, which is released during earthquakes. Numerous moderate to strong historic earthquakes have been generated in northern California by the San Andreas fault system. This level of active seismicity results in a relatively high seismic risk in the San Francisco Bay Area.

The San Andreas fault system includes numerous faults found by the California Geological Survey (CGS) in the Bay Area considered under the Alquist-Priolo Earthquake Fault Zoning Act to be active (i.e., to have evidence of fault rupture in the past 11,000 years). Active regional faults include the San Andreas, Hayward, Calaveras, Concord-Green Valley, and Greenville faults. In addition to the known active faults, recent research on the structural geology and tectonics of the region indicates that there is another potential source of large-magnitude earthquakes in the region. A structural trend of folds and thrust faults has been mapped in the hills north of the Livermore Valley. The largest of these features is the Mount Diablo anticline. Recent research has interpreted this feature to be a large fold developed above a blind (i.e., buried) thrust fault. The accumulation of strain on the blind Mount Diablo Thrust fault presents the potential for an earthquake along this fault.

The U.S. Geological Survey's (USGS) Working Group on California Earthquake Probabilities estimates that there is a 72 percent chance that a 6.7 or greater magnitude earthquake will occur in the San Francisco Bay Area between 2014 and 2043.<sup>4</sup> The probability of a 6.7 magnitude or greater

---

<sup>4</sup> Field, E.H., Biasi, G.P., Bird, P., Dawson, T.E., Felzer, K.R. Jackson, D.D., Johnson, K.M., Jordan, T.H., Madden, C. Michael, A.J., Milner, K.R., Page, M.T., Parsons, T., Powers, P.M., Shaw, B.E., Thatcher, W.R., Weldon, R.J. II, and Zeng, Y. 2015. Long-term, time-dependent probabilities for the third uniform California earthquake rupture forecast (UCERF3). Bulletin of the Seismological Society of America. Available: <https://pubs.er.usgs.gov/publication/70147094>. Accessed: June 28, 2023.

earthquake occurring along individual faults was estimated to be 6 percent along the San Andreas Fault, 14 percent along the Hayward-Rodgers Creek Fault,<sup>5</sup> and 7 percent along the Calaveras Fault.

### *Planning Area-Specific Seismicity*

A complex interaction of tectonic forces, geologic materials, soils, topography, and groundwater conditions affect the nature of seismic hazards at any site. There are no designated Alquist-Priolo fault zones in Fairfax. However, active faults have been identified within 25 miles of the Planning Area, including the San Andreas, Rodgers Creek, Hayward, Concord/Green Valley, and West Napa faults.<sup>6, 7</sup>

Figure 3.6-2 shows the seismic hazards within the Planning Area. The San Andreas fault zone, the Alquist-Priolo designated zone which surrounds the fault trace, is located approximately eight miles east of the Planning Area and has been responsible for several historic earthquakes in northern California. The two largest recorded earthquakes on the San Andreas fault occurred in 1857 and 1906.<sup>8</sup> The San Francisco earthquake had an estimated moment magnitude of 7.7 and was felt as far away as Oregon and central Nevada. Surface offsets occurred across approximately 250 miles, with the epicenter estimated to be offshore of the San Francisco coastline near the Golden Gate bridge. Extensive damage in San Francisco and the East Bay and over 700 deaths resulted from the 1906 quake. The largest surface displacement on the fault line occurred in 1940, where an earthquake caused 17 feet of right-lateral strike-slip. The Loma Prieta earthquake was the most recent larger earthquake to occur on or near the San Andreas Fault, approximately 90 miles from the Planning Area with a 6.9 magnitude.<sup>9</sup> Extensive damage occurred on the Bay Bridge as well as in downtown Santa Cruz and the Marina District of San Francisco.

---

<sup>5</sup> The Hayward and Rodgers Creek faults are connected at the surface beneath San Pablo Bay, and the connection has significant implications for earthquake dynamics; therefore, modeling refers to the connected faults as the “Hayward-Rodgers Creek Fault.”

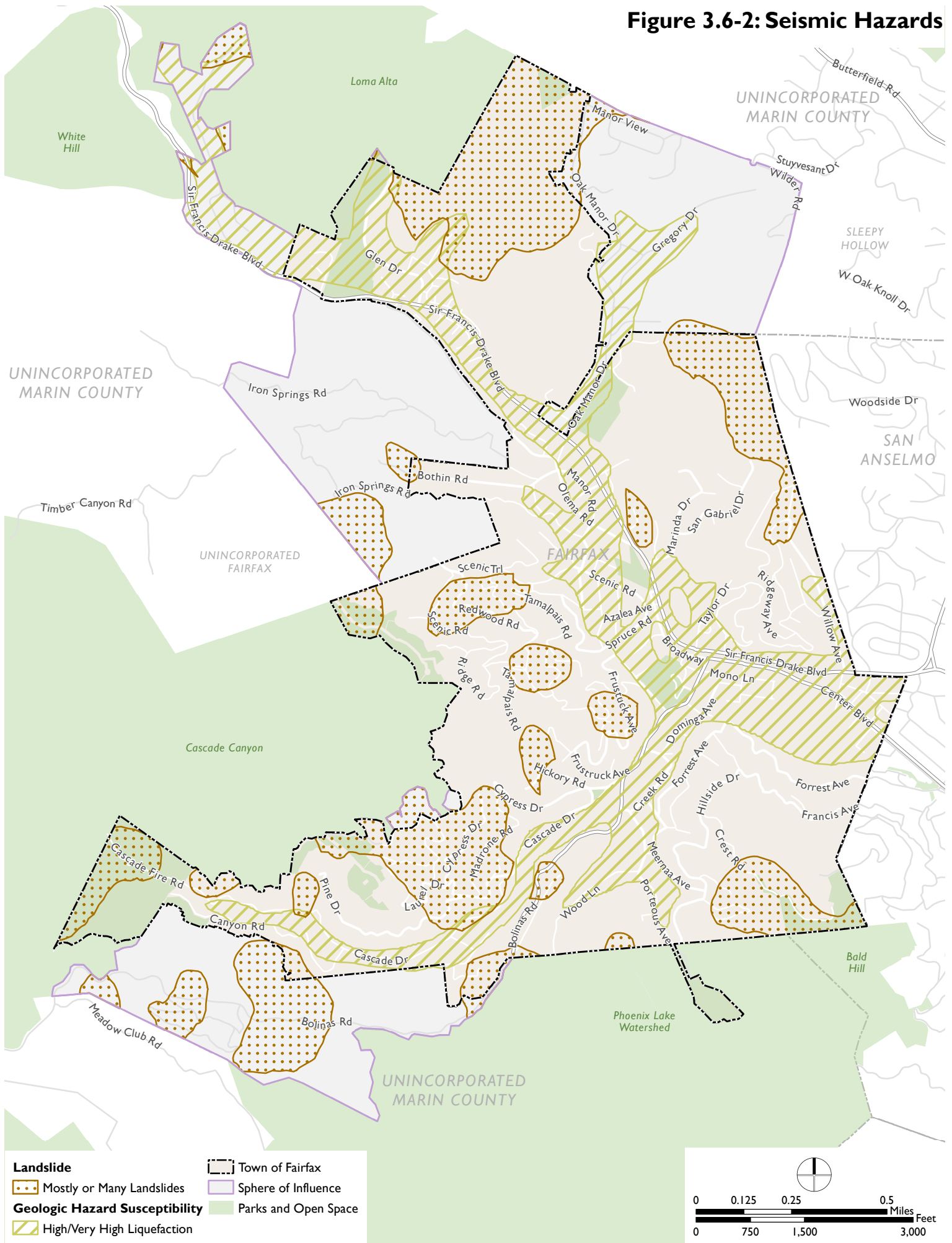
<sup>6</sup> California Geological Survey (CGS). 2021. Earthquake Zones of Required Investigation (website). Available online at: <https://maps.conservation.ca.gov/cgs/EQZApp/app/>. Accessed: June 28, 2023.

<sup>7</sup> U.S. Geological Survey (USGS). 2022. Quaternary fault and fold database for the United States. Available: [https://www.usgs.gov/natural-hazards/earthquake-hazards/faults?qt-science\\_support\\_page\\_related\\_con=4#qt-science\\_support\\_page\\_related\\_con](https://www.usgs.gov/natural-hazards/earthquake-hazards/faults?qt-science_support_page_related_con=4#qt-science_support_page_related_con). Accessed: June 28, 2023.

<sup>8</sup> U.S. Geological Survey (USGS). 2016. The San Andreas Fault. Available: <https://pubs.usgs.gov/gip/earthq3/safaultgip.html>. Accessed: June 28, 2023.

<sup>9</sup> California Department of Conservation. n.d. Available: <https://www.conservation.ca.gov/cgs/earthquakes/loma-prieta>. Accessed: June 28, 2023.

**Figure 3.6-2: Seismic Hazards**





After the San Andreas fault, the next nearest Alquist-Priolo hazard zones are associated with the Rodgers Creek and Hayward faults, approximately 13 miles from the Planning Area, and capable of magnitude 7.0 to 7.3 earthquakes. The largest earthquake on the Hayward fault occurred in 1868 with an epicenter south of San José, California.<sup>10</sup> Two earthquakes occurred on the Rodgers Creek Fault near Santa Rosa in 1969, causing minor damage and localized structural damage in Sonoma County.<sup>11</sup>

## **Seismic and Geological Hazards**

### *Seismic Shaking*

Seismic ground shaking is a general term referring to all aspects of motion of the earth's surface resulting from an earthquake. Ground shaking is normally the major cause of damage in seismic events. The extent of ground shaking is determined by the magnitude and intensity of the earthquake, distance from the rupture, and local geologic conditions. Intensity is a subjective measure of the perceptible effects of seismic energy at a given point and varies with distance from the epicenter and local geologic conditions. The Modified Mercalli Intensity Scale (MMI) is the most used scale for measurement of the subjective effects of earthquake intensity. Earthquake size is generally quantitatively measured in terms of magnitude on the Richter scale or by moment magnitude. In 2018, the Association of Bay Area Governments (ABAG) Resilience Program projects a 52 percent probability of a magnitude 6.7 or greater earthquake before 2036 on either the San Andreas or Hayward-Rodgers Creek faults, with 21 percent and 31 percent respectively.<sup>12,13</sup>

### *Surface Fault Rupture*

Surface fault rupture occurs when the ground surface is broken due to fault movement during an earthquake. The location of surface fault rupture can be assumed to be along an active or potentially active fault trace. Because the San Andreas fault zone is only eight miles outside of the Planning Area and the San Andreas fault has a history of both surface fault rupture in the 1857, 1906, and 1989 earthquake, there is a risk of surface fault rupture.<sup>14</sup> However, because the Planning Area is outside the fault zone, the risk is not significant.

---

<sup>10</sup> U.S. Geological Survey (USGS). 2018. The Hayward Fault—Is It Due for a Repeat of the Powerful 1868 Earthquake? August. (FS 2008-3019.) Available: <https://www.usgs.gov/news/featured-story/hayward-fault-it-due-a-repeat-powerful-1868-earthquake> Accessed: June 28, 2023.

<sup>11</sup> U.S. Geological Survey (USGS). 2019. Santa Rosa's Past and Future Earthquakes. Available: <https://www.usgs.gov/publications/santa-rosas-past-and-future-earthquakes>. Accessed: June 28, 2023.

<sup>12</sup> U.S. Geological Survey (USGS). August, 2016. Earthquake Outlook for the San Francisco Bay Region 2014-2043. Available: <https://pubs.usgs.gov/fs/2016/3020/fs20163020.pdf>. Accessed: July 5, 2023.

<sup>13</sup> County of Marin. 2018. Multi-Jurisdiction Local Hazard Mitigation Plan (MCM LHMP). Available: <https://marinflooddistrict.org/documents/marin-county-multi-jurisdiction-local-hazard-mitigation-plan-2018/>. Accessed: June 28, 2023.

<sup>14</sup> Ibid.

### *Liquefaction*

Liquefaction is the temporary transformation of loose, saturated, granular sediments from a solid state to a liquefied state as a result of seismic ground shaking. In the process, the soil undergoes a temporary loss of strength, which can cause ground displacement or ground failure. Since saturated soils are a necessary condition for liquefaction, soil layers in areas where the groundwater table is near the surface have higher liquefaction potential than those in which the water table is located at greater depths. Figure 3.6-2 indicates that the Planning Area includes large areas of high liquefaction susceptibility mainly encircling the pathways of multiple creeks. The southern and central area surrounding San Anselmo and Deer Park Creek and the northern portion of the Planning Area surrounding Fairfax Creek are high liquefaction zones. Another smaller high liquefaction zone extends into the northeastern corner of the Planning Area.

### *Lateral Spreading*

Lateral spreading refers to a type of landslide that forms on gentle slopes and has rapid fluid-like movement. Factors determining the potential for liquefaction and lateral spreading are soil type, the level and duration of seismic ground motions, the type and consistency of soils, and the depth to groundwater. Locations within the Planning Area that have high liquefaction susceptibility, as shown on Figure 3.6-2, have the highest risk of lateral spreading if they occur adjacent to an open face or slope.

### *Landslides*

The strong ground motions that occur during earthquakes are capable of inducing landslides, generally where unstable slope conditions already exist. A landslide is the downhill movement of masses of earth material under the force of gravity. The primary factors influencing the stability of a slope include the nature of the underlying soil or bedrock, the geometry of the slope (height and steepness), rainfall, and the presence of previous landslide deposits. Two types of landslides are near the Planning Area: seismically induced landslide and precipitation- or water-induced landslide (see Figure 3.6-1). Landslide risk occurs mainly in the steep hills at the southern and western edges of the Planning Area boundary, with small pockets of landslide risk also evident in the northern hills and eastern boundary.

### *Soil Erosion*

Soil erosion is the process by which soil materials are worn away and transported to another area, either by wind or water. Not accounting for slope and groundcover factors, soils high in clay have low susceptibility to erosion because they are resistant to detachment. Coarse textured soils, such as sandy soils, also have low erosion potential despite their easy detachment, because of low runoff. Medium textured soils, such as the silt loam soils, are moderately susceptible to erosion, while soils with a high silt content are the most susceptible.<sup>15</sup>

---

<sup>15</sup> Institute of Water Research (IWR). 2002. K Factor. Available: <http://www.iwr.msu.edu/rusle/kfactor.htm> Accessed: July 3, 2023.

The soils in the Planning Area with the highest susceptibility to water erosion are the Tocaloma-McMullin complex soil types that exist primarily in the western and southern portions of the town in higher elevation areas. Tocaloma-McMullin complex soils contain well-drained loam to very gravelly loam. These soil types within the Planning Area also are located on steep hillsides, compounding erosion risk.

### *Expansive Soils*

Expansive soils have shrink-swell capacity, meaning they may swell when wetted and shrink when dried. Expansive soils can be hazardous to built structures, and may cause cracks in building foundations, distortion of structural elements, and warping of doors and windows. The higher the clay content of a soil, the higher its shrink-swell potential.

The U.S. Department of Agriculture National Resource Conservation Service (NRCS) analyzes the shrink-swell potential of each soil type based on its linear extensibility and clay content and categorizes it as “low,” “moderate,” “high,” or “very high.” Where the shrink-swell classification is moderate to very high, shrinking and swelling can cause damage to buildings, utilities, roads, and other structures and the gradual cracking, settling, and weakening of older buildings could create potential safety concerns and financial loss. As shown in Figure 3.6-1 and described in Table 3.6-1, a small portion of the Planning Area in the southeastern corner are underlain with the Saurin-Bonnydoon complex which is a clay loam that is moderately expansive.<sup>16</sup>

### *Subsidence*

Subsidence occurs when a large portion of land is displaced vertically. This typically is due to the withdrawal of groundwater, oil, or natural gas. While subsidence is a significant concern in other parts of the state, particularly the San Joaquin Valley and Central Valley, Marin County experiences slight risk of subsidence but only near the shoreline in combination with risk from sea level rise.<sup>17</sup> The USGS California Water Science Center maps of historical and current recorded subsidence does not identify the Town of Fairfax as an area that has experienced subsidence.<sup>18</sup> Because of its inland location between hilly areas, land subsidence is not likely to increase the impact of sea level rise in the Town of Fairfax.<sup>19</sup>

---

<sup>16</sup> United States Department of Agriculture. July, 2019. Natural Resources Conservation Service Web Soil Survey. Available: <https://websoilsurvey.sc.egov.usda.gov/App/HomePage.htm>. Accessed: June 28, 2023.

<sup>17</sup> County of Marin. January, 2022. Vulnerability Assessment: Marin Countywide Plan Safety Element Update. Available: [https://www.marincounty.org/-/media/files/departments/cd/he/marin-county-vulnerability-assessment\\_final\\_with-appendicies\\_reduced-20220117.pdf?la=en](https://www.marincounty.org/-/media/files/departments/cd/he/marin-county-vulnerability-assessment_final_with-appendicies_reduced-20220117.pdf?la=en). Accessed: July 5, 2023.

<sup>18</sup> U.S. Geological Survey (USGS). N.d. Areas of Land Subsidence in California. Available: [https://ca.water.usgs.gov/land\\_subsidence/california-subsidence-areas.html](https://ca.water.usgs.gov/land_subsidence/california-subsidence-areas.html). Accessed: July 5, 2023.

<sup>19</sup> KQED. April 22, 2021. Maps: See Which Bay Area Locations are at Risk from Rising Seas. Available: <https://www.kqed.org/science/1973624/maps-see-which-bay-area-locations-are-at-risk-from-rising-seas>. Accessed: July 5, 2023.

## **Paleontological Resources**

Paleontological resources are the fossil remains or traces of past life forms, including vertebrate and invertebrate species as well as plants. Paleontological resources are considered *significant* if they are identifiable vertebrate fossils; uncommon invertebrate, plant, and trace fossils; or other data that provide information important to the scientific record. Paleontological resources are older than the middle Holocene (i.e., older than approximately 5,000 years).

The Town is located in Marin County just north of the City of San Francisco, which forms part of the northern portion of the Coast Ranges Geomorphic Province of California.<sup>20</sup> The Planning Area is bounded by the Pacific Ocean to the west and the Great Valley Geomorphic Province to the east. The Coast Ranges are composed of thick Mesozoic and Cenozoic sedimentary strata. The northern Coast Ranges are dominated by irregular, knobby, landslide-topography of the Franciscan Complex. West of the San Andreas Fault is the Salinian Block, a granitic core extending from the southern extremity of the Coast Ranges to the north of the Farallon Islands.<sup>21</sup>

According to a records search of the University of California Museum of Paleontology specimen search, Pleistocene-age deposits in Marin County have yielded numerous fossils, including *Mammuthus* (extinct genus of mammoth, a trunked mammal), *Bison* (genus of bison), *Balaenula* (extinct genus of cetacean, which includes whales and dolphins), and *Mammut americanum* (extinct genus of American mastadon) from the Pleistocene-age Quaternary alluvium in San Antonio Creek, which is about 20 miles north of the Planning Area. However, following a search of the fossil database maintained by the University of California Museum of Paleontology at the University of California, Berkeley did not identify any fossils within Fairfax.<sup>22</sup>

## **REGULATORY SETTING**

### **Federal Regulations**

#### *Earthquake Hazards Reduction Act of 1977*

Federal laws codified in United States Code Title 42, Chapter 86, were enacted to reduce risks to life and property from earthquakes in the United States through the establishment and maintenance of an effective earthquake hazards reduction program. Implementation of these requirements are regulated, monitored, and enforced at the State and local levels. Key regulations and standards applicable to the Proposed Project are summarized below.

#### *U.S. Geological Survey Landslide Hazard Program*

The USGS created the Landslide Hazard Program in the mid-1970s; the primary objective of the program is to reduce long-term losses from landslide hazards by improving our understanding of the causes of ground failure and suggesting mitigation strategies. The federal government takes the

---

<sup>20</sup> CGS. 2002.

<sup>21</sup> Ibid.

<sup>22</sup> University of California Museum of Paleontology. 2020. *Advanced Specimen Search, Marin County*. Available: <https://ucmpdb.berkeley.edu/>. Accessed: July 5, 2023.

lead role in funding and conducting this research, whereas the reduction of losses due to geologic hazards is primarily a state and local responsibility.

### ***Disaster Mitigation Act of 2000***

The Disaster Mitigation Act of 2000 (DMA2K) (Public Law 106-390) amended the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988 to establish a Pre-Disaster Mitigation (PDM) program and new requirements for the federal post-disaster Hazard Mitigation Grant Program (HMGP). DMA2K encourages and rewards local and state pre-disaster planning. It promotes sustainability and seeks to integrate state and local planning with an overall goal of strengthening statewide hazard mitigation. This enhanced planning approach enables local, tribal, and state governments to identify specific strategies for reducing probable impacts of natural hazards such as floods, fire, and earthquakes. In order to be eligible for hazard mitigation funding after November 1, 2004, local governments are required to develop a Hazard Mitigation Plan (HMP) that incorporates specific program elements of the DMA2K law. The Town of Fairfax participated in the Marin Multi-Jurisdiction Local Hazard Mitigation Plan (LHMP), as described under Local Regulations, below.

## **State Regulations**

### ***California Multi-Hazard Mitigation Plan***

The State of California Multi-Hazard Mitigation Plan, also known as the State Hazard Mitigation Plan (SHMP), was approved by FEMA in 2018.<sup>23</sup> The SHMP outlines present and planned activities to address natural hazards. The adoption of the SHMP qualifies the State of California for federal funds in the event of a disaster. The State is required under the Disaster Mitigation Act of 2000, described above, to review and update its SHMP and resubmit for FEMA approval at least once every 5 years to ensure the continued eligibility for federal funding. The SHMP provides goals and strategies which address minimization of risks associated with natural hazards and response to disaster situations. The SHMP notes that the primary sources of losses in the state of California are fire and flooding; and while earthquakes occur less frequently, they account for the greatest combined losses.

### ***California Building Standards Code***

The California Building Code (CBC) is Part 2 of Title 24 of the California Code of Regulations. The CBC incorporates the International Building Code, a model building code adopted across the United States. The CBC is updated every three years, and the current 2022 version took effect July 1, 2022. Except for certain additions, deletions, and amendments, the Town adopted the 2022 CBC by reference pursuant to Title 15, Section 15.04.010 of the Town of Fairfax Municipal Code. Through the CBC, the State provides a minimum standard for building design and construction. Of particular relevance, Chapter 16 of the CBC contains specific requirements for structural

---

<sup>23</sup> CalOES. 2018. California State Hazard Mitigation Plan. Available: [https://www.caloes.ca.gov/wp-content/uploads/002-2018-SHMP\\_FINAL\\_ENTIRE-PLAN.pdf](https://www.caloes.ca.gov/wp-content/uploads/002-2018-SHMP_FINAL_ENTIRE-PLAN.pdf). Accessed July 5, 2023

(building) design, including seismic loads. Chapter 18 of the CBC includes requirements for soil testing, excavation and grading, and foundation design.

The 2022 CBC (based on the 2018 International Building Code) has been amended and adopted as the Building Code of the Town of Fairfax, regulating the erection, installation, alteration, repair, relocation replacement, addition to, use or maintenance of buildings within the Town.

#### *California Alquist–Priolo Earthquake Fault Zoning Act*

The Alquist–Priolo Earthquake Fault Zoning Act was passed in 1972 to mitigate the hazard of surface faulting to structures used for human occupancy. The main purpose of the law is to prevent the construction of buildings used for human occupancy on top of active faults. The law only addresses the hazard of surface fault rupture and is not directed toward other earthquake hazards, such as ground shaking or landslides.

The law requires the State Geologist to establish regulatory zones (known as Earthquake Fault Zones or Alquist–Priolo Zones) around the surface traces of active faults, and to issue appropriate maps. The maps are then distributed to all affected cities, counties and state agencies for their use in planning and controlling new or renewed construction. Generally, construction within 50 feet of an active fault zone is prohibited. However, the San Andreas Fault, zoned under the Alquist–Priolo Earthquake Fault Zoning Act, is approximately 7 miles north of the Planning Area.

#### *Seismic Hazards Mapping Act, California Public Resources Code Sections 2690–2699.6*

The Seismic Hazards Mapping Act was developed to protect the public from the effects of strong ground shaking, liquefaction, landslides, or other ground failure, and from other hazards caused by earthquakes. This act requires the State Geologist to delineate various seismic hazard zones and requires cities, counties, and other local permitting agencies to regulate certain development projects within these zones. Before a development permit is granted for a site within a Seismic Hazard Zone, a geotechnical investigation of the site must be conducted, and appropriate mitigation measures incorporated into the project design. Geotechnical investigations conducted within Seismic Hazard Zones must incorporate standards specified by the CGS Special Publication 117, Guidelines for Evaluating and Mitigating Seismic Hazards. There are no Seismic Hazard Zones within the Planning Area.

#### *California Department of Transportation (Caltrans)*

Jurisdiction of the California Department of Transportation (Caltrans) includes State and interstate routes within California. Any work within the right-of-way of a federal or State transportation corridor is subject to Caltrans regulations governing allowable actions and modifications to the right-of-way. Caltrans standards incorporate the CBC, and contain numerous rules and regulations to protect the public from seismic hazards such as surface fault rupture and ground shaking. In addition, Caltrans standards require that projects be constructed to minimize potential hazards associated with cut and fill operations, grading, slope instability, and expansive or corrosive soils, as described in the Caltrans Highway Design Manual (HDM).

Caltrans and local project sponsors, as part of the project development and delivery process, are obligated to conduct paleontological studies in response to federal, state, and local laws, regulations, and ordinances. For example, Section 305 of the Federal Aid Highway Act of 1956 (20 USC 78, 78a) gives authority to use federal funds to salvage archaeological and paleontological sites affected by highway projects.

#### ***National Pollution Discharge Elimination System Permits***

In California, the State Water Resources Control Board (SWRCB) and its Regional Water Quality Control Board (RWQCB) administer the National Pollution Discharge Elimination System (NPDES) program. The NPDES permit system was established as part of the Federal Clean Water Act to regulate both point source discharges and non-point source discharges to surface water of the United States, including the discharge of soils eroded from construction sites.

The NPDES program consists of characterizing receiving water quality, identifying harmful constituents (including siltation), targeting potential sources of pollutants (including excavation and grading operations), and implementing a comprehensive stormwater management program. Construction and industrial activities typically are regulated under statewide general permits that are issued by the SWRCB. Additionally, the SWRCB issues Water Discharge Requirements that also serve as NPDES permits under the authority delegated to the RWQCBs, under the Clean Water Act.

#### ***California Public Resources Code***

Sections 5097–5097.6 of the California Public Resources Code outline the requirements for cultural resource analysis prior to the commencement of any construction project on state lands. The state agency proposing the project may conduct the cultural resource analysis or they may contract with the State Department of Parks and Recreation. In addition, this section stipulates that the unauthorized disturbance or removal of archaeological, historical, or paleontological resources located on public lands is a misdemeanor. It prohibits the knowing destruction of objects of antiquity without a permit (expressed permission) on public lands and provides for criminal sanctions. As used in this section, "public lands" means lands owned by, or under the jurisdiction of, the state, or any city, county, district, authority, or public corporation, or any agency thereof.

### **Local Regulations**

#### ***Town of Fairfax General Plan 2010-2030 (General Plan)***

The Town of Fairfax General Plan 2010-2030 (General Plan) includes the following goals and policies associated with geology, soils, and seismicity:

**Goal CON-3:** Watershed and stream management.

**Goal LU-1:** Preserve scenic and natural resources.

**Policy LU-4.1.3.1:** New and renewed development shall comply with all regulations encompassed in the California Uniform Building Codes intended to reduce potential damage and threats to the public's health, safety, and welfare in the event of an earthquake.

**Goal OS-3:** Preserve the sensory qualities of open space for recreational, cultural, educational, and spiritual experiences.

**Policy OS-3.2.2:** Discourage development of any man-made structure on the ridgelines and within the ridge zones within the Fairfax Planning Area.

**Goal OS-4:** Balance the interests of public health and safety with the preservation of open space.

**Policy OS-4.1.1:** Areas that are prone to landslides must remain as open space, or be developed with adequate engineering to mitigate the hazard.

**Goal CON-5:** Soils and vegetation.

**Policy CON-5.1.1:** Educate residents of the Town on soil conservation and erosion issues.

**Goal S-1:** Minimize risks due to geologic hazards.

**Policy S-1.1.1:** Development and land use decision will be made using the best available geotechnical information.

**Program S-1.1.1.1:** Require geotechnical analyses for all new development and substantial improvement proposals.

**Policy S-1.1.2:** Geotechnical data will be easily available to the public and interested parties.

**Policy S-1.1.3:** The Town shall identify, evaluate, and encourage the seismic retrofit of public and private buildings that pose a risk or death or injury in a geohazard event.

**Policy S-1.1.4:** The Town shall preserve the Fairfax building stock by encouraging building owners to seismically retrofit their property.

**Policy S-1.1.5:** The Town shall collaborate with external agencies to ensure critical infrastructure remains functional following geohazard events.

**Goal S-4:** Community preparedness.

**Policy S-4.2.1:** The Town shall build community capacity to prepare for, respond to and recover from seismic events.

***Marin County Multi-Jurisdictional Local Hazard Mitigation Plan (MCM LHMP)***

In 2018, the Town took part in an updated multi-jurisdiction hazard mitigation plan to suit the local needs and capabilities of the County's partners and participating jurisdictions: The *Marin*



*County Multi-Jurisdictional Local Hazard Mitigation Plan (MCM LHMP).*<sup>24</sup> The Hazard Mitigation Plan identified earthquake and landslides as hazards of concern identifies resources, information, and strategies for mitigating risks associated with these hazards.

### ***Fairfax Town Code***

Chapter 8.32 of the Town Code details regulations, requirements, inspection, and enforcement related to preventing urban runoff pollution and protecting watercourses, fish and wildlife habitat. This includes erosion and sediment controls for construction sites, and erosion and sediment control plans for certain projects.

Chapter 13.04 of the Town Code requires that every building where persons reside, congregate or are employed which is situated upon property, an extremity of which is within 400 feet (measured in a horizontal plane) of an approved public sanitary sewer, shall be connected to the sewer by the owner of the premises. No building permit shall be issued for any building which is not to be connected to an approved public sanitary sewer without the written approval of the Health Officer. Further, Section 15.04.040 states that a permit may be issued for the repair, replacement, or alteration of a previously constructed septic tank or sewage disposal system other than a septic system where no public sewer is available upon approval by the Town Council, the Planning Commission, the Marin County Health Department, Sanitary District Number 1 of Marin County, and the Bay Area Water Quality Control Board.

Title 15 of the Town Code adopts the 2022 CBC in its entirety excepting certain modifications. As discussed above, the CBC regulates seismic design, the excavation of foundations and retaining walls, analysis of slope instability, requirements for drainage and grading, and other aspects of building design and construction that relate to geology, soils, and seismicity.

Chapter 16.08 outlines requirements for tentative maps for subdivisions, which includes a requirement for maps showing areas affected by geologic conditions posing potential safety hazards. In addition, a site reconnaissance statement by a geotechnical or certified engineering geologist regarding slide conditions, existing or anticipated; geologic features; topography; soil conditions and their effect on the design of the proposed subdivision is required.

Chapter 16.24 establishes standards for the subdivision of land, describing general requirements and minimum standards. These standards include a required soil report, subsurface geotechnical reports as determined necessary by the Town Engineer, and grading and erosion control consistent with Chapter 8.32. A Land Capacity Report is also required for major subdivisions, which includes identification and analysis of geologic and soil conditions and hazard potential.

Chapter 17.072, Hill Area Residential Development Overlay Zone, provides a review of and standards for development proposed for undeveloped land in hill areas. Development permit application permits must include a report by a registered civil engineer specializing in soils and foundations, that covers site soil drainage, relevant watershed boundaries, the relationship of the proposed construction to drainage patterns in the vicinity and the cumulative effects of runoff, site geology and the safety of proposed construction; and foundation adequacy; in addition to a grading

---

<sup>24</sup> County of Marin. 2018.

and erosion control plan. This chapter also sets development standards, which includes prohibiting construction on identified seismic or geologic hazards areas.

Chapter 17.112 and Chapter 17.116 describe the purpose of the Planned Development District (PDD) and Single-Family Residential Master Planned District (SF-RMP) respectively. Both chapters include density limits based on site conditions, including natural resources, topographic and geological, soil, and seismic conditions.

## **Impact Analysis**

---

### **SIGNIFICANCE CRITERIA**

For the purposes of this EIR, a significant impact would occur if the Proposed Project would:

- Criterion 1:** Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:
- i. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map or based on other substantial evidence of a known fault (refer to Division of Mines and Geology Special Publication 42),
  - ii. Strong seismic ground shaking,
  - iii. Seismically related ground failure, including liquefaction, or
  - iv. Landslides;
- Criterion 2:** Result in substantial soil erosion or the loss of topsoil;
- Criterion 3:** Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse;
- Criterion 4:** Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property;
- Criterion 5:** Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water; or
- Criterion 6:** Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature.

### **METHODOLOGY AND ASSUMPTIONS**

#### **Geology, Soils, and Seismicity**

This evaluation of geologic, soils, and seismic hazard conditions was completed using published geologic, soils, and seismic maps and studies from USGS, CGS, and ABAG. In order to reduce or mitigate potential hazards from earthquakes or other local geologic hazards, implementation of the Proposed Project would be governed by existing regulations at the federal, state, and local levels, including existing Town of Fairfax 2010-2030 General Plan (General Plan) policies and provisions. These regulations require that a proposed project design reduce potential adverse soils, geological, and seismicity effects to the extent feasible. Compliance with these regulations is required, not optional. These provisions ensure that development will continue to be completed in compliance with local and State regulations.

## **Paleontological Resources**

The evaluation of impacts on paleontological resources was completed using published geologic maps from CGS (Wagner, Bortugno, & McJunkin, 1991) and database query at the University of California Museum of Paleontology (University of California Museum of Paleontology, 2020), following procedures outlined in the Standard Guidelines provided by the Impact Mitigation Guidelines Revisions Committee of the Society of Vertebrate Paleontology (SVP) (Society of Vertebrate Paleontology, 2010).<sup>25, 26, 27</sup>

The Standard Guidelines include procedures for the investigation, collection, preservation, and cataloguing of fossil-bearing sites, including the designation of paleontological sensitivity. The Standard Guidelines are widely accepted among paleontologists and are followed by most investigators. The Standard Guidelines identify the two key phases of paleontological resource protection as (1) assessment and (2) implementation. Assessment involves identifying the potential for a project site or area to contain significant nonrenewable paleontological resources that could be damaged or destroyed by project excavation or construction. Implementation involves formulating and applying measures to reduce such adverse effects.

For the assessment phase, the Standard Guidelines prescribe the following steps:<sup>28</sup>

- Identify the geologic units that would be affected by the project, based on the project's depth of excavation—either at ground surface or below ground surface, defined as at least 5 feet below ground surface.
- Evaluate the potential of the identified geologic units to contain significant fossils (paleontological sensitivity).
- Identify impacts on paleontologically sensitive geologic units as a result of near-term and longer-term construction and operation that involve ground disturbance.
- Evaluate impact significance.

The paleontological sensitivity of the geologic units identified in the study area is classified according to four categories: SVP defines the level of potential as one of four sensitivity categories for sedimentary rocks: High, Undetermined, Low, and No Potential.<sup>29</sup>

- **High Potential.** Assigned to geologic units from which vertebrate or significant invertebrate, plant, or trace fossils have been recovered; and sedimentary rock units suitable for the preservation of fossils ("middle Holocene and older, fine-grained fluvial sandstones...fine-grained marine sandstones, etc."). Paleontological potential consists of the potential for yielding abundant fossils, a few significant fossils, or "recovered evidence

---

<sup>25</sup> Wagner, Bortugno, & McJunkin, 1991.

<sup>26</sup> University of California Museum of Paleontology, 2021.

<sup>27</sup> Society of Vertebrate Paleontology. 2010. *Standard Procedures for the Assessment and Mitigation of Adverse Impacts to Paleontological Resources*. Available: [https://vertpaleo.org/wp-content/uploads/2021/01/SVP\\_Impact\\_Mitigation\\_Guidelines.pdf](https://vertpaleo.org/wp-content/uploads/2021/01/SVP_Impact_Mitigation_Guidelines.pdf). Accessed: June 4, 2021.

<sup>28</sup> Ibid.

<sup>29</sup> Ibid.

for new and significant taxonomic, phylogenetic, paleoecologic, taphonomic, biochronologic, or stratigraphic data.”

- **Undetermined Potential.** Assigned to geologic units “for which little information is available concerning their paleontological content, geologic age, and depositional environment.” In cases where no subsurface data already exist, paleontological potential can sometimes be assessed by subsurface site investigations.
- **Low Potential.** Field surveys or paleontological research may allow determination that a geologic unit has low potential for yielding significant fossils (e.g., basalt flows). Mitigation is generally not required to protect fossils.
- **No Potential.** Some geologic units have no potential to contain significant paleontological resources, such as high-grade metamorphic rocks (such as gneisses and schists) and plutonic igneous rocks (such as granites and diorites). Mitigation is not required.

Geologic units at the project site were identified through California Geological Survey regional maps.<sup>30</sup> Determination of presence of paleontological resources in the units was based on the fossil record as documented by the University of California Museum of Paleontology.<sup>31</sup>

For the implementation phase, the Standard Guidelines states that evaluation must identify impacts on significant paleontological resources and formulate and implement measures to mitigate potential impacts relative to the paleontological sensitivity of the geologic units that would be disturbed.<sup>32</sup>

For the purposes of this analysis, an impact on paleontological resources was considered significant and to require mitigation if it would result in any of the following:

- Damage to or destruction of vertebrate paleontological resources.
- Damage to or destruction of any paleontological resource that:
  - Provides important information about evolutionary trends, including the development of biological communities;
  - Demonstrates unusual circumstances in the history of life;
  - Represents a rare taxon or a rare or unique occurrence;
  - Is in short supply and in danger of being destroyed or depleted;
  - Has a special and particular quality, such as being the oldest of its type or the best available example of its type; or
  - Provides information used to correlate strata for which it may be difficult to obtain other types of age dates.

---

<sup>30</sup> Wagner, Bortugno, & McJunkin, 1991.

<sup>31</sup> University of California Museum of Paleontology, 2021.

<sup>32</sup> Society of Vertebrate Paleontology, 2010.

## **RELEVANT PROPOSED GOALS AND POLICIES**

**Program 2-D Standards for Low Impact Clustered Residential Development on Large Sites.** There are a number of large sites with adequate access, utility services, and topography that might accommodate a clustered housing development, including both attached and detached single-family dwellings and accessory dwelling units. This program will review standards for clustered residential development in peer jurisdictions and determine whether they might be adapted to the Town's needs to expand opportunities for market rate housing while also preserving open space and protecting ridgelines and scenic views. Zoning Code amendments then will be prepared as appropriate to allow for this type of housing and to establish development standards and design review criteria, including requirements for discretionary review by the Planning Commission.

**Responsibility: Planning and Building**

**Timeframe: Zoning Code amendments drafted by end of 2023 for review and adoption by Town Council by June 2024**

**Objective: Land use regulations and standards for clustered hillside development that expand opportunities for market rate housing**

**Funding: General Fund and planning grants**

**Program 2-J Focused Geologic Study in the Town Center Area.** The Town will undertake a focused geologic study in the Town Center area to identify a range of measures that developers could incorporate to reduce project costs and codify specific standards to address associated risks. The intent of this program is to reduce the time and cost of development in areas of high liquefaction risk where workforce housing is envisioned by reducing the need for applicants to apply for additional permits, hire their own consultants, and pay for any outside consultants the Town needs to assist staff with project review.

**Responsibility: Planning and Building**

**Timeframe: Release RFP in Q2 2024; complete study by end of Q4 2024; incorporate appropriate development standards into Town Code by Q3 2025**

**Objective: Facilitate development of 159 units in Town Center over the planning period**

**Funding: General Fund**

## **IMPACTS**

**Impact 3.6-I Implementation of the Proposed Project would not expose residents, visitors and employees, as well as public and private structures, to substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault; strong seismic ground shaking; seismically related ground**

**failure, including liquefaction; or landslides. (*Less than Significant*)**

***Fault Rupture and Ground Shaking***

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

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

***Liquefaction***

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

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

***Landslides***

Implementation of the Proposed Project could have a significant impact due to landslides if new developments were to be located in areas with high landslide risk. Landslides may occur on slopes

of 15 percent or less; however, the probability is greater on steeper slopes that exhibit old landslide features such as steep slopes or banks, slanted vegetation, and transverse ridges. Landslide-susceptible areas are characterized by steep slopes and downslope creep of surface materials.

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

Development on these sites and in areas with slope stability hazards would be subject to the provisions of Chapter 17.072 of the Town Code, which establishes standards applicable to projects in areas of steep slope and landslide risk in the Hill Area Residential Development Overlay Zone. The ordinance outlines specifications for project-specific geotechnical investigations and a grading erosion control plan which are required for development in hillside areas. Development shall be prohibited in areas determined by the Town Engineer to be geotechnically unstable based on a report by a licensed soils engineer where the Planning Commission determines that the corrective work would be inconsistent with the purpose and the intent of this chapter. Approval of a hill area residential development permit shall be pursuant to geotechnical reports that find that the site can be developed without geologic or seismic hazards. Further, General Plan Policy OS-4.1.1 requires areas that are prone to landslides be developed with adequate engineering to mitigate the hazard.

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

Compliance with these NPDES, Marin County, and local Town Code and General Plan regulations would reduce impacts related to landslides. The impact would be less than significant.

#### *Mitigation Measures*

None required.

**Impact 3.6-2    Implementation of the Proposed Project would not result in substantial soil erosion or the loss of topsoil. (*Less than Significant*)**



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

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

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

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

As such, compliance with existing regulations would reduce impacts to the extent practicable and impacts related to erosion would be less than significant.

#### *Mitigation Measures*

None required.

**Impact 3.6-3      Implementation of the Proposed Project would not locate structures on expansive soils or on a geologic unit or soil that is unstable, or that would become unstable as a result of new development under the Proposed Project, and potentially result in on- or off-site landslide, lateral spreading, subsidence,**

**liquefaction or collapse, or create substantial risks to life or property. (*Less than Significant*)**

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

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

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

Development associated with the implementation of the Proposed Project could be located on soils that pose a low risk of subsidence. As discussed above under the Environmental Setting, the withdrawal of groundwater, oil, or natural gas can cause land to be displaced vertically. However, the USGS California Water Science Center maps of historical and current recorded subsidence does not identify the Town of Fairfax as an area that has experienced subsidence.<sup>33</sup> Marin County experiences slight risk of subsidence but only near the shoreline in combination with risk from sea level rise.<sup>34</sup> Therefore, subsidence is unlikely to result from construction created under the Proposed Project.

The potential risks related to construction on expansive or unstable soils from Proposed Project would be addressed through required compliance with the provisions of the California Building Code related to soils and foundations and related development standards contained in the Town Code and General Plan. General Plan Program S-1.1.1.1 requires geotechnical analyses for all new developments and substantial improvement proposals. Chapter 17.072 of the Town Code outlines

---

<sup>33</sup> U.S. Geological Survey (USGS). N.d. Areas of Land Subsidence in California. Available:

[https://ca.water.usgs.gov/land\\_subsidence/california-subsidence-areas.html](https://ca.water.usgs.gov/land_subsidence/california-subsidence-areas.html). Accessed: July 25, 2023.

<sup>34</sup> County of Marin. October, 2022. Housing & Safety Element Update to the Marin Countywide Plan. Available:

<https://www.marincounty.org/-/media/files/departments/cd/planning/environmental-impact/housing-and-safety-elements-eir-docs/marin-co-hese-public-draft-eirwith-appendicesoct-2022reduced-size.pdf?la=en>. Accessed: January 6, 2023.

specifications for project-specific geotechnical investigations and a grading erosion control plan which are required for development in hillside areas. Approval of a hill area residential development permit shall be pursuant to geotechnical reports that find that the site can be developed without geologic or seismic hazards.

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

Development in areas with expansive soils would require compliance with State and local building codes. Chapter 18 of the CBC regulates the excavation of foundations and retaining walls. This chapter regulates the preparation of a preliminary soil report, engineering geologic report, geotechnical report, and supplemental ground-response report. Chapter 18 also regulates analysis of expansive soils and the determination of the depth to groundwater table. Appendix Chapter J of the CBC regulates grading activities, including drainage and erosion control and construction on unstable soils, such as expansive soils and areas subject to liquefaction.

As such, compliance with existing regulations detailed above would ensure that any impact is reduced to a less than significant level.

#### *Mitigation Measures*

None required.

#### **Impact 3.6-4      Implementation of the Proposed Project would not be located on expansive soil, as defined in Table 18-I-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property. (*Less than Significant*)**

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

#### *Mitigation Measures*

None required.

**Impact 3.6-5      Implementation of the Proposed Project would not have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater. (*Less than Significant*)**

A significant impact could occur if new development under the Proposed Project would locate structures in areas without connection to the Town's sanitary sewer system and on soils incapable of adequately supporting the use of septic tanks. The Town Code (Chapter 13.04) requires that every building be connected to the public sewer system maintained by the sanitary district. In addition, Chapter 15.04 states a permit may be issued for the repair, replacement, or alteration of a previously constructed septic tank or sewage disposal system other than a septic system where no public sewer is available upon approval by the Town Council, the Planning Commission, the Marin County Health Department, Sanitary District Number 1 of Marin County, and the Bay Area Water Quality Control Board. Given that implementation of the Proposed Project would primarily involve the facilitation of housing construction in established neighborhoods on existing lots and infill sites, future development under the Proposed Project would generally connect to existing sewer trunk lines or require future expansion of existing sewer trunk lines. In the event that the use of septic tanks is permitted during development under the Proposed Project, compliance with all requirements outlined in Chapters 13.04 and 15.04 of the Town Code would be required. As a result, the impact would be less than significant.

*Mitigation Measures*

None required.

**Impact 3.6-6      Implementation of the Proposed Project would not directly or indirectly destroy a unique paleontological resource or site or unique geologic feature. (*Less than Significant*)**

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

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

*Mitigation Measures*

None required.

## 3.7 Greenhouse Gas Emissions

This section describes the environmental and regulatory setting for greenhouse gas (GHG) emissions. It also describes impacts related to GHG emissions that would result from implementation of the Proposed Project and mitigation for significant impacts where feasible and appropriate.

There was one response to the Notice of Preparation (NOP) regarding topics covered in this section. The commenter had concerns about the rise of local GHG emissions with the added number of housing units pursuant to the Proposed Project. These comments are addressed in this section and incorporated into the following analysis.

### Environmental Setting

---

#### THE GREENHOUSE EFFECT AND GREENHOUSE GASES

The process known as the *greenhouse effect* keeps the atmosphere near Earth's surface warm enough for the successful habitation of humans and other life forms. The greenhouse effect is created by sunlight that passes through the atmosphere. Some of the sunlight striking Earth is absorbed and converted to heat, which warms the surface. The surface emits a portion of this heat as infrared radiation, some of which is re-emitted toward the surface by GHGs. Human activities that generate GHGs increase the amount of infrared radiation absorbed by the atmosphere, thus enhancing the greenhouse effect and amplifying the warming of Earth.

Increases in fossil fuel combustion and deforestation have exponentially increased concentrations of GHGs in the atmosphere since the Industrial Revolution.<sup>1</sup> Rising atmospheric concentrations of GHGs in excess of natural levels result in increasing global surface temperatures—a process commonly referred to as *global warming*. Higher global surface temperatures, in turn, result in changes to Earth's climate system, including increased ocean temperature and acidity, reduced sea ice, variable precipitation, and increased frequency and intensity of extreme weather events.<sup>2</sup> Large-scale changes to Earth's system are collectively referred to as *climate change*.

---

<sup>1</sup> Intergovernmental Panel on Climate Change. 2007. *Climate Change 2007: The Physical Science Basis*. Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change. Available: [https://www.ipcc.ch/site/assets/uploads/2018/05/ar4\\_wg1\\_full\\_report-1.pdf](https://www.ipcc.ch/site/assets/uploads/2018/05/ar4_wg1_full_report-1.pdf). Accessed: August 16, 2021.

<sup>2</sup> Intergovernmental Panel on Climate Change. 2018. *Global Warming of 1.5°C. Contribution of Working Group I, II, and III (Summary for Policy Makers)*. Available: [https://www.ipcc.ch/site/assets/uploads/sites/2/2019/05/SR15\\_SPM\\_version\\_report\\_LR.pdf](https://www.ipcc.ch/site/assets/uploads/sites/2/2019/05/SR15_SPM_version_report_LR.pdf). Accessed: August 16, 2021.

The Intergovernmental Panel on Climate Change (IPCC) was established by the World Meteorological Organization and United Nations Environment Programme to assess scientific, technical, and socioeconomic information relevant to the understanding of climate change, its potential impacts, and options for adaptation and mitigation. The IPCC estimates that human-induced warming reached approximately 1 degree Celsius (°C) above pre-industrial levels in 2017, increasing at 0.2°C per decade. Under the current nationally determined contributions of mitigation from each country until 2030, global warming is expected to rise to 3°C by 2100, with warming to continue afterward.<sup>3</sup> Large increases in global temperatures could have substantial adverse effects on the natural and human environments worldwide and in California.

## **Greenhouse Gases**

The principle anthropogenic (human-made) GHGs contributing to global warming are carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>), nitrous oxide (N<sub>2</sub>O), and fluorinated compounds, including sulfur hexafluoride (SF<sub>6</sub>), hydrofluorocarbons (HFCs), and perfluorocarbons. Water vapor, the most abundant GHG, is not included in this list because its natural concentrations and fluctuations far outweigh its anthropogenic sources.

The primary GHGs of concern associated with the project are CO<sub>2</sub>, CH<sub>4</sub>, and N<sub>2</sub>O. Principal characteristics of these pollutants are discussed below.

- **Carbon dioxide** enters the atmosphere through fossil fuels (oil, natural gas, and coal) combustion, solid waste decomposition, plant and animal respiration, and chemical reactions (e.g., manufacture of cement). CO<sub>2</sub> is also removed from the atmosphere (or sequestered) when it is absorbed by plants as part of the biological carbon cycle.
- **Methane** is emitted during the production and transport of coal, natural gas, and oil. Methane emissions also result from livestock and other agricultural practices and from the decay of organic waste in municipal solid waste landfills.
- **Nitrous oxide** is emitted during agricultural and industrial activities, as well as during combustion of fossil fuels and solid waste.

Methods have been set forth to describe emissions of GHGs in terms of a single gas to simplify reporting and analysis. The most commonly accepted method to compare GHG emissions is the global warming potential (GWP) methodology defined in IPCC reference documents. IPCC defines the GWP of various GHG emissions on a normalized scale that recasts all GHG emissions in terms of carbon dioxide equivalent (CO<sub>2</sub>e), which compares the gas in question to that of the same mass of CO<sub>2</sub> (CO<sub>2</sub> has a global warming potential of 1 by definition).

Table 3.7-1 lists the global warming potential of CO<sub>2</sub>, CH<sub>4</sub>, and N<sub>2</sub>O and their lifetimes in the atmosphere.

---

<sup>3</sup> Ibid.

**Table 3.7-1: Lifetimes and Global Warming Potentials of Key Greenhouse Gases**

<i>Greenhouse Gas</i>	<i>Global Warming Potential (100 years)</i>	<i>Lifetime (years)</i>
Carbon Dioxide (CO <sub>2</sub> )	1	— <sup>a</sup>
Methane (CH <sub>4</sub> )	25	12
Nitrous Oxide (N <sub>2</sub> O)	298	114

<sup>a</sup> No lifetime (years) for carbon dioxide was presented by CARB.

Source: California Air Resources Board. 2021. *GHG Global Warming Potentials*. Available: <https://ww2.arb.ca.gov/ghg-gwps>. Accessed: August 7, 2021.

The California Air Resources Board (CARB) recognizes the importance of short-lived climate pollutants (SLCP) (described in *Regulatory Setting*) and reducing these emissions to achieve the State's overall climate change goals. SLCP's have atmospheric lifetimes on the order of a few days to a few decades, and their relative climate forcing impacts, when measured in terms of how they heat the atmosphere, can be tens, hundreds, or even thousands of times greater than that of CO<sub>2</sub>.<sup>4</sup> Given their short-term lifespan and warming impact, short-lived climate pollutants are measured in terms of CO<sub>2</sub>e using a 20-year time period. The use of GWPs with a time horizon of 20 years captures the importance of the short-lived climate pollutants and gives a better perspective as to the speed at which emission controls will affect the atmosphere relative to CO<sub>2</sub> emission controls. The Short-Lived Climate Pollutant Reduction Strategy (SLCP Reduction Strategy), as discussed in the Regulatory Setting, addresses CH<sub>4</sub>, HFC gases, and anthropogenic black carbon. CH<sub>4</sub> has a lifetime of 12 years and a 20-year GWP of 72. HFC gases have lifetimes of 1.4 to 52 years and a 20-year GWP of 437 to 6,350. Anthropogenic black carbon has a lifetime of a few days to weeks and a 20-year GWP of 3,200. The Proposed Project's emission sources are not major contributors of HFC and black carbon; thus, they are not discussed herein.

## Greenhouse Gas Reporting

A GHG inventory is a quantification of all GHG emissions and sinks<sup>5</sup> within a selected physical and/or economic boundary. GHG inventories can be performed on a large scale (e.g., for global and national entities) or on a small scale (e.g., for a building or person). Although many processes are difficult to evaluate, several agencies have developed tools to quantify emissions from certain sources. Table 3.7-2 outlines the most recent global, national, statewide, and local GHG inventories to help contextualize the magnitude of potential project-related emissions.

**Table 3.7-2: Global, National, State, and Regional Greenhouse Gas Emission Inventories**

<i>Emissions Inventory</i>	<i>Carbon Dioxide Equivalent (MTCO<sub>2</sub>e)</i>
2020 United Nations Global Inventory <sup>a</sup>	54,000,000,000
2019 USEPA National Inventory <sup>b</sup>	5,981,400,000
2018 CARB State Inventory <sup>c</sup>	369,200,000

<sup>4</sup> California Air Resources Board. 2017. *Short-Lived Climate Pollutant Reduction Strategy*. March. Available: [https://ww2.arb.ca.gov/sites/default/files/2018-12/final\\_slcp\\_report%20Final%202017.pdf](https://ww2.arb.ca.gov/sites/default/files/2018-12/final_slcp_report%20Final%202017.pdf). Accessed: August 16, 2021.

<sup>5</sup> A GHG sink is a process, activity, or mechanism that removes a GHG from the atmosphere.

2015 BAAQMD GHG Emissions Inventory <sup>d</sup>	85,000,000
2020 Town of Fairfax Greenhouse Gas Emissions Inventory <sup>e</sup>	29,348
MTCO <sub>2</sub> e = metric tons of carbon dioxide equivalents	

*Sources:*

- a. United Nations. 2022. *Emissions Gap Report 2022*. Available: <https://www.unep.org/resources/emissions-gap-report-2022>. Accessed: January 5, 2023.
- b. U.S. Environmental Protection Agency. 2022. *Inventory of U.S. Greenhouse Gas Emissions and Sinks, 1990-2020*. April. Available: <https://www.epa.gov/system/files/documents/2022-04/us-ghg-inventory-2022-main-text.pdf>. Accessed: January 5, 2023.
- c. California Air Resources Board. 2022. *California Greenhouse Gas Emissions for 2000 to 2020, Trends of Emissions and Other Indicators*. October 26. Available: [https://ww2.arb.ca.gov/sites/default/files/classic/cc/inventory/2000-2020\\_ghg\\_inventory\\_trends.pdf](https://ww2.arb.ca.gov/sites/default/files/classic/cc/inventory/2000-2020_ghg_inventory_trends.pdf). Accessed: January 5, 2023.
- d. Bay Area Air Quality Management District. 2017. *Final 2017 Clean Air Plan, Spare the Air, Cool the Climate*. Adopted: April 19. Available: [https://www.baaqmd.gov/~media/files/planning-and-research/plans/2017-clean-air-plan/attachment-a\\_-proposed-final-cap-vol-1-pdf.pdf?la=en](https://www.baaqmd.gov/~/media/files/planning-and-research/plans/2017-clean-air-plan/attachment-a_-proposed-final-cap-vol-1-pdf.pdf?la=en). Accessed: January 5, 2023.
- e. Marin Climate & Energy Partnership. 2022. *Town of Fairfax Greenhouse Gas Inventory for Community Emissions for the Year 2020*. Available: <https://marinclimate.org/greenhouse-gas-inventories/>. Accessed: August 7, 2023.

## Potential Climate Change Effects

Climate change is a complex process that has the potential to alter local climatic patterns and meteorology. Although modeling indicates that climate change will result in sea level rise (both globally and regionally) as well as changes in climate and rainfall, among other effects, there remains uncertainty about characterizing precise local climate characteristics and predicting precisely how various ecological and social systems will react to any changes in the existing climate at the local level. Regardless of this uncertainty, it is widely understood that substantial climate change is expected to occur in the future, although the precise extent will take further research to define. Specifically, significant impacts from global climate change worldwide and in California include the following.

- Declining sea ice and mountain snowpack levels, thereby increasing sea levels and sea surface evaporation rates with a corresponding increase in atmospheric water vapor, due to the atmosphere's ability to hold more water vapor at higher temperatures.<sup>6</sup>
- Rising average global sea levels primarily due to thermal expansion and the melting of glaciers, ice caps, and the Greenland and Antarctic ice sheets.<sup>7</sup>
- Changing weather patterns, including changes to precipitation and wind patterns, and more energetic aspects of extreme weather including droughts, heavy precipitation, heat waves, extreme cold, and the intensity of tropical cyclones.<sup>8</sup>

<sup>6</sup> California Natural Resources Agency. 2018. *California's Fourth Climate Change Assessment Statewide Summary Report*. Available: [https://www.energy.ca.gov/sites/default/files/2019-11/Statewide\\_Reports-SUM-CCCA4-2018-013\\_Statewide\\_Summary\\_Report\\_ADA.pdf](https://www.energy.ca.gov/sites/default/files/2019-11/Statewide_Reports-SUM-CCCA4-2018-013_Statewide_Summary_Report_ADA.pdf). Accessed: August 16, 2021.

<sup>7</sup> Intergovernmental Panel on Climate Change. 2018. *Global Warming of 1.5°C. Contribution of Working Group I, II, and III (Summary for Policy Makers)*. Available: [https://www.ipcc.ch/site/assets/uploads/sites/2/2019/05/SR15\\_SPM\\_version\\_report\\_LR.pdf](https://www.ipcc.ch/site/assets/uploads/sites/2/2019/05/SR15_SPM_version_report_LR.pdf). Accessed: August 16, 2021.

<sup>8</sup> Ibid.



- Declining Sierra Nevada snowpack levels, which account for approximately half of the surface water storage in California, by 70 percent to as much as 90 percent over the next 100 years.<sup>9</sup>
- Increasing the number of days conducive to ozone formation (e.g., clear days with intense sun light) by 25 percent to 85 percent (depending on the future temperature scenario) by the end of the 21st century in high ozone areas.<sup>10</sup>
- Increasing the potential for erosion of California's coastlines and seawater intrusion into the Sacramento Delta and associated levee systems due to the rise in sea level.<sup>11</sup>
- Exacerbating the severity of drought conditions in California such that durations and intensities are amplified, ultimately increasing the risk of wildfires and consequential damage incurred.<sup>12</sup>
- Under changing climate conditions, agriculture is projected to experience lower crop yields due to extreme heat waves, heat stress and increased water needs of crops and livestock (particularly during dry and warm years), and new and changing pest and disease threats.<sup>13</sup>
- The impacts of climate change, such as increased heat-related events, droughts, and wildfires, pose direct and indirect risks to public health, as people will experience earlier death and worsening illnesses. Indirect impacts on public health include increased vector-borne diseases, stress and mental trauma due to extreme events and disasters, economic disruptions, and residential displacement.<sup>14</sup>

## **REGULATORY SETTING**

### **Federal**

There is currently no federal overarching law specifically related to climate change or the reduction of GHG emissions. However, fuel standards have been adopted to reduce GHG emissions from cars and light duty trucks and recent amendments have been proposed.

#### *Corporate Average Fuel Economy Standards*

The National Highway Traffic Safety Administration's (NHTSA's) Corporate Average Fuel Economy (CAFE) standards require substantial improvements in fuel economy and reductions in GHG emissions generated by passenger cars and light trucks (collectively, light-duty vehicles) sold in the U.S. Medium- and heavy-duty trucks and engines are also regulated separately. In March 2020, NHTSA and EPA published CAFE and carbon dioxide emissions standards for model years 2021-2026 under the Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule that increased standards by 1.5 percent each year for light-duty vehicle model years 2021 through 2026. Originally, the SAFE

---

<sup>9</sup> California Natural Resources Agency. 2018. *California's Fourth Climate Change Assessment Statewide Summary Report*. Available: [https://www.energy.ca.gov/sites/default/files/2019-11/Statewide\\_Reports-SUM-CCCA4-2018-013\\_Statewide\\_Summary\\_Report\\_ADA.pdf](https://www.energy.ca.gov/sites/default/files/2019-11/Statewide_Reports-SUM-CCCA4-2018-013_Statewide_Summary_Report_ADA.pdf). Accessed: August 16, 2021.

<sup>10</sup> Ibid.

<sup>11</sup> Ibid.

<sup>12</sup> Ibid.

<sup>13</sup> Ibid.

<sup>14</sup> Ibid.

Vehicles Rule Part One (SAFE I Rule) codified and pronounced that federal fuel economy standards preempted state and local laws. After a series of petitions, a filed lawsuit, extensive public comment, and a presidential executive order, NHTSA repealed the SAFE Vehicles Rule in December 2021. This decision allows California to continue to set state standards to address local communities' environmental and public health challenges including tailpipe emissions. In March 2022, NHTSA finalized revised CAFE Standards for model years 2024-2026, which require an industry-wide fleet average of approximately 49 miles per gallon (mpg) for light-duty vehicles in model year 2026 (increases 8 percent annually for model years 2024-2025 and 10 annually for model year 2026). NHTSA estimates that the final standards will avoid consumption of about 234 billion gallons of gas between model years 2030 to 2050 and reduce GHG emissions, air pollution, and the country's dependence on oil.

### ***Energy Star Program***

Energy Star is a joint program of the EPA and the U.S. Department of Energy (DOE). The program establishes criteria for energy efficiency for household products and labels energy efficient products with the Energy Star seal. For example, homes can earn the Energy Star certification if they are verified to meet the EPA's guidelines for energy efficiency. To earn the Energy Star certification in California, site-built or modular homes must meet energy efficiency the performance target as determined by energy modeling through a California Energy Commission- (CEC-) approved software program, construct the home using the preferred set of efficiency measures, and verify that the home meets every item on the National Rater Checklist through a Rater. Energy Star certified homes typically feature more efficient walls; windows; air ducts; heating, ventilation, and air conditioning (HVAC) system; and lighting and appliances that allow homeowners to operate their homes using less power and resources.

## **State**

### ***Statewide GHG Emission Targets***

Reducing GHG emissions in California has been the focus of the State government for approximately two decades. GHG emission targets established by the State legislature include reducing statewide GHG emissions to 1990 levels by 2020 (Assembly Bill [AB] 32 of 2006) and then reducing them to 40 percent below 1990 levels by 2030 (Senate Bill [SB] 32 of 2016), consistent with the target in Executive Order (EO) 30-15. EO S-3-05 calls for statewide GHG emissions to be reduced to 80 percent below 1990 levels by 2050. These targets are in line with the scientifically established levels needed to limit the rise in global temperature from pre-industrial levels to no more than two degrees Celsius (°C), the warming threshold at which major climate disruptions, such as super droughts and rising sea levels, are projected.<sup>15</sup> Based on worldwide scientific agreement that carbon neutrality must be achieved by midcentury (established by the Paris Agreement in 2015), EO B-55-18 sets a State goal to achieve carbon neutrality no later than 2045 and achieve and maintain net negative emissions thereafter. EO B-55-18 charges CARB with developing a framework for implementing and tracking progress toward these goals. This executive

---

<sup>15</sup> United Nations, Historic Paris Agreement on Climate Change: 195 Nations Set Path to Keep Temperature Rise Well Below 2 Degrees Celsius, December 13, 2015, <https://unfccc.int/news/finale-cop21>, accessed August 16, 2021.

order extends EO S-3-05 and acknowledges the role of increased carbon sequestration on natural and working lands for the State to achieve carbon neutrality and become net carbon negative.

### *Climate Change Scoping Plan*

California's 2017 Climate Change Scoping Plan (2017 Scoping Plan), prepared by CARB, outlines the main strategies California will implement to achieve the legislated GHG emissions target for 2030 and "substantially advance toward our 2050 climate goals."<sup>16</sup> It also identifies the reductions needed by each GHG emission sector (e.g., industry, transportation, electricity generation). The State has also passed more detailed legislation to address GHG emissions associated with industrial sources, transportation, electricity generation, and energy consumption, as summarized below.

In November 2022, CARB released its 2022 Scoping Plan that continues the path set by the 2017 Scoping Plan for achieving statewide reduction targets for 2030 (40 percent below 1990 levels) and carbon neutrality by 2045 or earlier. The Plan scientifically reinforces the importance of comprehensive GHG reduction strategies and introduces new emphasis on the role of Natural and Working Lands (NWL) such as forests, shrublands/chaparral, croplands, wetlands, and other lands that will help sequester carbon from the atmosphere. The 2022 Scoping Plan draws on four modeled scenarios that reduce petroleum use from 81 to 99 percent below 2022 levels, and the proposed scenario reduces petroleum use by 91 percent in 2045 from 2022 levels.

### *California Climate Adaptation Strategy*

The California Climate Adaptation Strategy (AB 1482, 2015) links together the State's existing and planned climate adaptation efforts, showing how they fit together to achieve California's six climate resilience priorities:

- Strengthen protections for climate vulnerable communities,
- Bolster public health and safety to protect against increasing climate risks,
- Build a climate resilient economy,
- Accelerate nature-based climate solutions and strengthen climate resilience of natural systems,
- Make decisions based on the best available climate science, and
- Partner and collaborate to leverage resources.

The strategy is required to be updated every three years, most recently in 2021. The 2021 strategy builds on successful elements of previous strategies and reflects concentrated efforts to protect communities, the economy, and nature from climate change impacts. The Climate Adaptation Strategy seeks to draw connections between sectors by bringing together numerous state plans and strategies including statewide climate action plans (like the Natural and Working Lands Climate

---

<sup>16</sup> California Air Resources Board, California's 2017 Climate Change Scoping Plan: The Strategy for Achieving California's 2030 Greenhouse Gas Target, November 2017, [https://www.arb.ca.gov/cc/scopingplan/scoping\\_plan\\_2017.pdf](https://www.arb.ca.gov/cc/scopingplan/scoping_plan_2017.pdf), accessed August 16, 2021.

Smart Strategy, discussed below), sector-based strategies, regionally-focused strategies, and State stewardship plans.

### *Nature-Based Climate Solutions (Executive Order N-82-20)*

In October 2020, the Nature Based Solutions EO N-82-20 elevated the role of natural working lands in the fight against climate change and advanced biodiversity conservation as an administration priority. As part of this order, the State committed to the goal of conserving 30 percent of California's lands and coastal waters by 2030 (referred to as the "30x30" strategy), overseen by the California Natural Resources Agency (CRNA). The Pathways to 30x30<sup>17</sup> strategy identifies key objectives and strategic actions toward this target.

Critical to this effort is the recognition of the role of NWL in offsetting atmospheric carbon. The Natural and Working Lands Climate Smart Strategy<sup>18</sup> defines the eight types of NWL in California (forests, shrublands/chaparral, developed lands, wetlands, seagrasses and seaweeds, croplands, grasslands, and sparsely vegetated lands), highlights priority nature-based climate solutions to address the climate crisis, and explores opportunities for regional climate smart land management, among other objectives. Nature-based solutions focus on enhancing the co-benefits of ecosystem services of resources like natural vegetation (e.g., trees, parks, and urban forestry), wetlands and riparian areas, agricultural practices, and forest management.

### *Transportation-Related Standards and Regulations*

In 2007, CARB adopted the Low-Carbon Fuel Standard to reduce the carbon intensity of California's transportation fuels. The Low-Carbon Fuel Standard applies to fuels used by on-road motor vehicles as well as off-road vehicles, including construction equipment. In addition to regulations to address issues related to tailpipe emissions and transportation fuels, the State legislature has passed regulations to address issues related to the number of miles driven in on-road vehicles.

EO B-16-12 orders CARB, the CEC, and the California Public Utilities Commission (CPUC), to support the rapid commercialization of zero-emission vehicles (ZEVs) and achieve various benchmarks related to ZEVs. In response, CARB established the Advanced Clean Cars program (now referred to as Advanced Clean Cars 1) that set more stringent GHG emission standards and fuel efficiency standards for fossil fuel-powered on-road vehicles. These regulations are projected to reduce GHG emissions from new vehicles by approximately 40 percent in 2025 relative to 2012 model-year vehicles.<sup>19</sup> In addition, the program's ZEV regulation requires battery, fuel cell, and

---

<sup>17</sup> California Natural Resources Agency, Pathways to 30x30 California: Accelerating Conservation of California's Nature, April 22, 2022, <https://canature.maps.arcgis.com/sharing/rest/content/items/8da9faef231c4e31b651ae6dff95254e/data>, accessed May 19, 2022.

<sup>18</sup> Natural and Working Lands Climate Smart Strategy Draft for Public Comment, October 11, 2021, [https://resources.ca.gov/-/media/CNRA-Website/Files/Initiatives/Expanding-Nature-Based-Solutions/FINAL\\_DesignDraft\\_NWL\\_100821\\_508-opt.pdf](https://resources.ca.gov/-/media/CNRA-Website/Files/Initiatives/Expanding-Nature-Based-Solutions/FINAL_DesignDraft_NWL_100821_508-opt.pdf), accessed May 19, 2022.

<sup>19</sup> California Air Resources Board, Advanced Clean Cars Program, 2021, <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-cars-program/about>, accessed August 16, 2021.

plug-in hybrid electric vehicles (EVs) to make up a growing percentage of California's new vehicle sales. By 2025, when the rules are fully implemented, the statewide fleet of new cars and light-duty trucks will emit 75 percent less smog-forming pollution than the statewide fleet in 2012.<sup>20</sup> The proposed Advanced Clean Cars 2 program lays out California's legally binding path (Executive Order N-79-20) to achieving 100 percent ZEV sales in 2035. Additionally, Executive Order B-48-18, signed into law in January 2018, requires all State entities to work with the private sector to have at least 5 million ZEVs on the road by 2030, 200 hydrogen fueling stations available, and 250,000 EV charging stations installed by 2025. Furthermore, it specifies that 10,000 of these charging stations must be direct-current fast chargers.

Since passage of the Sustainable Communities and Climate Protection Act (SB 375) in 2008, CARB has required metropolitan planning organizations (MPOs) to adopt plans that show reductions in GHG emissions from passenger cars and light-duty trucks in their respective regions for 2020 and 2035.<sup>21</sup> These plans, known as Sustainable Communities Strategies (SCS) link land use and housing allocations to transportation planning and related mobile-source emissions. The Metropolitan Transportation Commission (MTC) serves as the MPO for the nine counties in the Bay Area region, including Marin County, which is where the Planning Area site is located.

Under SB 743, in 2013, the Governor's Office of Planning and Research (OPR) implemented changes to the California Environmental Quality Act (CEQA) Guidelines, including the addition of Section 15064.3, which requires CEQA transportation analyses to move away from a focus on vehicle delay and level of service (LOS).<sup>22</sup> In support of these changes, OPR published its Technical Advisory on Evaluating Transportation Impacts in CEQA, which recommends that the determination of the transportation impact of a project be based on whether project-related vehicle miles traveled (VMT) per capita (or VMT per employee) would be 15 percent lower than that of existing development in the region.<sup>23</sup> OPR's technical advisory explains that this criterion is consistent with Section 21099 of the California Public Resources Code, which states that the criteria for determining significance must "promote the reduction in greenhouse gas emissions."<sup>24</sup> This metric is intended to replace the use of vehicle delay and LOS to measure transportation-related impacts.

In response to executive orders N-19-19 and N-79-20, the California State Transportation Agency (CalSTA) adopted the Climate Action Plan for Transportation Infrastructure (CAPTI) in July 2021 to support state goals for reducing GHG emissions in transportation, which account for more than 40 percent of all polluting emissions. CAPTI outlines strategies and actions that will advance more

---

<sup>20</sup> Ibid.

<sup>21</sup> California Air Resources Board, SB 375 Regional Greenhouse Gas Emissions Reduction Targets, Approved by the California Air Resources Board on March 22, 2018, <https://www.arb.ca.gov/cc/sb375/finaltargets2018.pdf>, accessed August 16, 2021.

<sup>22</sup> Governor's Office of Planning and Research, Proposed Updates to the CEQA Guidelines, November 2017, [http://opr.ca.gov/docs/20171127\\_Comprehensive\\_CEQA\\_Guidelines\\_Package\\_Nov\\_2017.pdf](http://opr.ca.gov/docs/20171127_Comprehensive_CEQA_Guidelines_Package_Nov_2017.pdf), accessed August 16, 2021.

<sup>23</sup> Governor's Office of Planning and Research, Technical Advisory on Evaluating Transportation Impacts in CEQA, November 2017, [http://www.opr.ca.gov/docs/20171127\\_Transportation\\_Analysis\\_TA\\_Nov\\_2017.pdf](http://www.opr.ca.gov/docs/20171127_Transportation_Analysis_TA_Nov_2017.pdf), accessed August 16, 2021.

<sup>24</sup> Ibid.

sustainable, equitable, and healthy modes of transportation and accelerate the transition to ZEV technology. CAPTI also helps California plan for how to best administer potential new sources of federal climate-related transportation funding.

### ***Legislation Associated with Electricity Generation***

In 2002, the State passed legislation (SB 1078) that required 20 percent of electricity retail sales to be served by renewable resources by 2017, known as the Renewables Portfolio Standard (RPS) program. In 2015, this requirement was increased to 50 percent by 2030 (SB 350), and under SB 100 (2018), California utilities are now required to achieve 52 percent of their electric retail sales to end-use customers from renewable and zero-carbon resources by 2027, 60 percent by 2030, and 100 percent by 2045. SB 100 also requires the CEC, CPUC, and CARB to issue a joint policy report by 2021 and every four years thereafter; the 2021 SB 1000 Joint Agency Report assesses the costs and benefits of additional energy resources and resource building rates needed to achieve 100-percent clean electricity, which modeling results have shown is technically achievable through multiple pathways.<sup>25</sup>

### ***Building Energy Efficiency Standards (Title 24, Part 6)***

The energy consumption of new residential and nonresidential buildings in California is regulated by the California Code of Regulations (CCR), Title 24, Part 6, Building Energy Efficiency Standards (California Energy Code). The CEC updates the California Energy Code every 3 years with more stringent design requirements to reduce energy consumption, resulting in lower GHG emissions. The 2019 California Energy Code, which took effect on January 1, 2020, requires builders to use more energy-efficient building technologies to comply with requirements regarding energy use. New residential units are required to include solar panels to offset the estimated electrical demands of each unit (California Solar Mandate, CCR, Title 24, Part 6, Section 150.1[c]14). CEC estimates that the 2019 California Energy Code's combination of required energy-efficient features and mandatory solar panels will result in new residential units that use 53 percent less energy than those that were designed to meet the 2016 California Energy Code. CEC also estimates that the 2019 California Energy Code will result in new commercial buildings that use 30 percent less energy than those that were designed to meet the 2016 California Energy Code, primarily through the transition to high-efficacy lighting.<sup>26</sup>

The 2022 Energy Code has been adopted by CEC and will take effect starting January 1, 2023. This update focuses on four key areas in new construction of homes and businesses that support the State's mission to achieve a 100-percent clean energy future: encouraging electric heat pump technology and use, establishing electric-ready requirements when natural gas is installed, expanding solar photovoltaic (PV) system and battery storage standards, and strengthening ventilation standards to improve indoor air quality. This means that all new homes are required to be electric-ready, with dedicated 240-volt outlets and space for electric appliances that will

---

<sup>25</sup> California Energy Commission, "SB 100 Joint Agency Report," September 2021, <https://www.energy.ca.gov/sb100>, accessed May 13, 2022.

<sup>26</sup> California Energy Commission, 2019 Building Energy Efficiency Standards: Frequently Asked Questions, March 2018, [https://www.energy.ca.gov/sites/default/files/2020-03/Title\\_24\\_2019\\_Building\\_Standards\\_FAQ\\_ada.pdf](https://www.energy.ca.gov/sites/default/files/2020-03/Title_24_2019_Building_Standards_FAQ_ada.pdf), accessed August 16, 2021.

eventually replace installed gas appliances. Additionally, select businesses will have systems maximized for onsite solar energy to avoid peak energy demand times and improved efficiency standards for building design and grid integration.<sup>27</sup>

### *Green Building Standards Code (Title 24, Part 11)*

The California Green Building Standards Code—Title 24, Part 11, California Code of Regulations—known as CALGreen, is the nation’s first mandatory green building standards code. In 2007, the California Building Standards Commission (CBSC) developed green building standards in an effort to meet the GHG reduction goals of AB 32. CBSC has the authority to propose CALGreen standards for nonresidential structures that include new buildings or portions of new buildings, additions and alterations, and all occupancies where no other State agency has the authority to adopt green building standards applicable to those occupancies. Voluntary green building measures can also be used to achieve CALGreen Tier 1 or Tier 2 levels, which comply with or exceed by at least 15 percent (respectively) the latest edition of “Savings By Design, Healthcare Modeling Procedures.”<sup>28</sup> The 2019 CALGreen Code is the current version that took effect January 1, 2020. The 2021 Triennial Code Adoption Cycle is currently underway, and once approved, the 2022 CALGreen Code will take effect January 1, 2023. Changes under the 2022 CALGreen Code include increased requirements for EV charging spaces and facilities for multifamily developments.

### *Clean Energy and Pollution Reduction Act of 2015*

SB 350 was approved by the California legislature in September 2015 and signed by Governor Brown in October 2015. Its key provisions require the following by 2030: 1) a renewables portfolio standard of 50 percent and 2) a doubling of energy efficiency by 2030, including improvements to the efficiency of existing buildings. These provisions will be implemented by future actions of the CPUC and CEC.

### *Solid Waste Diversion Regulations*

To minimize the amount of solid waste that must be disposed of in landfills, the State legislature passed the California Integrated Waste Management Act of 1989 (AB 939), effective January 1990. According to AB 939, all cities and counties were required to divert 50 percent of all solid waste from landfill facilities by January 1, 2000. Through other statutes and regulations, this 50 percent diversion rate also applies to State agencies. In order of priority, waste reduction efforts must promote source reduction, recycling and composting, and environmentally safe transformation and land disposal.

In 2011, AB 341 modified the California Integrated Waste Management Act and directed the California Department of Resources Recycling and Recovery (CalRecycle) to develop and adopt

---

<sup>27</sup> California Energy Commission, 2022 Building Energy Efficiency Standards Summary, August 2021, [https://www.energy.ca.gov/sites/default/files/2021-08/CEC\\_2022\\_EnergyCodeUpdateSummary\\_ADA.pdf](https://www.energy.ca.gov/sites/default/files/2021-08/CEC_2022_EnergyCodeUpdateSummary_ADA.pdf), accessed May 19, 2022.

<sup>28</sup> Pacific Gas and Electric Company, 2016 Savings By Design Healthcare Baseline Procedures, April 2016, [https://www.calmac.org/publications/2016\\_Savings\\_by\\_Design\\_Healthcare\\_Baseline\\_Study\\_Final.pdf](https://www.calmac.org/publications/2016_Savings_by_Design_Healthcare_Baseline_Study_Final.pdf), accessed June 16, 2022.

regulations for mandatory commercial recycling. AB 341 also established the goal that no less than 75 percent of solid waste generated by source-reduced, recycled, or composted by 2020.

In 2014, AB 1826 required businesses, including State agencies, to recycle organic waste and required local jurisdictions to implement an organic waste recycling program (as of January 2016). From January 2017, AB 2396 further required state agencies to include information on their compliance with mandatory commercial recycling (AB 341) and commercial organics recycling (AB 1826) requirements in their annual report to CalRecycle. This information is collected in the State Agency Reporting Center (SARC) database.

### *Cap-and-Trade Program*

CARB administers the State's cap-and-trade program, which covers GHG sources that emit more than 25,000 metric tons of carbon dioxide equivalents per year (MTCO<sub>2</sub>e/year), such as refineries, power plants, and industrial facilities. This market-based approach to reducing GHG emissions provides economic incentives for achieving GHG emission reductions.

### *Short-Lived Climate Pollutant Reduction Strategy*

In 2014, SB 605 directed CARB, in coordination with other State agencies and local air districts, to develop a comprehensive Short-Lived Climate Pollutant (SLCP) Reduction Strategy. In 2016, SB 1383 directed CARB to approve and implement the SLCP Reduction Strategy to achieve the following reductions in SLCPs, which account for about one-third of the cumulative GHG emissions reduction the State is relying on to achieve the statewide 2030 GHG emissions target established under SB 32:

- 40 percent reduction in CH<sub>4</sub> relative to 2013 levels by 2030,
- 40 percent reduction in HFC gases relative to 2013 levels by 2030, and
- 50 percent reduction in anthropogenic black carbon relative to 2013 levels by 2030.

SB 1383 also establishes the following targets for reducing organic waste in landfills as well as CH<sub>4</sub> emissions from dairy and livestock operations, as follows:

- 50 percent reduction in organic waste disposal relative to 2014 levels by 2020,
- 75 percent reduction in organic waste disposal relative to 2014 levels by 2025, and
- 40 percent reduction in CH<sub>4</sub> emissions from livestock and dairy manure management operations relative to the livestock and dairy sectors' 2013 levels by 2030.

CARB adopted the SLCP Reduction Strategy in March 2017 as a framework for achieving the CH<sub>4</sub>, HFC, and anthropogenic black carbon reduction targets set by SB 1383. The SLCP Reduction Strategy includes 10 measures to reduce SLCPs, which fit within a wide range of ongoing planning efforts throughout the state. In November 2020, CalRecycle finalized new and amended regulations to CCR Title 14 and Title 27 to achieve the organic waste reduction goals under SB 1383. Among



other things, the regulations set forth minimum standards for organic waste collection, hauling, and composting, which took effect on January 1, 2022.

#### *Water Conservation Act of 2009*

Reductions in water consumption reduce the amount of energy, as well as the emissions, associated with conveying, treating, and distributing the water; emissions from wastewater treatment are also reduced. The overall goal of SB X7-7, the Water Conservation Act of 2009, was to reduce per capita urban water use by 20 percent by 2020, with an incremental progress benchmark of at least 10 percent by 2015. Urban Water Management Plans (UWMPs) are prepared by urban water suppliers every five years (starting in 2010) and support long-term resource planning to ensure that adequate water supplies are available to meet existing and future water needs while also reporting progress toward meeting the 20 percent reduction per capita goal for 2020. UWMPs for 2020 were due July 2021.

#### *Water Conservation Legislation (AB 1668 and SB 606)*

The 2018 Water Conservation Legislation (AB 1668 and SB 606) builds on the Water Conservation Act of 2009 and the long-term framework (“Making Water Conservation a California Way of Life”) developed in 2017 in response to EO B-37-16. The 2018 legislation establishes a new foundation for long-term improvements in water conservation and drought planning to adapt to climate change and the resulting longer and more intense droughts in California by amending existing law to provide expanded and new authorities and requirements to enable permanent changes and actions. This legislation applies to the actions of the Department of Water Resources (DWR), the State Water Resources Control Board (SWRCB), and water suppliers; it does not directly set any standards or rules for individual use. As a first step in implementation, DWR and SWRCB published a “primer” handbook that outlines the key authorities, requirements, timeline, roles, and responsibilities of State agencies, water suppliers, and other entities during implementation of actions described in the 2018 legislation. The handbook organized by the four goals of EO B-37-16—use water more wisely, eliminate water waste, strengthen local drought resilience, and improve agricultural water use efficiency and drought planning—which guide the major areas of coverage such as regulating urban retail water use, expanding water loss reporting requirements, requiring countywide drought planning for small water suppliers and rural communities, and increasing requirements for agricultural water use.<sup>29</sup> The handbook anticipated that the State Legislature and SWR will adopt new standards affecting water use as soon as 2020; the first of these rulemakings, the Water Loss Control performance standards (California Water Code Section 10608.34) is currently underway.

---

<sup>29</sup> California Department of Water Resources and State Water Resources Control Board, Making Water conservation a California Way of Life – Primer of 2018 Legislation on Water conservation and Drought Planning, Senate Bill 606 (Hertzberg) and Assembly Bill 1668 (Friedman), November 2018, <https://water.ca.gov/-/media/DWR-Website/Web-Pages/Programs/Water-Use-And-Efficiency/Make-Water-Conservation-A-California-Way-of-Life/Files/PDFs/Final-WCL-Primer.pdf?la=en&hash=B442FD7A34349FA91DA5CDEFC47134EA38ABF209>, accessed August 1, 2022.

## **Regional**

### ***Metropolitan Transportation Commission***

The MTC is the Metropolitan Planning Organization for the nine counties that comprise the San Francisco Bay Area and the San Francisco Bay Area Air Basin (SFBAAB), which includes Marin County and the Town of Fairfax. The first per-capita GHG emissions reduction targets for the SFBAAB were seven percent by 2020 and 15 percent by 2035 from 2005 levels. MTC adopted an SCS as part of their RTP for the SFBAAB in 2013 known as Plan Bay Area.<sup>30</sup> On July 26, 2017, the strategic update to this plan, known as Plan Bay Area 2040, was adopted by the Association of Bay Area Governments (ABAG) and the MTC. As a limited and focused update, Plan Bay Area 2040 builds upon the growth pattern and strategies developed in the original Plan Bay Area but with updated planning assumptions that incorporate key economic, demographic, and financial trends since 2013.<sup>31</sup> The next update to Plan Bay Area, Plan Bay Area 2050, was adopted in October 2021. Plan Bay Area 2050 serves as a roadmap for the San Francisco Bay Area's future through 2050.<sup>32</sup> For the San Francisco Bay Area, the per capita GHG emissions reduction target applicable to Plan Bay Area 2050 is 19 percent by 2035 (i.e., emissions from vehicles and light-duty trucks compared with 2005 levels).

### ***Bay Area Air Quality Management District***

The Bay Area Air Quality Management District (BAAQMD) is the primary agency responsible for addressing air quality concerns in the San Francisco Bay Area, including Marin County. BAAQMD has adopted advisory emission thresholds to assist CEQA lead agencies in determining the level of significance of a project's GHG emissions, including long range plans (e.g., general plans, specific plans), which are outlined in *its California Environmental Quality Act: Air Quality Guidelines* (CEQA Guidelines).<sup>33</sup> The CEQA Guidelines also outline methods for quantifying GHG emissions, as well as potential mitigation measures.

## **Local**

### ***Town of Fairfax Climate Action Plan 2030 (CAP)***

The Town of Fairfax Climate Action Plan (CAP) was adopted in 2021 and establishes GHG reduction targets that exceed the State's goals. The Fairfax community's goal is a 100 percent GHG emissions reduction target by the year 2030 from a 2005 baseline. The CAP provides community

---

<sup>31</sup> Metropolitan Transportation Commission and Association of Bay Area Governments. 2017. *Plan Bay Area 2040*. Adopted July 26. Available: <http://files.mtc.ca.gov/library/pub/30060.pdf>. Accessed: August 16, 2021.

<sup>32</sup> Association of Bay Area Governments and Metropolitan Transportation Commission. 2021. *Plan Bay Area 2050: A Vision for the Future*, [https://www.planbayarea.org/sites/default/files/documents/Plan\\_Bay\\_Area\\_2050\\_October\\_2021.pdf](https://www.planbayarea.org/sites/default/files/documents/Plan_Bay_Area_2050_October_2021.pdf), accessed January 3, 2022.

<sup>33</sup> Bay Area Air Quality Management District. 2017. *California Environmental Quality Act Air Quality Guidelines*. May. Available: [https://www.baaqmd.gov/~/\\_media/files/planning-and-research/ceqa/ceqa\\_guidelines\\_may2017-pdf.pdf?la=en](https://www.baaqmd.gov/~/_media/files/planning-and-research/ceqa/ceqa_guidelines_may2017-pdf.pdf?la=en). Accessed: August 16, 2021.

outreach and engagement, transportation, renewable energy and electrification, energy efficiency, waste reduction, and water conservation strategies necessary to minimize Fairfax's impacts on climate change and meet the established GHG reduction target. Strategies include increasing electric vehicle (EV) use within the town, encouraging walking as an alternative to vehicular travel, promoting smart growth development, assisting residents and businesses in switching to 100 percent renewable electricity, promoting and expanding energy efficiency programs, enforcing the Town construction and demolition debris material recycling ordinance, and reducing indoor and outdoor water use.

### ***Marin Climate and Energy Partnership***

Created in 2007, the Marin Climate and Energy Partnership works to reduce greenhouse gas emissions in the eleven Marin towns and cities, the County of Marin, and three public agencies that serve Marin. The partnership helps partner members secure funding to discuss, study and implement overarching policies and programs. Programs and policies range from emission reduction strategies to adaptation strategies, which are outlined in each agency's Climate Action Plan. Partner Members also collect data and report on progress meeting local and state greenhouse gas emission targets.

### **Town of Fairfax 2020 Greenhouse Gas Emissions Inventory**

Published through the Marin Climate & Energy Partnership (MCEP), the annual community greenhouse gas (GHG) emissions inventory is a tool to monitor the Town's progress in meeting its GHG emission reduction goals.<sup>34</sup> The Town of Fairfax has established a local goal to reduce community emissions 100 percent by the year 2030 from a 2005 baseline which is more stringent than the statewide goal to reduce emissions 40 percent below 1990 levels by 2030. This report reviews emissions generated from the community from 2005 through 2020, the most recent year data is available. The inventory shows that the Fairfax community reduced emissions 27 percent since 2005, which is equivalent to 15 percent below estimated 1990 levels. Emissions dropped from about 40,468 metric tons carbon dioxide equivalents (MTCO<sub>2</sub>e) in 2005 to 29,348 MTCO<sub>2</sub>e in 2020. Fairfax needs to reduce emissions another 8,710 MTCO<sub>2</sub>e to meet the State target for 2030 and another 22,874 MTCO<sub>2</sub>e to meet the State mitigation target for 2050, which is 80 percent below 1990 levels.

### ***Town of Fairfax General Plan 2010-2030 (General Plan)***

The Town of Fairfax General Plan 2010-2030 (General Plan) includes the following goals and policies associated with greenhouse gas emissions:

**Goal CON-1:** Energy conservation and climate.

---

<sup>34</sup> Marin Climate & Energy Partnership. 2022. *Town of Fairfax Greenhouse Gas Inventory for Community Emissions for the Year 2020*. September. Available: <https://marinclimate.org/greenhouse-gas-inventories/>. Accessed: January 5, 2023.

**Policy CON-1.1.1:** Develop and implement a Climate Action Plan (CAP) for Fairfax, including within its scope both the operations of the Town government and the activities of citizens, and including both stationary and mobile sources.

**Policy CON-1.1.2:** Promote zoning to facilitate live/work situations and minimize motorized transit (see Land Use Element Goal 8).

**Policy CON-1.1.3:** Encourage green building techniques for all new and remodel construction within the Town of Fairfax.

**Policy CON-1.1.4:** Participate in statewide and county-wide efforts toward energy conservation, renewable energy generation and GHG reduction.

**Policy CON-1.2.1:** Implement energy efficiency and use of sustainable energy resources by Town government.

**Policy CON-1.2.2:** Create an infrastructure to facilitate the use of plug-in hybrid electric vehicles (PHEVs) and electric vehicles (EVs).

**Policy CON-1.3.1:** Educate Fairfax citizens about the CAP, both as to its objectives and as to ongoing progress in its implementation.

#### *Town of Fairfax Bicycle and Pedestrian Plan*

The Town of Fairfax Bicycle and Pedestrian Plan (adopted in 2008 and updated in 2016) provides for a town-wide system of bicycle paths and routes, along with bicycle-related programs and support facilities, intended to ensure bicycling becomes a viable transportation option for people who live, work, and recreate in Fairfax. The goals of the Bicycle and Pedestrian Plan include increasing bicycle and pedestrian access, making the bicycle an integral part of daily life in Fairfax, and encouraging walking as a daily form of transportation. Recommended transportation improvements in the town are described above on page 3.13-3.

#### *Town of Fairfax Municipal Code (Town Code)*

Chapter 8.14 of the Town Code regulates construction, recycling, and disposal of waste generated from construction, demolition, and renovation projects. The ordinance requires that the percentage of incoming waste from construction, demolition, and alteration activities that is diverted from landfill disposal meets a required minimum of 70 percent. Further, each applicant who applies for a building permit shall complete a Construction and Demolition (C&D) waste diversion report, and no building permit shall be issued unless the applicant submits the C&D diversion report.

Chapter 10.32 of the Town Code establishes the Town of Fairfax Trip Reduction Ordinance (TRO) in which it incorporates the Marin County Congestion Management Agency (CMA) minimum trip reduction and travel demand requirements. The ordinance applies to all employers within the town with 100 or more employees at an individual work site. The ordinance requires all employers to disseminate trip reduction information, conduct an annual employee trip survey, and designate an

“employee transportation coordinator” to be responsible for administering the employer requirements for trip reduction.

Chapter 15.05 of the Town Code requires that newly constructed buildings be all-electric buildings. The intent of this chapter is to eliminate natural gas infrastructure and associated greenhouse gas emissions in new buildings where all-electric infrastructure can be most practicably integrated, thereby reducing the environmental and health hazards produced by the consumption and transportation of natural gas. Natural gas infrastructure may be permitted in a newly constructed building if the applicant establishes that it is not physically feasible to construct the building without natural gas infrastructure.

## **Impact Analysis**

---

For the purposes of this EIR, a significant impact would occur if the Proposed Project would:

**Criterion 1: Generate GHG emissions, either directly or indirectly, that may have a significant impact on the environment; or**

**Criterion 2: Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing emissions of GHGs.**

### **APPLICABILITY OF AVAILABLE THRESHOLDS**

CEQA Guidelines Section 15064.4 provides guidance to lead agencies for determining the significance of environmental impacts pertaining to GHG emissions. CEQA Guidelines Section 15064.4(a) states that a lead agency should make a good-faith effort that is based, to the extent possible, on scientific and factual data to describe, calculate, or estimate the amount of GHG emissions that would result from implementation of a project. CEQA Guidelines Section 15064.4(b) also states that, when assessing the significance of impacts from GHG emissions, a lead agency should consider 1) the extent to which the project may increase or reduce GHG emissions compared with existing conditions, 2) whether the project’s GHG emissions would exceed a threshold of significance that the lead agency has determined to be applicable to the project, and 3) the extent to which the project would comply with regulations or requirements adopted to implement a statewide, regional, or local plan for the reduction or mitigation of GHG emissions.

The California Supreme Court’s decision in *Center for Biological Diversity v. Department of Fish and Wildlife* (62 Cal.4th 204) confirmed that there are multiple potential pathways for evaluating GHG emissions consistent with CEQA. Several air quality management agencies throughout the state have also drafted or adopted varying threshold approaches and guidelines for analyzing GHG emissions in CEQA documents. Common threshold approaches include (1) compliance with a qualified GHG reduction strategy, (2) performance-based reductions, (3) numeric “bright-line” thresholds, (4) efficiency-based thresholds, and (5) compliance with regulatory programs.

The following sections discuss the threshold approaches recommended by the Courts and supported by CEQA and analyze their applicability to the Proposed Project.

### *Compliance with a Qualified GHG Reduction Strategy*

OPR acknowledges that the State legislature encourages lead agencies to tier or streamline their environmental documents whenever feasible, and that GHG emissions may be best analyzed and mitigated at the programmatic level. A qualified plan may be used in the cumulative impact analysis for later projects when the analysis “identifies those requirements specified in the plan that apply to the project.” For a GHG reduction plan to be considered a qualified plan, it must meet certain criteria established under CEQA Guidelines Sections 15183.5 (b) and 15064.4, also specified above. Consequently, if a project is consistent with a local CAP that was created to meet that area’s fair share reductions towards the AB 32 GHG target for 2020, then the project would be considered consistent with statewide GHG reduction goals for 2020. In addition, if a CAP was adopted that was consistent with the State’s overall goals for post-2020, including the downward trajectory as clarified in SB 32 and EO S-03-05, and a project is consistent with that CAP, it would be considered consistent with the State’s post-2020 GHG emission strategy. Section 15183.5 also specifies that the project’s CEQA analysis “must identify those requirements specified in the plan that apply to the project, and, if those requirements are not otherwise binding and enforceable, incorporate those requirements as mitigation measures applicable to the project.”

As discussed under the Regulatory Setting, the Town of Fairfax adopted a CAP in 2021 to meet 2030 targets. Therefore, tiering per CEQA Guidelines Section 15183.5 is an applicable option to assess the Proposed Project’s GHG impacts.

### *Performance-Based Reductions*

Performance-based thresholds are based on a percentage reduction from a projected future condition; for example, reducing future business-as-usual (BAU) emissions by the AB 32 target of 29 percent (below 2020 BAU levels) through a combination of State measures, project design features (e.g., renewable energy), or mitigation. The BAAQMD recommends a 26 percent reduction from 2020 BAU levels to meet the AB 32 target.

Based on the court’s reasoning in the Newhall Ranch decision, relating a given project to the achievement of State reduction targets may require adjustments to CARB’s statewide BAU model to not only isolate new development emissions, but also to consider unique geographic conditions and operational characteristics that may affect the performance of reduction measures in certain locations. To date, this type of adjustment to the statewide BAU target has not been performed and, therefore, is not appropriate for the Proposed Project’s analysis. The primary value of a performance-based target, as indicated in the Newhall Ranch decision, is that it can provide a scenario by which to evaluate the effectiveness of a project’s reduction efficiency relative to an unmitigated condition. As such, future year targets can be used to benchmark performance, using either statewide or regional emission targets, to determine a project’s fair share of mitigation.

### *Numeric Bright-Line Thresholds*

Numerical bright-line thresholds identify the point at which additional analysis and mitigation of project-related GHG emission impacts is necessary. BAAQMD has not developed bright-line thresholds for construction but has for the operation of land use development projects (1,100 MTCO<sub>2</sub>e/year) and stationary-source (10,000 MTCO<sub>2</sub>e/year) projects.

The land use development threshold is based on a gap analysis, and ties back to the State's AB 32 reduction target (1990 levels by 2020). Given that the Proposed Project is a programmatic plan rather than a development project and because the buildout year for the Proposed Project is 2031, use of BAAQMD's numeric-bright line land use development threshold tailored to 2020 reduction targets would not be appropriate for the Proposed Project's analysis. Moreover, information about specific emissions levels for the Planning Area is not available and cannot be feasibly determined.

The stationary-source threshold is derived from the California Air Pollution Control Officers Association's (CAPCOA's) capture rate analysis of required reductions needed to meet EO S-3-05, which indicates that in order to reach the 2050 milestone, future BAU emissions will need to be reduced by 90 percent. The Proposed Project does not propose stationary sources, and specific information for individual development projects that would be allowed by the Proposed Project is not available at this time. As such, the stationary-source project threshold is not appropriate, and potential impacts related to stationary sources are discussed qualitatively.

BAAQMD's CEQA Guidelines do not identify a GHG emission threshold for construction-related emissions. Instead, BAAQMD recommends that GHG emissions from construction be quantified and disclosed, and that a determination regarding the significance of these GHG emissions be made with respect to whether a project is consistent with the emission reduction goals. BAAQMD further recommends incorporation of BMPs to reduce GHG emissions during construction, as feasible and applicable. However, because the Proposed Project is a programmatic land use plan and does not propose individual developments for which the specific location and timing of construction is known, construction emissions resulting from the Proposed Project cannot be reliably quantified. As such, emissions due to construction are evaluated qualitatively.

### *Efficiency-Based Thresholds*

Another type of quantitative threshold is an efficiency-based threshold. Efficiency-based thresholds represent the GHG efficiency needed for development to achieve California's GHG emissions targets. Although the Newhall Ranch decision did not specifically recommend the efficiency-based approach, the ruling did note that numerical threshold approaches may be appropriate for determining significance of GHG emissions and to emphasize the consideration of GHG efficiency. Efficiency-based thresholds allow lead agencies to compare projects of various types, sizes, and locations equally, and determine whether a project is consistent with the State's reduction goals. Efficiency-based thresholds for a residential project can be expressed on a per-capita basis (such as the Proposed Project), for an office project on a per-employee basis, or for a mixed-use project on a per service population (the sum of jobs and residents) basis.

As indicated by the 2017 Scoping Plan, CARB recommends statewide efficiency targets of no more than 6.0 MTCO<sub>2</sub>e per capita by 2030 and no more than 2.0 MTCO<sub>2</sub>e per capita by 2050. These targets were derived based on total statewide emissions from all emission categories (including emissions from stationary and industrial sources) and the reductions needed to achieve California's 2030 statewide target under SB 32 and the longer-term EO S-3-05 reduction goal of 80 percent below 1990 levels by 2050.

Because CARB's per capita efficiency targets are based on statewide emissions, they represent an average efficiency that does not specifically consider the unique geographic and project-specific

features that could influence emissions reductions achieved by the Proposed Project. The targets are also based on an inventory of GHG emissions from existing and future development through 2050, and therefore do not isolate the required emissions reductions from new development that are needed to meet State goals. Tailoring CARB's per capita targets to local project conditions is not possible with the available data published in either the 2017 Scoping Plan or Draft 2022 Scoping Plan. However, given the absence of another viable means (i.e., percent reductions from 1990 levels) to quantitatively evaluate the Proposed Project's contribution to statewide GHG emissions reductions goals, the statewide efficiency metric is used in this analysis as a comparative threshold of significance.

### *Compliance with Regulatory Programs*

A lead agency could rely on regulatory compliance to show a less-than-significant GHG impact if a project complies with or exceeds those programs adopted by CARB or other State agencies. However, such analysis is only applicable within the area governed by the regulations. For example, consistency with regulations addressing building efficiency would not suffice to determine that a project would not have significant GHG emissions from transportation.

The Newhall Ranch decision specifically mentions consistency with both the SCS (per SB 375) and AB 32 as potential mechanisms for evaluating significance. A lead agency could assess project-level consistency with AB 32 in whole or part by evaluating whether a project complies with applicable policies in the AB 32 Scoping Plan. The AB 32 Scoping Plan does not consider deeper reductions needed to meet the State's 2030 target under SB 32. Accordingly, exclusively relying on consistency with the AB 32 Scoping Plan and related programs to evaluate emissions generated by land use development projects constructed after 2020 would not fully consider a project's potential GHG impacts to the State's long-term reduction trajectory.

More recent guidance on GHG reduction strategies and thresholds for operational emissions has been provided at the state level through the 2017 and 2022 Scoping Plans, OPR, and CARB. The 2017 Scoping Plan outlines GHG reduction strategies by emission sector (water, transportation, and energy) required to meet the State's 2030 target under SB 32. OPR guidance specifies that a "land use development project that produces low VMT, achieves applicable building energy efficiency standards, uses no natural gas or other fossil fuels, and includes Energy Star appliances where available, may be able to demonstrate a less-than-significant greenhouse gas impact associated with project operation." Further, CARB guidance specifies per capita VMT reduction targets that would be needed statewide to meet long-term (2050) mobile-source GHG reduction targets, considering increased vehicle efficiency and reduced carbon content in vehicle fuels. The 2022 Scoping Plan affirms the State's intentions to achieve carbon neutrality by 2045, as outlined by EO B-55-18, representing a more aggressive target than the 80 percent reductions below 1990 levels by 2050 used in the 2017 Scoping Plan.

To the extent the Proposed Project's policies are applicable to GHGs and comply with or exceed the regulations outlined in the 2017 and 2022 Scoping Plans and adopted by CARB or other State agencies, the Proposed Project could appropriately rely on their use as showing compliance with performance-based standards adopted to fulfill the statewide goal for reducing GHG emissions. The Proposed Project's compliance with regulatory programs adopted by CARB and other State agencies is therefore used to evaluate the significance of the Proposed Project's GHG emissions.



While the regulatory framework to achieve long-term (post-2030) emissions reductions is in its infancy, many of the programs outlined in the 2017 and 2022 Scoping Plans are likely to be carried forward or have already been adopted with post-2030 requirements (e.g., RPS). Accordingly, evaluating consistency with these programs and relevant guidance published by OPR and CARB for the reduction of long-term emissions is therefore also considered in the analysis of the Proposed Project's emissions.

## **QUANTIFICATION OF EMISSIONS AND ENERGY USE**

GHG and energy impacts associated with construction and operation of the Proposed Project were assessed and quantified (where applicable) using standard and accepted software tools, methodologies, and emission factors. A full list of assumptions can be found in Appendix D: GHG and Air Quality Data.

As discussed in Chapter 2: Project Description, the Proposed Project would facilitate development of up to 598 housing units, primarily within urbanized areas downtown and on existing single family residential lots. This amount of development would result in approximately 1,171 new residents.

### *Construction*

Housing units that would be developed under the Proposed Project would require energy and generate construction-related GHG emissions from mobile and stationary construction equipment exhaust and employee and haul truck vehicle exhaust. Construction activities may also require additional electricity consumption or result in tree removal, which would correspond with a loss of pollutant and GHG sequestration potential as well as other long-term ecological benefits. With an anticipated buildout year of 2031, development of the various land uses associated with the Proposed Project would occur over an extended period and would depend on factors such as local economic conditions, market demand, and other financing considerations. However, the specific size, location, and construction techniques and scheduling that would be utilized for each individual development project occurring within the Planning Area from implementation of the Proposed Project is not currently known. Without specific project-level details (e.g., size and scale of the project to be constructed, construction schedule, equipment fleet, construction worker crew estimates, and demolition and grading quantities), it is not possible to develop a refined construction inventory, and the determination of construction emission and energy use impacts associated with GHGs and energy resources for each individual development project, or a combination of these projects, would be speculative regarding such potential future project-level environmental impacts. Thus, in the absence of the necessary construction information required to provide an informative and meaningful analysis, the evaluation of potential construction-related impacts resulting from implementation of the Proposed Project is conducted qualitatively in this Draft EIR and assessed against applicable BAAQMD criteria.

### *Operations*

Operation of the land uses introduced by the Proposed Project would require energy (electricity and natural gas) consumption and generate long-term emissions of CO<sub>2</sub>, CH<sub>4</sub>, and N<sub>2</sub>O. GHG emissions are expected during operation of the land uses associated with the Project from area,

energy, mobile, waste, and water sources. Area sources include landscaping activities. Energy sources include electricity consumption and natural gas combustion for lighting and heating requirements. Mobile sources are vehicle trips that are generated by the service population associated with the Proposed Project. Waste sources refer to CH<sub>4</sub> and N<sub>2</sub>O from the decomposition of waste generated from the new land use developments in the Planning Area. Water sources include electricity consumption for the supply, treatment, and distribution of water for the new land uses.

Long-term (i.e., operational) GHG emissions were quantified for the Proposed Project using California Emissions Estimator Model (CalEEMod), version 2022.1. Like area sources, energy, waste, and water emissions were modeled according to the amount (i.e., commercial/industrial square footage or number of dwelling units) and type of land uses proposed. Energy sources account for emissions associated with the combustion of natural gas for building heating and hot water, apart from natural gas and wood hearths, which are prohibited in the air basin per BAAQMD Regulation 6, Rule 3. Quantification of energy use (i.e., gasoline and diesel fuel) additionally accounts for the daily vehicle trips generated by the Proposed Project. Waste and water directly relate to the scale of the land use inputs.

Stationary sources such as emergency generators and boilers that would be developed for each individual development project, or a combination of these projects, would be subject to the permitting requirements by the BAAQMD. These are not included in modeled emissions because details of future projects and their stationary sources cannot be known at this time.

In accordance with the traffic data analysis provided by the Proposed Project's traffic engineers, Fehr and Peers, emissions were quantified for existing 2019 conditions based on land uses and home-based VMT per capita traffic data. Full detail about modeling inputs is provided in Appendix D. Future-year 2040 conditions were quantified for the Proposed Project based on anticipated land uses and modeled in conjunction with traffic data. As noted above, construction and stationary sources are not modeled. The effect of vegetated open space in the Planning Area is also excluded from quantified emissions but is noted in qualitative discussion.

## **RELEVANT PROPOSED PROJECT GOALS, POLICIES, AND PROGRAMS**

**Policy 1-3** Promote mixed use developments with a residential component in Downtown Fairfax to provide workforce housing and locate higher density residential development in proximity to employment, shopping, transit, recreation, and other services.

**Program 1-A Develop and Adopt Town Center Plan.** The General Plan includes an optional Town Center Element proposing adoption of a Town Center Plan that envisioned reinforcing the role of the downtown and strengthening the Town's economic base. Through this program, the Town will develop and adopt a Plan including goals, policies, and objective standards that will allow more development of the Town Center. Policies should provide for increasing residential development in an area that offers easier access to shops, services, and public transit. Additional residential development in the downtown will also support the vitality of existing

commercial retail and service uses. Policies should include regulatory incentives to encourage residential and mixed-use development.

**Responsibility:** Planning and Building

**Timeframe:** Adopt Town Center Plan by the end of 2026

**Objective:** Integrate workforce housing into Downtown Fairfax

**Funding:** General Fund

**Program 1-B School Street Plaza.** Centrally located on Broadway in Downtown Fairfax, this approximately 2-acre site is adjacent to Contratti Field and within easy walking distance of shops, restaurants, Fairfax Market, and transit services. The property owner has had pre-application consultations with Town staff regarding a high-density, mixed income residential development with an affordability component. Through this program, the Town will:

- Establish objective standards for workforce housing in high density residential developments, including design criteria and affordability requirements;
- Meet quarterly with the property owner to help advance site planning;
- Work with the property owner to identify incentives (such as reduced common open space requirements in view of park adjacency and shared parking provisions) that can be offered to facilitate provision of affordable housing units onsite;
- Ensure that the residents of the 13 existing live/work units onsite have first right of refusal on new units, including rental or sales price concessions, and/or receive relocation assistance, consistent with the requirements of State law.

**Responsibility:** Planning and Building

**Timeframe:** Initiate quarterly meetings in Q3 2023; target completion of construction in 2028

**Objective:** 175 new housing units by 2028, including 35 affordable units

**Funding:** General Fund

**Program 1-D Shopkeeper Housing.** Shopkeeper units are dwelling units that are physically separated from a commercial space used for a business operated by the occupant of the associated residential unit. The commercial spaces are typically ground-floor retail or office spaces below living spaces where commercial spaces can only be leased to occupants of the residential spaces. Amending the Zoning Code to allow shopkeeper units as a type of residential use will provide an opportunity for those who want to live in proximity to their place of work. The Town will amend the Zoning Code to allow shopkeeper units on designated streets in all commercial districts subject to objective standards, density/intensity limits, and parking requirements to ensure that the residents of units will not be subject to adverse

impacts from surrounding nonresidential uses and that the residential use will not interfere with commercial establishments on the same or surrounding properties.

**Responsibility:** Planning and Building

**Timeframe:** Adopt the Code amendments by Q3 2025

**Objective:** Five shopkeeper units by 2031

**Funding:** General Fund and State planning grants

**Program 1-E Live-Work Units.** In contrast to shopkeeper units, live-work units are a commercial use that allows residential occupancy incidental to an approved non-residential use. Zoning Code amendments will be developed that are appropriate for the Town based on live-work requirements enacted by other jurisdictions and will include definitions, use classifications, development standards, parking requirements, and other regulations for this use. The Town will amend the Zoning Code to allow live-work units in all commercial districts subject to objective design standards and density/intensity limits to ensure that this use will not interfere with or diminish the viability of commercial establishments on the same or surrounding properties.

**Responsibility:** Planning and Building

**Timeframe:** Adopt the Code amendments by Q3 2025

**Objective:** Five live-work units by 2031

**Funding:** General Fund and State planning grants

**Program 2-A Workforce Housing Overlay.** California Assembly Bill (AB 2011) of 2022 provides a streamlined ministerial approval pathway for multifamily projects on commercially zoned land that pay prevailing wages for construction work and meet specified affordable housing targets. The Town will adopt Zoning Code amendments in the form of a Workforce Housing Overlay District, to implement these provisions and provide an alternative to AB2011 as a means of promoting the construction of housing for teachers, restaurant and service workers, firefighters, police officers, and others employed in Fairfax and Marin County. The overlay will apply to properties shown on Map 3-5 in the CL, CH, and CC zones, providing property owners with the option to redevelop their land with housing or mixed use projects should they elect to do so. Two subzones are envisioned: one for high density workforce housing in the downtown area, and another for medium density workforce housing along Sir Francis Drake Boulevard. The workforce housing overlay will:

- Allow for mixed use development and 100 percent residential buildings on commercial properties within in the overlay;

- Establish an “as of right” base density with a minimum percentage of affordable housing (40 units per acre in downtown and 20 dwelling units per acre along Sir Francis Drake Boulevard);
- Permit additional density on larger sites with additional on-site amenities and designs that provide transitions to adjacent lower density uses;
- Create a sliding scale that provides bonus density in exchange for a greater commitment to affordability;
- Incorporate objective design and development standards to accommodate higher density development and ensure appropriate buffering of adjacent residential land uses.

**Responsibility:** Planning and Building

**Timeframe:** Adopt the Workforce Housing Overlay by January 31, 2024

**Objective:** 159 moderate and lower income RHNA units by 2030

**Funding:** General Fund

**Program 2-I Buildings and Construction Code Requirements.** In September 2021, the Town enacted requirements for all-electric building design based on its location along the wildland-urban interface and susceptibility to seismic and flooding hazards. The requirements are also to implement the Fairfax Climate Action Plan and Climate Emergency Declaration (Resolution No. 1904). This regulation anticipates State mandates that will ban the sale of natural gas appliances in 2030 and a change in the State Building Code that went into effect at the beginning of 2023. Although the cost difference between electric and gas appliances is not significant, the cost to operate electric appliances has historically been higher than the cost of gas, although that was not the case in 2022. The Housing Action Plan includes a program to monitor the effect of this requirement on the housing expenses of low- and moderate-income households and evaluate options for minimizing this impact.

**Responsibility:** Planning and Building

**Timeframe:** End of Q1 each year of the planning period, with reporting through Annual Progress Reports

**Objective:** Recommend programs for minimizing housing expenses for low- and moderate-income residents

**Funding:** General Fund

## **IMPACTS**

**Impact 3.7-I Development under the Proposed Project would generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment.**  
***(Construction: Less than Significant with Mitigation Incorporated; Operations: Significant and Unavoidable with Mitigation Incorporated)***

### *Construction*

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

By its nature as a specific plan, the Proposed Project does not propose any specific development except those projects currently under environmental review or approved, but not yet constructed. Construction of land use developments allowable under the Proposed Project would occur intermittently within the Planning Area throughout the course of the eight-year buildout period. As the timing and intensity of future development projects is not known at this time, the precise effects of construction activities associated with buildout of the Proposed Project cannot be quantified at this time. Project-specific details of future development within the Planning Area are currently unknown because development would be driven by market conditions, site constraints, land availability, and property owner interest. It is assumed that implementation of the Proposed Project ultimately could result in the development of up to 598 housing units, primarily consisting of infill development on underutilized commercial sites and ADUs, with the remainder of sites comprised of low impact clustered residential development and single-family housing. As such, it is anticipated that in any given year, multiple land use development projects will be constructed within the Planning Area.

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

### *Operation*

Operation of land uses supported by the Proposed Project would generate direct and indirect GHG emissions. Sources of direct emissions include mobile vehicle trips, natural gas combustion, and landscaping activities. Indirect emissions would be generated by electricity generation and consumption, waste and wastewater generation, solid waste, and water use. Operational emissions for existing baseline and 2040 future conditions are summarized in Table 3.7-3. The modeled emissions for the Proposed Project are a conservative estimate of the Proposed Project's

impact on GHGs. While the Proposed Project would achieve additional GHG reductions through voluntary sustainability features, such as VMT reduction measures, the quantified reductions in GHGs from these strategies are currently unknown.

As shown in Table 3.7-3, operational emissions generated by the Project would still result in a net increase in annual emissions of 1,552 MTCO<sub>2</sub>e compared to existing conditions. As seen in Table 3.7-3, there is a substantial increase in emissions from energy sources due to greater natural gas and electricity consumption, and a slight increase in emissions from area, mobile, waste, water, and refrigerant or refrigeration sources. These increases reflect the increase from existing conditions in population and number of housing units enabled by the Proposed Project.

**Table 3.7-3: Estimated Proposed Project Operational GHG Emissions**

<i>Condition</i>	<i>Source</i>	<i>Annual GHG Emissions (MTCO<sub>2</sub>e/year)<sup>a</sup></i>
<b>Existing</b>	Mobile <sup>b</sup>	3,217.4
	Area	203.10
	Energy	17,140
	Water	886.11
	Waste	3,167.5
	Refrig.	10.812
	<b>Total</b>	<b>24,625</b>
<b>Proposed Project</b>	Mobile <sup>b</sup>	3,615.4
	Area	234.07
	Energy	18,091
	Water	934.57
	Waste	3,289.4
	Refrig.	11.773
	<b>Total</b>	<b>26,177</b>
	<b>Net Change from Existing</b>	<b>+1,552</b>

Notes:

MTCO<sub>2</sub>e = metric tons of carbon dioxide equivalents

SF = square feet

<sup>a</sup> Values may not add up to the totals shown due to rounding.

<sup>b</sup> Mobile source emissions only account for Home-Based VMT for residential uses, not total VMT, and thus may be an underestimate of total mobile emissions. Home-based VMT is the metric that OPR recommends for VMT CEQA assessments for residential land uses.

*Source: See Appendix D for modeling files.*

Table 3.7-4 compares the annual GHG emissions efficiency metrics achieved under the Proposed Project in comparison to the GHG emissions efficiency metrics established by CARB. In line with SB 32, CARB recommends an efficiency metric of no more than 6.0 MTCO<sub>2</sub>e per capita by 2030 and 2.0 MTCO<sub>2</sub>e per capita by 2050. As seen in Table 3.7-4, future conditions under the Proposed Project in 2040 would result in 2.99 MTCO<sub>2</sub>e per capita per year, which is below the 2030 threshold but still exceeds the 2050 threshold. In addition, the Fairfax community's goal as outlined in the Town's CAP is a 100 percent GHG emissions reduction target by the year 2030 from a 2005 baseline. Future conditions under the Proposed Project would exceed this net-zero emission community threshold.

**Table 3.7-4: Comparison of GHG Emissions Efficiency Metrics**

<i>Source</i>	<i>Efficiency Metric (MTCO<sub>2</sub>e) per capita</i>
State Target 2030 <sup>1</sup>	6.0
State Target 2050 <sup>2</sup>	2.0
Existing <sup>3</sup>	3.25
Proposed Project <sup>4</sup>	2.99
<b>Less than target/threshold?</b>	<b>Yes, but only for 2030</b>

Notes:

MTCO<sub>2</sub>e = metric tons of carbon dioxide equivalents

<sup>1</sup>. Based on the 2030 target established in the 2017 Scoping Plan.

<sup>2</sup>. Based on the 2050 target established in the 2022 Scoping Plan.

<sup>3</sup>. Value calculated from dividing total GHG emissions of the existing conditions by the existing 2019 population of 7,578 residents.

<sup>4</sup>. Value calculated from dividing total GHG emissions of the Proposed Project by the population after buildout of the Proposed Project (existing 2019 population plus an anticipated 1,171 residents).

*Source: California Air Resources Board, 2022; American Community Survey 5-Year Estimates, 2019; Dyett & Bhatia, 2023.*

It is noted that the Proposed Project has a horizon year of 2031, which is well before the 2050 target used to determine the State-recommended efficiency metric of 2.0 MTCO<sub>2</sub>e per capita. Considering the State's goal to achieve carbon neutrality by 2045, reducing GHG emissions to achieve the 2050 threshold will be a coordinated statewide effort involving multiple sectors and factors outside of the Proposed Project's scope and buildout timeframe. However, the Proposed Project would achieve a net per capita reduction in GHG emissions over existing conditions and the State's 2030 efficiency metric of 6.0 MTCO<sub>2</sub>e per capita, which shows a decline consistent with the State's GHG reduction objectives.

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

The Town of Fairfax Climate Action Plan (CAP) establishes a target of net zero emissions by 2030 and Executive Order B-55-18 establishes a statewide target of carbon neutrality by 2045. While buildout of the inventory would result in emissions per service population below the Statewide target for 2030, emissions resulting from buildout would exceed the targets established in the Fairfax CAP and Executive Order B-55-18. The DEIR recommends a **Mitigation Measure GHG-2** pursuant to which the Town will update the CAP to identify measures necessary for compliance



with State target; however, as this update has not yet been completed and the specific measures have not yet been identified, the DEIR conservatively concludes that the associated impact would remain significant and unavoidable even after implementation of this mitigation measure.

#### *Mitigation Measures*

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

- Ensure alternative fueled (e.g., biodiesel, electric) construction vehicles/equipment make up at least 15 percent of the fleet.
- Use local building materials of at least 10 percent (sourced from within 100 miles of the Planning Area).

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

*Significance After Mitigation:* Significant and Unavoidable

**Impact 3.7-2      Development under the Proposed Project would conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases. (Construction: Less than Significant with Mitigation Incorporated; Operations: Significant and Unavoidable with Mitigation Incorporated)**

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

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

In 2008 and 2014, CARB adopted the Scoping Plan and First Update, respectively, as a framework for achieving AB 32. The Scoping Plan and First Update outline a series of technologically feasible and cost-effective measures to reduce statewide GHG emissions. CARB adopted the Climate Change Scoping Plan in November 2017 as a framework to achieve the 2030 GHG reduction goal described in SB 32. In addition, CARB's 2022 Scoping Plan for Achieving Carbon Neutrality was

adopted in November and extends and expands upon these earlier plans with a target of reducing anthropogenic emissions to 85 percent below 1990 levels by 2045.

CARB's 2022 Scoping Plan identifies a technologically feasible and cost-effective path to achieve carbon neutrality by 2045 while also assessing the progress California is making toward reducing its GHG emissions by at least 40 percent below 1990 levels by 2030, as called for in SB 32 and laid out in the 2017 Scoping Plan. The 2022 Scoping Plan reinforces that meeting these targets will require effective State regulations, including Cap-and-Trade, the requirement for increased renewable energy sources in California's energy supply, updates to Title 24, and increased emission reduction requirements for mobile sources. The 2022 Scoping Plan indicates that reductions would need to come in the form of changes pertaining to vehicle emissions and mileage standards, changes pertaining to sources of electricity and increased energy efficiency at existing facilities, and State and local plans, policies, or regulations that will lower GHG emissions relative to business-as-usual conditions. The 2022 Scoping Plan carries forward GHG reduction measures from previous plans, as well as new potential measures to help achieve the State's 2030 and 2045 targets across all sectors of the California economy, including transportation, energy, and industry.

### *Construction*

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

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

### *Operations*

As discussed in Impact 3.7-1, emissions from area and energy sources would conflict with the Town's adopted CAP and with the Statewide 2050 GHG reduction targets, since implementation of the Proposed Project would not result in carbon neutrality by 2030 as envisioned in the CAP.

However, development associated with the Proposed Project would be required to comply with Chapter 15.05 of the Town Code which requires that newly constructed buildings be all-electric buildings. The intent of this chapter of the Town Code is to eliminate natural gas infrastructure and associated greenhouse gas emissions in new buildings where all-electric infrastructure can be most practicably integrated. As such, compliance with the Town Code would reduce operational emissions from area and energy sources through prohibiting permanent natural gas infrastructure, thereby reducing this impact to a less than significant level.

However, as discussed in Chapter 3.13, Transportation, the Proposed Project would not achieve the 15 percent VMT per capita reduction target under buildout conditions. Given the level of VMT reduction that would need to occur with a small number of housing units and the lack of feasible VMT reduction measures, the Town will not achieve the overall VMT threshold reduction level. Therefore, the Proposed Project's mobile-source GHG emissions would conflict with SB 743. Because a reduction in GHG emissions from passenger vehicles is one of the objectives of SB 743 and one of the overarching strategies of the 2022 Scoping Plan, operation of the Proposed Project would conflict with the statewide GHG target for 2030 mandated by SB 32. Overall, the Proposed Project would be consistent with policies and plans that encourage energy conservation, energy efficiency, and sustainability, however, GHG emissions from mobile sources would conflict with goals of SB 743, therefore, the Proposed Project would have a significant and unavoidable impact.

### ***SB 375 and Plan Bay Area***

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

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

The Proposed Project would allow development that helps accommodate forecasted growth within the Planning Area. Consistent with MTC goals, the Proposed Project encourages higher-density and infill developments where appropriate, connectivity between neighborhoods, and walkable design that compliments the existing natural and built environment to reduce VMT. The Proposed

Project further provides the policy framework to guide future development toward land use patterns that support walking, and biking (Policy 1-3, and programs 1-A, 1-B, 1-D, 1-E, and 2-A).

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

#### *Town of Fairfax Climate Action Plan 2030 (CAP)*

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

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

#### *Consistency with Other State Regulations*

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

### *Mitigation Measures*

Implementation of **Mitigation Measure GHG-1** would require future development projects to implement BAAQMD-recommended BMPs which would reduce the level of GHGs associated with construction of the future projects and avoid any conflict with statewide GHG reduction goals, thereby reducing this impact to less than significant with mitigation. However, GHG emissions from mobile sources would conflict with the goals of SB 743. Further, **Mitigation Measure GHG-2** would require the Town to update its CAP to reach carbon neutrality by 2045, consistent with Executive Order B-55-18. However, it is conservatively assumed that the Proposed Project may generate greenhouse gas emissions in exceedance of current CAP thresholds. Therefore, the Proposed Project would result in a significant and unavoidable impact related to GHG plan/policy consistency.

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

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

*Significance After Mitigation:* Significant and Unavoidable

## 3.8 Hazards and Hazardous Materials

This section assesses potential environmental impacts from future development under the Proposed Project related to hazards and hazardous materials, including those associated with the transport, use, or disposal of hazardous materials; hazardous materials use in the vicinity of a school; upset conditions involving established hazardous materials sites; airport hazards; and emergency planning. This section provides context regarding hazardous materials, airport hazards, and emergency management in the Planning Area as well as relevant federal, state, and local regulations and programs.

There was one response to the Notice of Preparation (NOP) regarding topics covered in this section. All comments are located in Appendix B of the DEIR. The Department of Toxic and Controlled Substances (DTSC) submitted a response stating that the Initial Study did not adequately cover all sites included on the Cortese List. This information is included in the Environmental Setting below and under Impact 3.8-4.

### Environmental Setting

---

#### PHYSICAL SETTING

##### Hazardous Materials

A hazardous material is any substance that, because of its quantity, concentration, or physical or chemical properties, may pose a hazard to human health or the environment. Under California Code of Regulations (CCR) Title 22, the term “hazardous substance” refers to both hazardous materials and hazardous wastes. Both of these are classified according to four properties: (1) toxicity, (2) ignitability, (3) corrosivity, and (4) reactivity (CCR Title 22, Chapter 11, and Article 3). A hazardous material is defined in CCR Title 22 as:

[a] substance or combination of substances which, because of its quantity, concentration, or physical, chemical or infectious characteristics, may either (1) cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or (2) pose a substantial present or potential hazard to human health or environment when improperly treated, stored, transported or disposed of or otherwise managed (CCR Title 22 Section 66260.10).

Hazardous materials in various forms can result in death, serious injury, long-lasting health effects, or damage to buildings, homes, and other property. Hazards to human health and the environment can occur during the production, storage, transportation, use, or disposal of hazardous materials.

Hazardous materials are often released because of motor vehicle or equipment accidents, underground or aboveground storage tank failure or because of chemical accidents during industrial use. Hazardous substances released into the environment have the potential to leach into soils, surface water, and groundwater. Hazardous materials are commonly used in commercial, agricultural, and industrial applications.

Due to the nature of their use, residential and office uses typically do not pose significant hazardous material impacts. Hazardous materials are not typically handled in significant amounts and materials typically used for such activities as cleaning and maintenance typically do not present a risk to the community. Industrial and commercial land uses have a higher likelihood of hazardous materials impacts.

Industrial land use can encompass a wide range of business operations that have the potential to create hazardous materials impacts. Industrial facilities store hazardous materials in underground storage tanks (USTs) and/or aboveground storage tanks, and in designated storage locations. Age and improper maintenance of storage tanks are common causes of soil and groundwater contamination. Improper handling and storage of hazardous material containers can lead to hazardous material emergency incidents.

Commercial locations can include vehicle repair sites, gasoline fueling stations, and dry-cleaning facilities. Like industrial facilities, some commercial sites store hazardous materials in storage tanks and in designated areas within the facility. Hazardous materials spills and leaks in vehicle repair and fueling locations can lead to hydrocarbon-impacted soil and groundwater. Improper storage and use of hazardous materials in dry cleaning facilities can lead to volatile organic solvent-contaminated soil and groundwater.

### *Hazardous Materials Transport*

Within the Planning Area, hazardous materials may be transported by vehicle along roadways or through transmission lines such as pipelines. Sir Francis Drake Boulevard (SFD Blvd) bisects the Town of Fairfax and serves as the major east-west arterial from West Marin to Highway 101. According to the US Department of Transportation's (US DOT) National Pipeline Mapping System, no gas transmission pipelines run through the Planning Area.

### *Hazardous Materials Sites*

Sites where hazardous chemical compounds have been released into the environment can pose threats to human and ecologic systems' health. Both historic and current activities may result in the release, leak, or disposal of toxic substances on or below the ground surface, where they can then contaminate soil and ground water. Disturbance of the ground through grading or excavation can result in exposure of these chemicals to the public. Improper handling of contaminated sites may result in further exposure via airborne dust, surface water runoff, or vapors.

The Marin County Department of Public Works Certified Unified Programs Agency (CUPA) regulates and inspects approximately 850 Marin businesses and is certified by the California Environmental Protection Agency to protect public health and safety through regulation of hazardous waste and materials.

State agencies also document and regulate potentially hazardous sites. The provisions in Government Code Section 659.62.5, enacted in 1985, are commonly referred to as the Cortese List.<sup>1</sup> A site's presence on the list has bearing on the local permitting process as well as on compliance with the California Environmental Quality Act. One site listed in Table 3.8-1: Contaminated Sites within the Planning Area is considered a Cortese List site.

The San Francisco Bay Regional Water Quality Control Board regulates cleanup activities at Leaking Underground Storage Tank (LUST) sites. LUST sites require cleanup due to an unauthorized release from an underground storage tank (UST) system. A UST System is a tank and any underground piping connected to the tank that has at least 10 percent of its combined volume underground. UST regulations apply to underground tanks and piping storing any type of hazardous substance, with some exemptions.

As part of Government Code Section 65962.5 requirements, the SWRCB also tracks the following types of sites:

- Solid waste disposal facilities from which there is a migration of hazardous waste and for which a California regional water quality control board has notified the DTSC.
- Cease and desist orders issued after January 1, 1986 and all cleanup or abatement orders issued after January 1, 1986 that concern the discharge of wastes that are hazardous materials.

The DTSC regulates hazardous waste generation and treatment, oversees cleanup of existing contamination, and promotes ways to reduce the amount hazardous waste generated. DTSC regulates hazardous waste in California primarily under the authority of the federal Resource Conservation and Recovery Act of 1976 the California Health and Safety Code and the California Code of Regulations. Hazardous waste requirements cover handling, storage, transportation, disposal, treatment, source reduction, cleanup, and emergency planning.

The Planning Area includes several contaminated sites (under oversight of the SWQCB and the DTSC), as shown in Figure 3.8-1 and detailed in Table 3.8-1. Some of the sites listed have received closure by the applicable oversight agency and may not represent substantial hazardous materials exposure risks, while some may represent threats to groundwater and/or constraints to development. Sites listed in Table 3.8-1 are listed with their site name and address, along with the database it was identified in and a summary of the site status. There are no Superfund sites within the Planning Area. The information found in Table 3.8-1 is dynamic and over time a site's status may change or new sites

---

<sup>1</sup> The following resources include facilities meeting "Cortese List" requirements:

- List of Hazardous Waste and Substances sites from DTSC's EnviroStor database
- List of Leaking Underground Storage Tank Sites from SWRCB's GeoTracker database
- List of solid waste disposal sites identified by SWRCB with waste constituents above hazardous waste levels.
- List of "active" Cease and Desist Orders and Cleanup and Abatement Orders from SWRCB.
- List of hazardous waste facilities subject to corrective action pursuant to Section 25187.5 of the Health and Safety Code, identified by DTSC.



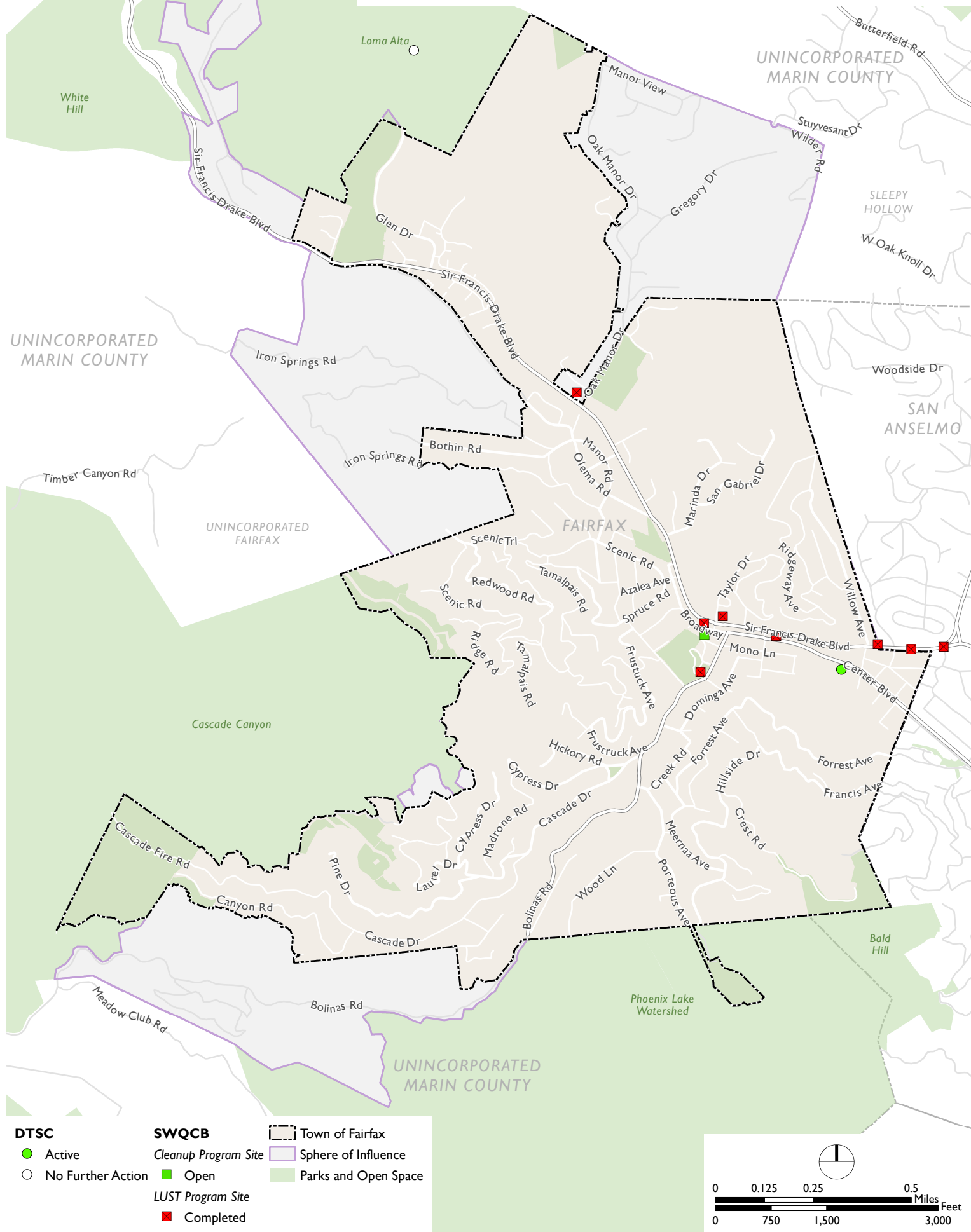
may appear. The listed sites were sites identified within the Planning Area at the time this document was prepared.

**Table 3.8-1. Contaminated Sites within the Planning Area**

<i>Site Name</i>	<i>Address</i>	<i>Type</i>	<i>Description and Site Status</i>
Fair Anselm Center, Inc	709 & 711 Center Blvd	EnviroStor (Cortese list)	State Response - Active.
77 & 83 Broadway	77 & 83 Broadway	Cleanup Program Site	Open – Assessment & Interim Remedial Action.
Alfa Gas Station	1789 Sir Francis Drake Blvd	LUST Cleanup Site	Completed - Case Closed.
Fairfax Corporation Yard	142 Bolinas Rd	LUST Cleanup Site	Completed - Case Closed.
Fairfax Gas	2001 Sir Francis Drake Blvd	LUST Cleanup Site	Completed - Case Closed.
Ferraro Fairfax Service	1942 Sir Francis Drake Blvd	LUST Cleanup Site	Completed - Case Closed.
Meadow Club	1001 Bolinas Fairfax Rd	LUST Cleanup Site	Completed - Case Closed.
Meadow's Club Golf Course	1001 Bolinas Rd	LUST Cleanup Site	Completed - Case Closed.
Redwood Oil Company BP	1789 Sir Francis Drake Blvd	LUST Cleanup Site	Completed - Case Closed.
Texaco	2400 Sir Francis Drake Blvd	LUST Cleanup Site	Completed - Case Closed.

*Source: CalEPA, 2023*

**Figure 3.8-I: Contaminated Sites in the Planning Area**



### *Aerially Deposited Lead*

Aerially deposited lead is a common hazardous materials issue in urban areas. Soils adjacent to major roadways often contain elevated concentrations of lead. The lead deposition is the result of airborne particulates and surface water runoff associated with automobile tailpipe emissions prior to the time lead was phased out of vehicle fuels and from lead wheel weights. The DTSC *Statewide Agreement For Caltrans for Reuse of Aerially Deposited Lead-Contaminated Soils* suggests that lead is generally found within 30 feet of the edge of the pavement and within the top six inches of the soil. In some cases, the lead is as deep as two to three feet below the surface.<sup>2</sup>

Properties located adjacent to major roadways such as Sir Francis Drake Boulevard may contain elevated concentrations of lead in exposed surface soils, which could pose a health hazard to construction workers and users of the properties. Exposure of construction workers or future site occupants to lead in soil could result in adverse health effects, depending on the duration and extent of exposure.

### *Hazardous Materials in Building Materials*

Hazardous materials, such as lead and asbestos, may be found in building materials and disturbed during demolition and renovation activities associated with development or redevelopment. Lead compounds were commonly used in interior and exterior paints until they were banned in 1978. Prior to the 1980s, building materials often contained asbestos fibers, which were used to provide strength and fire resistance until they were banned. In addition, other common items present in buildings, such as electrical transformers, fluorescent lighting, electrical switches, heating/cooling equipment, caulking, and thermostats can contain hazardous materials, which may pose a health risk if not handled and disposed of properly.

Demolition of buildings has the potential to release lead particles, asbestos fibers, PCBs, and/or other hazardous materials to the ground or air where they may be inhaled or ingested by construction workers and the general public. Federal and State regulations govern the demolition of structures where lead or material containing lead is present. During demolition, lead-based paint that is securely adhering to wood or metal may be disposed of as demolition debris, which is a non-hazardous waste. Loose and peeling paint must be disposed of as a California and/or federal hazardous waste if the concentration of lead exceeds applicable waste thresholds. State and federal construction worker health and safety regulations require air monitoring and other protective measures during demolition activities where lead-based paint is present.

Federal, State, and local requirements also govern the removal of asbestos or suspected asbestos-containing materials (ACMs), including the demolition of structures where asbestos is present. The Bay Area Air Quality Management District (BAAQMD) requires that demolition projects obtain BAAQMD approval prior to issuance of local building permits for renovation and demolition projects. The Town of Fairfax Building Division enforces this requirement, which is intended to minimize the release of asbestos during demolition activities. Workers conducting asbestos

---

<sup>2</sup> Department of Toxic Substances Control (DTSC). 2017. *Statewide Agreement for Caltrans for Reuse of Aerially Deposited Lead-Contaminated Soils*. Available: [https://dtsc.ca.gov/wp-content/uploads/sites/31/2017/11/CaltransStatewide\\_FS\\_ADLAgreement\\_0316.pdf](https://dtsc.ca.gov/wp-content/uploads/sites/31/2017/11/CaltransStatewide_FS_ADLAgreement_0316.pdf)

abatement must be trained in accordance with State and federal Occupational Safety and Health Administration (OSHA) regulations.

### **Airport Hazards**

Risks associated with airport operations include those to people and property located in the vicinity of the airport in the event of an accident, and those to the safety of persons aboard an aircraft. The Town of Fairfax does not have an airport and no public-use airports or private airstrips are present within the Planning Area. The nearest airport is the San Rafael, located approximately five miles northeast of the Planning Area. The Planning Area does not fall within the Airport Influence Area of this airport.

## **REGULATORY SETTING**

Hazardous materials and hazardous wastes are extensively regulated by federal, State, regional and local regulations, with the major objective of protecting public health and the environment. In general, these regulations provide definitions of hazardous substances; identify responsible parties; establish reporting requirements; set guidelines for handling, storage, transport, remediation, and disposal of hazardous materials and wastes; and require health and safety provisions for both workers and the public, such as emergency response and worker training programs. Sites which are subject to these regulations are identified on periodically updated published lists at the federal, state, and local levels; the regulated sites include underground storage tank (UST) locations. The major regulations relevant to the Proposed project are summarized in the following subsections.

### **Federal Regulations**

#### *Federal Toxic Substances Control Act/Resource Conservation and Recovery Act (RCRA)/Hazardous and Solid Waste Act*

The federal Toxic Substances Control Act (1976) and the RCRA established a U.S. EPA-administered program to regulate the generation, transport, treatment, storage, and disposal of hazardous waste. The RCRA was amended in 1984 by the Hazardous and Solid Waste Act, which affirmed and extended the “cradle to grave” system of regulating hazardous wastes.

#### *Comprehensive Environmental Response, Compensation, and Liability Act/Superfund Amendments and Reauthorization Act*

CERCLA, commonly known as “Superfund,” was enacted by Congress on December 11, 1980. This law (42 United States Code 103) provides broad federal authority to respond directly to releases or threatened releases of hazardous substances that may endanger public health or the environment. CERCLA establishes requirements concerning closed and abandoned hazardous waste sites, provides for liability of persons responsible for releases of hazardous waste at these sites, and establishes a trust fund to provide for cleanup when no responsible party can be identified. CERCLA also enabled the revision of the National Contingency Plan. This plan (Title 40, Code of Federal Regulations [CFR], Part 300) provides the guidelines and procedures needed to respond to releases and threatened releases of hazardous substances, pollutants, and/or contaminants. The

National Contingency Plan also established the National Priorities List. CERCLA was amended by the Superfund Amendments and Reauthorization Act on October 17, 1986.

#### *Occupational Safety and Health Administration*

The Occupational Safety and Health Administration's (OSHA's) mission is to ensure the safety and health of American workers by setting and enforcing standards; providing training, outreach, and education; establishing partnerships; and encouraging continual improvement in workplace safety and health. OSHA establishes and enforces protective standards and reaches out to employers and employees through technical assistance and consultation programs. OSHA standards are listed in 29 CFR 1910.

#### *Department of Transportation Hazardous Materials Regulations (49 CFR 100–185)*

U.S. Department of Transportation Hazardous Materials regulations cover all aspects of hazardous materials packaging, handling, and transport. Some of the topics covered include Parts 107 (Hazard Materials Program), 130 (Oil Spill Prevention and Response), 172 (Emergency Response), 173 (Packaging Requirements), 174 (Rail Transportation), 176 (Vessel Transportation), 177 (Highway Transportation), 178 (Packaging Specifications), and 180 (Packaging Maintenance).

#### *Emergency Planning and Community Right-To-Know Act*

The Emergency Planning and Community Right-to-Know Act (EPCRA) of 1986 was included under SARA law and is commonly referred to as SARA Title III. EPCRA was passed in response to concerns regarding the environmental and safety hazards proposed by the storage and handling of toxic chemicals. EPCRA establishes requirements for federal, state, and local governments, tribes, and industry regarding emergency planning and Community Right-to-Know reporting on hazardous and toxic chemicals. SARA Title III requires states and local emergency planning groups to develop community emergency response plans for protection from a list of Extremely Hazardous Substances (40 CFR Appendix B). The Community Right-to-Know provisions help increase the public's knowledge of and access to information on chemicals at individual facilities, their uses, and their release into the environment.

#### *Hazardous Materials Transportation Act*

The Hazardous Materials Transportation Act (HMTA) of 1975 was created to provide adequate protection from the risks to life and property related to the transportation of hazardous materials in commerce by improving regulatory enforcement authority of the Secretary of Transportation.

### **State Regulations**

#### *California Environmental Protection Agency (CalEPA)*

The California Environmental Protection Agency (CalEPA) was created in 1991. It unified California's environmental authority in a single cabinet-level agency and brought the California Air Resources Board, SWRCB, RWQCB, CalRecycle, DTSC, Office of Environmental Health Hazard Assessment, and Department of Pesticide Regulation under one agency. These agencies were placed under the

Cal/EPA “umbrella” for the protection of human health and the environment to ensure the coordinated deployment of state resources. Their mission is to restore, protect, and enhance the environment and ensure public health, environmental quality, and economic vitality. CalEPA also manages the Unified Program and has certified Marin County Public Works as the Certified Unified Program Agency (CUPA) to implement state hazardous materials requirements within the jurisdiction.

#### *Accidental Release Prevention Law/California Accidental Release Prevention Program (CalARP)*

SB 1889 established the merging of federal and State of California programs governing the accidental airborne release of chemicals listed under Section 112 of the Clean Air Act. Effective January 1, 1997, CalARP replaced the previous California Risk Management and Prevention Program (RMPP) and incorporated the mandatory federal requirements. CalARP addresses facilities containing specified hazardous materials that, if involved in an accidental release, could result in adverse off-site consequences. CalARP defines regulated substances as chemicals that pose a threat to public health and safety or the environment because they are highly toxic, flammable, or explosive. Marin County Public Works/CUPA administers the CalARP program.

#### *Hazardous Materials Worker Safety Requirements*

Occupational safety standards exist in federal and state laws to minimize worker safety risks from both physical and chemical hazards in the workplace. The California Division of Occupational Safety and Health (Cal OSHA) and the federal OSHA are the agencies responsible for ensuring worker safety in the workplace. Cal OSHA assumes primary responsibility for developing and enforcing standards for safe workplaces and work practices. In California, Cal OSHA assumes primary responsibility for developing and enforcing workplace safety regulations; Cal OSHA standards are generally more stringent than federal regulations.

#### *California Labor Code (Division 5, Parts 1, 6, 7, and 7.5)*

The California Labor Code is a collection of regulations that include regulation of the workplace to ensure appropriate training on the use and handling of hazardous materials and operation of equipment and machines that use hazardous materials. Division 5, Part 1, Chapter 2.5, ensures that employees who are in charge of handling hazardous materials are appropriately trained and informed with respect to the materials they handle. Division 5, Part 7, ensures that employees who work with volatile flammable liquids are outfitted with appropriate safety gear and clothing.

#### *Department of Toxic Substances Control and Cortese List*

DTSC, a department of Cal/EPA, is the primary agency in California for regulating hazardous waste, cleaning up existing contamination, and finding ways to reduce the amount of hazardous waste produced in California. DTSC regulates hazardous waste primarily under the authority of the federal RCRA and the California Health and Safety Code (primarily Division 20, Chapters 6.5 through 10.6, and Title 22, Division 4.5). Other laws that affect hazardous waste are specific to handling, storage, transport, disposal, treatment, reduction, cleanup, and emergency planning.

California Government Code 65962.5 (commonly referred to as the Cortese List) includes DTSC-listed hazardous waste facilities and sites, Department of Health Services lists of contaminated drinking water wells, sites listed by SWRCB as having UST leaks or a discharge of hazardous wastes or materials into the water or groundwater, and lists from local regulatory agencies of sites with a known migration of hazardous waste/material.

#### *State of California Emergency Plan, 2017*

California has developed an emergency response plan to coordinate emergency services provided by federal, State, and local governments and private agencies. Response to hazardous material incidents is one part of this plan. The plan is managed by the California Emergency Management Agency, which coordinates the responses of other agencies, including CalEPA, the California Highway Patrol, California Department of Fish and Wildlife (CDFW), and RWQCB.

#### *Office of Environmental Health Hazard Assessment*

The State of California Office of Environmental Health Hazard Assessment (OEHHA) is the lead state agency for the assessment of health risks posed by environmental contaminants. The OEHHA implements provisions of the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65). Proposition 65 requires the governor to publish, at least annually, a list of chemicals known to the state to cause cancer or reproductive toxicity. The proposition protects California citizens and the state's drinking water sources from chemicals known to cause cancer, birth defects, or other reproductive harm and informs the public about potential exposures to such chemicals.

#### *California Department of Transportation*

The California Department of Transportation (Caltrans) manages more than 50,000 miles of California's highway and freeway lanes, provides inter-city rail services, permits more than 400 public-use airports and special-use hospital heliports, and works with local agencies. Caltrans is also the first responder for hazardous material spills and releases that occur on highway and freeway lanes and inter-city rail services.

#### *State Water Resources Control Board (SWRCB)*

The Porter-Cologne Water Quality Control Act of 1969 established the SWRCB and divided the state into nine regional basins, each with a Regional Water Quality Control Board (RWQCB). The SWRCB is the primary state agency responsible for protecting the quality of the state's surface and groundwater supplies, while the regional boards are responsible for developing and enforcing water quality objectives and implementation plans. The Planning Area is within the jurisdiction of the San Francisco Bay Regional Water Quality Control Board.

The act authorizes the SWRCB to enact state policies regarding water quality in accordance with the U.S. EPA Clean Water Act (CWA) section 303. The SWRCB regulates the handling, storage, and disposal of hazardous substances in construction projects. Permits and/or other action by the SWRCB may be required if contamination of water or soils occurs during the construction

associated with the Proposed project. In addition, the act authorizes the SWRCB to issue Waste Discharge Requirements (WDRs) for projects that would discharge to State waters.

#### ***NPDES General Construction Stormwater Permit***

In California, the State Water Resources Control Board (SWRCB) has broad authority over water quality control issues and water rights. The SWRCB is responsible for developing statewide water quality policy and exercises the powers delegated to the State by the federal government under the CWA.

In addition to municipal and industrial activities, the SWRCB regulates construction activities that disturb one or more acres of land that could impact hydrologic resources. These activities must comply with the SWRCB Construction General Permit (CGP) (2009-0009-DWQ) as amended by 2010-0014-DWQ and 2012-006-DWQ, which requires that applicants demonstrate conformance with applicable best management practices (BMPs) and prepare a Storm Water Pollution Prevention Plan (SWPPP). The SWPPP must contain a site map that shows the construction site perimeter; existing and proposed buildings, lots, roadways, stormwater collection, and discharge points; general topography both before and after construction; and drainage patterns across the project site. The SWPPP must also list BMPs that will be implemented to prevent soil erosion and discharge of other construction-related pollutants that could contaminate nearby water resources. Additionally, the SWPPP must contain a visual monitoring program, a chemical monitoring program for nonvisible pollutants if there is a failure of the BMPs, and a sediment monitoring plan if the site discharges directly to a water body listed on the 303(d) list for sediment.

#### ***California Public Resources Code Section 2115.4***

Public Resources Code Section 21151.4 regulates hazardous materials near schools. Public Resources Code Section 21151.4 prohibits the certification of a Draft Environmental Impact Report (EIR) for a project involving the construction or alteration of a facility that might reasonably be anticipated to emit hazardous air emissions or handle extremely hazardous air emissions in a quantity greater than a certain threshold, within one-quarter mile of a school. All three schools within Fairfax, including Manor Elementary, While Hill Middle School, and Ross Valley Charter, are located within one-quarter mile of a site for development under the Proposed Project.

### **Local Regulations**

#### ***CalEPA's Unified Program (CUPA)***

In 1993, Senate Bill 1082 gave CalEPA the authority and responsibility to establish a unified hazardous waste and hazardous materials management and regulatory program, commonly referred to as the Unified Program. The purpose of this program is to consolidate and coordinate six different hazardous materials and hazardous waste programs, and to ensure that they are consistently implemented throughout the state. CalEPA oversees the Unified Program with support from the DTSC, SWRCB, the CalOES, and the Office of the State Fire Marshal.

State law requires counties, and allows local agencies, to implement the Unified Program. The agency in charge of implementing the program is called the Certified Unified Program Agency or



CUPA. Marin County Public Works serves as the Marin County Certified Unified Programs Agency (CUPA) to regulate and inspect approximately 850 Marin businesses. As the Certified Unified Program Agency, they administer the following Unified Programs throughout the County:

- Hazardous Materials Release Response Plans and Inventory (Business Plan) Program
- California Accidental Release Prevention Program
- Underground Storage Tank Program
- Hazardous Waste Generator Program
- Hazardous Waste On-Site Treatment Programs
- Aboveground Petroleum Storage Act Program

*Marin County Emergency Operations Plan (EOP)*

The 2014 County's Emergency Operations Plan is a guidebook for the Marin County Operational Area (OA) to utilize during phases of an all-hazards emergency management process which include preparedness, response, recovery, and mitigation. The EOP is intended to facilitate coordination between agencies and jurisdictions within Marin County while ensuring the protection of life, property, and the environment during disasters. In accordance with California's Standardized Emergency Management System (SEMS), this Plan provides the framework for a coordinated effort between partners and provides stability and coordination during a disaster.

*Marin County Multi-Jurisdiction Local Hazard Mitigation Plan (LHMP)*

The 2018 Marin County Multi-Jurisdiction Local Hazard Mitigation Plan defines measures to reduce risks from natural disasters in the Marin County Operational Area, which consists of the entire county, including unincorporated areas, incorporated cities, and special purpose districts. The plan complies with federal and state hazard mitigation planning requirements to establish eligibility for funding under Federal Emergency Management Agency (FEMA) grant programs for all planning partners.

*Town of Fairfax 2010-2030 General Plan (General Plan)*

The Town of Fairfax 2010-2030 General Plan (General Plan) includes the following goals and policies associated with hazards and hazardous materials:

**Goal OS-4:** Balance the interests of public health with safety with the preservation of open space.

**Policy OS-4.1.3:** Mitigate extreme wildfire hazard in open space areas by reducing fire risk and removing invasive non-native species.

**Goal S-3:** Minimize risk due to fire hazards.

**Policy S-3.1.1:** Development and land use decisions will be made using the best available fire hazard information.

**Policy S-3.1.2:** Develop and implement fuel, vegetation management and defensible space activities, consistent with Open Space and Conservation Element goals.

**Policy S-3.1.3:** Maximize access and egress for emergency response vehicles. Also see Conservation Element, Goal C-4.

**Policy S-3.1.4:** The Town of Fairfax will collaborate with external agencies and the community to provide adequate water supply and fire flow.

**Policy S-3.1.5:** Town codes and ordinances will be enforced and updated as needed to reflect current scientific data and technical standards.

**Goal S-4:** Community Preparedness.

**Policy S-4.1.1:** Obtain, organize and disseminate information for disaster preparedness.

**Policy S-4.4.1:** The Town shall develop and maintain a comprehensive warning and evacuation system to reduce life loss and injury.

**Policy S-4.4.2:** The Town shall build community capacity to prepare for, respond to and recover from fire events.

**Policy S-4.5.1:** Develop community capacity to respond to a disruption of services due to a regional disaster event.

## **Impact Analysis**

---

### **SIGNIFICANCE CRITERIA**

For the purposes of this EIR, a significant impact would occur if the Proposed Project would:

- Criterion 1:** Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials;
- Criterion 2:** Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment;
- Criterion 3:** Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school;
- Criterion 4:** Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would create a significant hazard to the public or the environment;
- Criterion 5:** Be located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public uses airport, and would

result in a safety hazard or excessive noise for people residing or working in the project area;

**Criterion 6:** Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan; or

**Criterion 7:** Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires.

## **METHODOLOGY AND ASSUMPTIONS**

This analysis considers the range and nature of foreseeable hazardous materials use, storage, and disposal resulting from implementation of the Proposed Project, and identifies the primary ways that these hazardous materials could expose individuals or the environment to health and safety risks. The analysis included a qualitative evaluation of impacts associated with the potential presence of hazardous materials or hazards in the Planning Area, and an evaluation of the extent to which land use changes suggested within the Proposed Project could enable the development of industrial uses that commonly employ or generate hazardous materials or waste in their production processes, as well as development in or around Very High Fire Hazard Severity Zones. This analysis is based on a review of materials ranging from the Envirostor and Geotracker databases, hazard mapping, and relevant plans and regulations at the federal, State, and local levels.

## **IMPACTS**

**Impact 3.8-1 Implementation of the Proposed Project would not create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials. (*Less than Significant*)**

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

Although solvents, paints, oils, greases, fuels, and other materials would be transported, used, and disposed of during construction, these materials are typically used in construction projects and would not represent any undue hazard. Releases involving common construction hazardous materials would be small and localized and spills that may occur would be contained and cleaned

according to the Safety Data Sheet<sup>3</sup> (SDS) in the appropriate manner.<sup>4</sup> A hazardous material SDS would include accidental release clean up measures such as appropriate techniques for neutralization, decontamination, cleaning or vacuuming, and adsorbent materials, etc. Contractors and staff would be covered by Cal OSHA and CUPA training standards that require documented employee training and equipment for emergency response.

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

- Maintenance activities, maintenance schedules, and long-term inspection procedures to minimize release of fluids, oils and fuels from construction equipment.
- Controls for reducing or eliminating the discharge of pollutants
- Procedures for the proper disposal of waste<sup>5</sup>

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

---

<sup>3</sup> SDS include information such as the properties of a chemical; the physical, health, and environmental health hazards; protective measures; and safety precautions for handling, storing, and transporting the chemical. In addition, OSHA requires that SDS preparers provide specific minimum information as detailed in Appendix D of 29 CFR 1910.1200.

<sup>4</sup> Occupational Safety and Health Administration (OSHA). 2012. Hazard Communication Standard: Safety Data Sheets. Last revised: February 2012. Available: <https://www.osha.gov/Publications/OSHA3514.html>. Accessed: March 2020.

<sup>5</sup> U.S. Environmental Protection Agency (U.S. EPA). 2018. Stormwater Phase II Final Rule: Pollution Prevention/Good Housekeeping Minimum Control Measure. Available: [https://www.epa.gov/sites/production/files/2018-12/documents/epa\\_stormwater\\_phase\\_ii\\_final\\_rule\\_factsheet\\_2.8\\_pollution\\_prevention\\_12-04-18.pdf](https://www.epa.gov/sites/production/files/2018-12/documents/epa_stormwater_phase_ii_final_rule_factsheet_2.8_pollution_prevention_12-04-18.pdf). Accessed June 2020.

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

Overall, any transport, use, storage, and disposal of hazardous materials would be required to comply with existing regulations established by several agencies, including the Department of Toxic Substances Control, the US Environmental Protection Agency (EPA), the US Department of Transportation, and the Occupational Safety and Health Administration. Compliance with existing regulations would result in a less than significant impact.

#### *Mitigation Measures*

None required.

#### **Impact 3.8-2      Implementation of the Proposed project would not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment. (*Less than Significant*)**

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

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

Adherence to existing regulations and programs would reduce impacts associated with the release of hazardous materials into the environment due to foreseeable upset and accident conditions to less than significant.

#### *Mitigation Measures*

None required.

**Impact 3.8-3 Implementation of the Proposed project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school. (*Less than Significant*)**

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

Adherence to the requirements of existing regulatory programs would reduce potential impacts associated with handling hazardous materials near a school to a less-than-significant level.

*Mitigation Measures*

None required.

**Impact 3.8-4 Implementation of the Proposed project would not result in development located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would create a significant hazard to the public or the environment. (*Less than Significant*)**

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

*Mitigation Measures*

None required.

**Impact 3.8-5 Implementation of the Proposed project would not result in development located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public uses airport, and would result in a safety hazard or excessive noise for people residing or working in the Planning Area. (*No Impact*)**

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

*Mitigation Measures*

None required.

**Impact 3.8-6      Implementation of the Proposed project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. (*Less than Significant*)**

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

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

*Mitigation Measures*

None required.

**Impact 3.8-7      Implementation of the Proposed project would not expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires. (*Less than Significant*)**

See Impacts 3.15-1 and 3.15-2 in Section 3.15: Wildfire for analysis on this impact. Compliance with existing State and local codes and regulations as well as proposed policies would reduce impacts to a less-than-significant level related to exacerbating wildfire risks during construction, operation, and implementation of the Proposed Project.

*Mitigation Measures*

None required.

## 3.9 Hydrology and Water Quality

This section assesses potential environmental impacts from future development under the Proposed Project related to hydrology and water quality. Issues addressed include water quality standards, groundwater resources, drainage, and flood hazards related to rivers, sea level rise, dam failure, seiches, tsunamis, and mudflows. The section describes existing surface water and groundwater hydrology, water quality, and flood hazards in the Planning Area, as well as relevant federal, State, and local regulations and programs.

There were three responses to the Notice of Preparation (NOP) regarding topics covered in this section. Comments are located in Appendix B of the DEIR. Commenters had concerns about hydrology impacts from the development of open spaces as well as concerns about development sites located within the floodplain. These comments are addressed under Impact 3.9-3 and Impact 3.9-4 and incorporated throughout the following analysis.

## Environmental Setting

---

### PHYSICAL SETTING

#### Groundwater

Fairfax is located in the San Francisco Bay Hydrologic Region, which has 28 identified groundwater basins.<sup>1</sup> There are four groundwater basins in Marin County that include Sand Point Area, Novato Valley, San Rafael Valley, and Ross Valley. None of the four groundwater basins intersect with the Fairfax Planning Area; the Sand Point Area Basin is located about 35 miles northwest of Fairfax, the Novato Valley Basin is about five miles northeast, the San Rafael Valley Basin is about 3.5 miles east, and the Ross Valley Basin is about 4.5 miles southeast.

None of these groundwater basins have been designated a medium- or high-priority basin by the California Department of Water Resources. The Novato Valley groundwater basin is a Low Priority Groundwater Basin, and the other three are Very Low Priority. The Sustainable Groundwater Management Act (SGMA) requires medium- and high-priority basins to develop groundwater

---

<sup>1</sup> Department of Water Resources, California's Groundwater, Bulletin 118, Update 2003.



sustainability agencies (GSAs), develop groundwater sustainability plans (GSPs) and manage groundwater for long-term sustainability.<sup>2</sup>

The Novato, San Rafael Valley, and Ross Valley groundwater basins are at least partially within the Marin Municipal Water District (MMWD) service area, but according to the MMWD, groundwater is not currently or planned to be used as a water supply source.<sup>3</sup>

## **Surface Water Resources**

The Fairfax Planning Area is located in the headwaters of the Ross Valley watershed. The Ross Valley Watershed reaches from the foothills of Mount Tamalpais in the Coast Range to the San Francisco Bay. The watershed drains approximately thirty square miles into nearly as many named creeks. San Anselmo and Fairfax creeks rise along the southern and western ridges and drain steep upland areas onto relatively narrow valley flats. Fairfax lies at the confluence of San Anselmo Creek and Fairfax Creek, establishing the headwaters of Corte Madera Creek.<sup>4</sup>

## **Storm Drain Facilities**

Fairfax is located in the Upper Ross Valley, with a topography set amid hills that rise from the valley floor. Most parcels within the Town limit are developed, and almost all the remaining vacant land is located in steeply sloped hillside areas. Impervious surfaces within the Planning Area include major and minor roadways, residential and commercial development, schools, and recreation complexes with paved areas (e.g., basketball courts). Streets in the Planning Area include storm drainage facilities, including a number of underground culverts/storm drains and engineered channels.

## **Water Quality**

The *Water Quality Control Plan for the San Francisco Bay Basin* (Basin Plan), as administered by the San Francisco Bay Regional Water Quality Control Board, specifies beneficial uses that apply to water bodies where the potential exists for them to be affected by the project. Fairfax Creek has the water quality to achieve the existing beneficial uses: cold freshwater habitat, fish spawning, warm freshwater habitat, wildlife habitat, water contact recreation, and noncontact water recreation. San Anselmo Creek also has the same existing beneficial uses with the addition of fish migration and preservation of rare and endangered species.<sup>5</sup> Neither of these creeks are 303(d) listed as impaired.<sup>6</sup>

---

<sup>2</sup> California Department of Water Resources, Basin Prioritization, <https://water.ca.gov/programs/groundwater-management/basin-prioritization>, accessed 7/27/22.

<sup>3</sup> Marin Municipal Water District, 2020 Urban Water Management Plan for Marin Municipal Water District, June 2021, p. 53.

<sup>4</sup> Town of Fairfax, Town of Fairfax 2010 – 2030 General Plan, April 2012.

<sup>5</sup> San Francisco Bay Regional Water Quality Control Board. 2023. Water Quality Control Plan for the San Francisco Bay Basin.

<sup>6</sup> State Water Resources Control Board. 2018. *2014/2016 Integrated Report (Clean Water Act Section 303[d] List/305[b] Report)—Statewide*. San Francisco Bay Regional Water Quality Control Board. EPA approved: April 6, 2018.

## **Flooding**

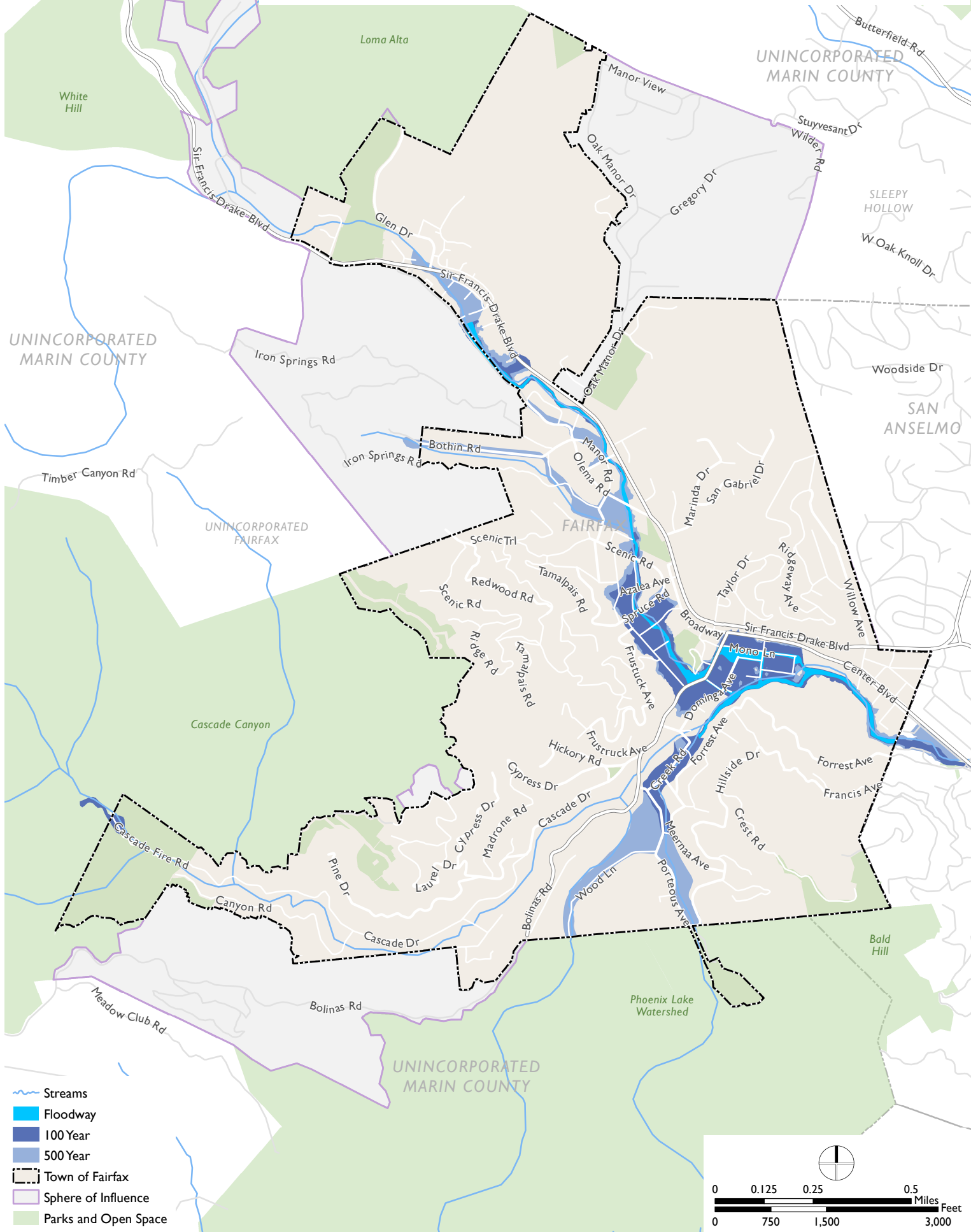
Figure 3.9-1 shows the 100-year and 500-year floodplains within the Planning Area based on the Federal Emergency Management Agency (FEMA) mapping of Special Flood Hazard areas. The Planning Area includes approximately 54 acres of land designated as 100-year floodplains, which means that such areas are expected to flood once every 100 years. These areas are primarily comprised of lands in the floodplain adjacent to the confluence of Fairfax and San Anselmo Creeks. In addition, there are smaller areas along Fairfax Creek within the 100-year floodplain.

The Planning Area also includes approximately 44 acres of 500-year floodplains (areas where flooding is expected once every 500 years). Such areas include the land along Wood Lane and Porteous Ave in the southern portion of Fairfax, as well as along Olema and Bothin roads within the Fairfax Creek floodplain. The remainder of the Planning Area is predominantly in an area of minimal flood hazard (flooding not anticipated in the 100 year or 500-year time frames).

The Town participates in the Federal Flood Insurance Program and must comply with the requirements of the program. Further, Fairfax is a member of the Marin County Flood Control and Water Conservation District Flood Zone 9. Jointly with the Ross Valley Watershed Program, the Town of Fairfax is coordinating with other communities to identify and resolve long-term flooding issues.

The Marin Countywide Stormwater Pollution Prevention Program (MCSTOPPP) implements permit compliance tasks and tracks stormwater regulations on behalf of the member agencies, including the Town of Fairfax. The agency also documents local and countywide permit compliance efforts in annual reports to the San Francisco Bay Regional Water Quality Control Board. Each MCSTOPPP member agency implements a local stormwater pollution prevention program and funds the countywide MCSTOPPP, which provides for the coordination and consistency of approaches between the local stormwater programs. The San Francisco Bay Regional Water Quality Control Board also requires treatment of stormwater runoff for new developments, including flow through retention or detention basins, prior to discharge into waterways. Thus, projects will be required to consider design features for stormwater retention, detention, and/or water quality treatment.

**Figure 3.9-1: Waterways and Flood Zones in the Planning Area**



## **Dam and Levee Failure Inundation Zones**

Any dam poses a potential risk of failure, which would most likely be caused from seismically induced ground shaking or other seismic events, and which threatens the area below the dam with inundation. There are no dams located within the Planning Area. Bon Tempe Dam, Lagunitas Dam, and Phoenix Lake Dam are located about 3.5 miles south of Fairfax. However, in the event of a dam failure, none of these dams located in the vicinity of the Planning Area would result in flooding in any portion of the town.<sup>7</sup>

## **Coastal and Bay Hazards**

### *Seiche*

A seiche is a standing wave that oscillates in a body of water, due to strong winds, changes in atmospheric pressure, or seismic waves from an earthquake passing through a water body. Seiche occurs in an enclosed or partially enclosed body of water, such as a lake or reservoir. There are no large water bodies within or near enough to the Planning Area likely to result in a flood risk from a seiche.

### *Tsunamis*

Tsunamis are long-period water waves caused by underwater seismic events, volcanic eruptions, or undersea landslides. Tsunamis affecting the San Francisco Bay region would most likely originate west of the bay, in the Pacific Ocean. Areas that are highly susceptible to tsunami inundation tend to be low-lying coastal areas, such as tidal flats, marshlands, and former bay margins that have been artificially filled. The San Francisco Bay is approximately 7 miles east of the Planning Area. The Town of Fairfax maintains an elevation at about 115 feet above mean sea level (msl). Based on the distance from San Francisco Bay and elevation of the town, the Planning Area is not susceptible to tsunami inundation.

## **REGULATORY SETTING**

### **Federal**

#### *Clean Water Act*

Several sections of the Clean Water Act (CWA) pertain to regulating waters of the United States. The CWA is not only the primary federal law for regulating water quality in the United States but also the basis for several State and local laws. Its objective is to reduce or eliminate water pollution in the nation's rivers, streams, lakes, and coastal waters. The CWA prescribes basic federal laws for regulating discharges of pollutants and sets minimum water quality standards for all waters of the United States. Several mechanisms are used to control domestic, industrial, and agricultural pollution under the CWA.

EPA is the overarching authority for protecting the quality of waters of the United States. However, EPA has delegated administration and enforcement of the CWA in California to the State Water

---

<sup>7</sup> <https://fmds.water.ca.gov/maps/damim/>

Resources Control Board (SWRCB) and the Regional Water Quality Control Boards (RWQCBs). The State has developed a number of water quality laws, rules, and regulations. It also adopts water quality standards to protect beneficial uses of waters of the State, as required by Section 303(d) of the CWA. CWA requirements are addressed through development of a 303(d)/305(b) integrated report, which provides both an update to the 303(d) list and a 305(b) assessment of statewide water quality. The 2014/2016 California Integrated Report was approved by EPA on April 6, 2018.

#### ***Executive Order 11988***

FEMA is responsible for managing the 100-year floodplain, areas with a 1 percent or greater chance of flooding in any given year. A Flood Insurance Rate Map, an official FEMA-prepared map, is used to delineate both the Special Flood Hazard Areas (the 100-year floodplain) and the flood-risk premium zones in a community. Under Executive Order 11988, FEMA requires local governments that are covered by the National Flood Insurance Program to pass and enforce a floodplain management ordinance that specifies minimum requirements for any construction within the 100-year floodplain. FEMA administers the National Flood Insurance Program, which includes floodplain management and flood hazard mapping and provides subsidized flood insurance to communities that comply with FEMA regulations to limit development in floodplains.

#### ***Safe Drinking Water Act***

The Safe Drinking Water Act (SDWA) was established in 1974 to set federal minimum drinking standards and to protect public water supplies. This is the primary federal legislation protecting drinking water supplied by public water systems. As a result of the act, regulations for the protection of public health, as well as regulations relating to the taste, odor, and appearance of drinking water were established.

### **State**

#### ***Porter-Cologne Water Quality Control Act***

The Porter-Cologne Water Quality Control Act (Porter-Cologne Act) was established and implemented by the SWRCB. The SWRCB is the primary State agency with responsibility for protecting the quality of the State's surface and groundwater supplies, or waters of the State. Waters of the State are defined more broadly than waters of the United States (i.e., any surface water or groundwater, including saline waters, within the boundaries of the State). This includes waters in both natural and artificial channels. It also includes all surface waters that are not waters of the United States or non-jurisdictional wetlands, which are essentially distinguished by whether they are navigable. If waters are not navigable, they are considered to be isolated and, therefore, under the jurisdiction of only the Porter-Cologne Act and not the CWA.

The Porter-Cologne Act authorizes the SWRCB to draft policies regarding water quality. The act requires projects that discharge or propose a discharge of wastes that could affect the quality of waters of the State to file a Report of Waste Discharge with the appropriate RWQCB. The Porter-Cologne Act also requires the SWRCB or a RWQCB to adopt basin plans for the protection of water quality.

### ***NPDES General Construction Stormwater Permit***

In California, the State Water Resources Control Board (SWRCB) has broad authority over water quality control issues and water rights. The SWRCB is responsible for developing statewide water quality policy and exercises the powers delegated to the State by the federal government under the CWA.

In addition to municipal and industrial activities, the SWRCB regulates construction activities that disturb one or more acres of land that could impact hydrologic resources. These activities must comply with the SWRCB Construction General Permit (CGP) (2009-0009-DWQ) as amended by 2010-0014-DWQ and 2012-006-DWQ, which requires that applicants demonstrate conformance with applicable best management practices (BMPs) and prepare a Storm Water Pollution Prevention Plan (SWPPP). The SWPPP must contain a site map that shows the construction site perimeter; existing and proposed buildings, lots, roadways, stormwater collection, and discharge points; general topography both before and after construction; and drainage patterns across the project site. The SWPPP must also list BMPs that will be implemented to prevent soil erosion and discharge of other construction-related pollutants that could contaminate nearby water resources. Additionally, the SWPPP must contain a visual monitoring program, a chemical monitoring program for nonvisible pollutants if there is a failure of the BMPs, and a sediment monitoring plan if the site discharges directly to a water body listed on the 303(d) list for sediment.

### ***Waste Discharge Requirements for Dewatering and Other Low-threat Discharges to Surface Waters***

CWA Section 402 includes waste discharge requirements for dewatering activities. Although small amounts of construction-related dewatering are covered under the Construction General Permit, the San Francisco Bay RWQCB has regulations specific to dewatering activities. These typically involve reporting and monitoring. If dewatering occurs as part of the project at storm drains that lead to San Francisco Bay, the contractor would be required to comply with San Francisco Bay RWQCB dewatering requirements. If contaminated groundwater is encountered during construction (e.g., contamination from chlorinated VOCs), the project sponsor would be required to comply with the San Francisco Bay RWQCB's general requirements (i.e., Order No. R2-2017-0048, Discharge or Reclamation of Extracted and Treated Groundwater Resulting from the Cleanup of Groundwater Polluted by Volatile Organic Compounds, Fuel Leaks, Fuel Additives, and Other Related Wastes [VOC and Fuel General Permit]).

### ***Sustainable Groundwater Management Act***

The Sustainable Groundwater Management Act provides a framework for sustainable management of groundwater supplies by local authorities, with a limited role for State intervention only if necessary to protect the resource. The plan is intended to ensure a reliable groundwater water supply for California for years to come.

The Sustainable Groundwater Management Act requires the formation of local Groundwater Sustainability Agencies, which are required to adopt Groundwater Sustainability Plans (GSPs) to manage the sustainability of groundwater basins. Adoption of a GSP is required for all high- and medium-priority basins, as identified by the Department of Water Resources; otherwise, the

agencies must submit an alternative to a GSP. The Sustainable Groundwater Management Act also requires governments and water agencies with high- and medium-priority basins to halt overdraft practices and bring groundwater basins into a balanced level of pumping and recharge.

## **Local**

### ***San Francisco Regional Water Quality Control Board (Region 2)***

The San Francisco Regional Water Quality Control Board Region 2 (SFRWQCB) regulates stormwater quality under authority of both the Federal Clean Water Act and the Porter-Cologne Act. The SFRWQCB issues NPDES permits to dischargers of municipal and industrial stormwater runoff and operators of large construction sites. SFRWQCB staff perform an annual performance review and evaluation of stormwater management programs and NPDES compliance activities and also protect groundwater through its regulatory and planning programs.

On February 5, 2013, the State Water Resources Control Board adopted a General Permit for Discharge of Stormwater from Small MS4s (Phase II) that became effective on July 1, 2013. The Town of Fairfax is covered under this General Permit.

### ***Water Quality Control Plan***

San Francisco Bay is under the jurisdiction of the San Francisco Bay RWQCB, which established regulatory standards and objectives for water quality in its Water Quality Control Plan for the San Francisco Bay Basin, commonly referred to as the Basin Plan. Basin plans are updated and reviewed every 3 years. They provide the technical basis for determining waste discharge requirements, taking enforcement actions, and evaluating clean water grant proposals. Each RWQCB, which has region-wide and water body-specific beneficial uses, sets numeric and narrative water quality objectives for several substances and parameters in numerous surface waters in its region. A basin plan must include (1) a statement of beneficial water uses that the RWQCB will protect, (2) the water quality objectives needed to protect the designated beneficial water uses, and (3) strategies to be implemented, with time schedules for achieving the water quality objectives. The Basin Plan was last updated in March 2023.

### ***Marin Countywide Stormwater Pollution Prevention Program (MCSTOPP)***

The MCSTOPPP is comprised of Marin's 11 cities and towns, the County of Marin, and the Marin County Flood Control and Water Conservation District. The goals of the MCSTOPPP are to prevent stormwater pollution, protect and enhance water quality in creeks and wetlands, preserve beneficial uses of local waterways, and comply with State and Federal regulations. MCSTOPPP supports member agencies by implementing permit compliance tasks and tracking stormwater regulations; documenting local and countywide permit compliance in annual reports submitted to the San Francisco Bay Regional Water Quality Control Board; and providing technical assistance to member agencies and the public through countywide outreach and education programs. In addition, MCSTOPPP developed the Storm Water Resource Plan Functionally Equivalent Document, which identifies and prioritizes potential projects within MCSTOPPP agency jurisdictions that are designed to capture, treat and increase infiltration capacity, and/or use stormwater in ways that provide multiple benefits.

For projects that will include any soil disturbance during construction that has the potential to become a discharge, applicants must submit an Erosion and Sediment Control Plan (ESCP) for approval by the municipality prior to the issuance of certain permits, including all grading permits, most building permits, other permits at the discretion of the municipality, and projects designated by local authorized official or designated municipal staff.

#### ***Marin Municipal Water District 2020 Urban Water Management Plan***

Marin Municipal Water District's Urban Water Management Plan (UWMP) was prepared in response to California's Urban Water Management Planning Act, Water Code Sections 10610 through 10656. The act requires every urban water supplier that provides water to more than 3,000 customers for municipal purposes or supplies more than 3,000 acre-feet of water annually to prepare and adopt an UWMP and update the plan every 5 years. In June 2021, the District's 2020 Urban Water Management Plan was published. This plan is an update to the 2015 UWMP and carries forward information from that plan that remains current and is relevant to this plan and provides additional information as required by amendments to the Urban Water Management Planning Act (UWMP Act; CWC §10610 – 10657). The UWMP discusses the status of projects, programs, and studies regarding water supply planning, water conservation, and recycled water. The district manages several programs and projects in the county that focus on water quality, pollution prevention, water conservation, and stream and creek protection.

#### ***Town of Fairfax 2010-2030 General Plan (General Plan)***

The Town of Fairfax 2010-2030 General Plan (General Plan) includes the following goals and policies associated with hydrology and water quality:

##### **Goal CON-3: Watershed and stream management.**

**Policy CON-3.1.1:** Maintain floodwater capacity and promote creek restoration.

**Policy CON-3.1.2:** The Town of Fairfax shall protect and restore riparian habitat and ensure natural channel process in the San Anselmo Creek and Fairfax Creek watersheds.

**Policy CON-3.1.3:** Creeks that are channelized shall be restored and/or “day- lighted” to improve aquatic habitat. Creeks in a natural state shall not be channelized where possible.

**Policy CON-3.1.4:** Coordinate with appropriate agency to review individual well permits to protect surface water flow.

##### **Goal CON-4: Watershed conservation and quality.**

**Policy CON-4.2.1:** Provide connection to the sanitary sewer network for all town parcels.

**Policy CON-4.2.2:** Improve Town stormwater management through improved assessment, design, and implementation of standard practices as contained in a Storm Drain Master Plan. The Town will work with Marin County Stormwater Pollution Prevention Program (MCSTOPPP) to update the Stormwater Management Plan.



According to the requirements of current National Pollutant Discharge Elimination System (NPDES) Phase II General Permit Issued by the State Water Resources Board or applicable NPDES municipal stormwater permit in effect.

**Policy CON-4.2.3:** Reduce sales and consumption of cleaning products, solvents, insecticides and herbicides within the Town of Fairfax.

**Goal CON-5:** Soils and vegetation.

**Policy CON-5.1.1:** Educate residents of the Town on soil conservation and erosion issues.

**Policy CON-5.2.1:** Maintain and restore native vegetation where appropriate for habitat value, aesthetics, reference habitat, and riparian cover.

### *Fairfax Town Code*

Chapter 17.068, Floodplains, of the Fairfax Town Code provides provisions to protect human life and health, methods of reducing flood losses, and minimize public and private losses due to flood conditions in specific areas including damage to public facilities and utilities located in areas of special flood hazard. Standards of construction in areas of special flood hazards, utilities, and subdivisions for flood hazard reduction are also provided.

In addition, Section 16.24.160, Drainage and Flood Control, requires developments to prepare a study which details the effects of any runoff and the ability of the proposed drainage system to convey run-off volumes generated by the 100-year storms. An on-site detention system to regulate storm water discharge to avoid conveying any additional run-off to the affected drainage system may be required. The proposed development flood management plans shall be consistent with floodplain management purposes in the floodplain ordinance (17.068) and in no case shall there be net wetlands loss due to fill or other development activities.

Chapter 8.32, Urban Runoff Pollution Prevention, is intended to protect and enhance the water quality of the state's, and the nation's watercourses, water bodies, and wetlands in a manner pursuant to and consistent with the Clean Water Act, the Porter-Cologne Water Quality Control Act, and the Phase II Small Municipal Separate Storm Sewer System (MS4) National Pollutant Discharge Elimination System (NPDES) Permit. The ordinance requires operators of construction sites to install, implement, or maintain appropriate best management practices (BMPs) to maintain pre-development stormwater runoff rates and prevent nonpoint source pollution whenever possible.

## **Impact Analysis**

---

### **SIGNIFICANCE CRITERIA**

For the purposes of this EIR, a significant impact would occur if the Proposed Project would:

- Criterion 1:** Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or groundwater quality;
- Criterion 2:** Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin;
- Criterion 3:** Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:
- a. Result in substantial erosion or siltation on- or off-site;
  - b. Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite;
  - c. Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or
  - d. Impede or redirect floodflows.
- Criterion 4:** In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation; or
- Criterion 5:** Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan.

### **METHODOLOGY AND ASSUMPTIONS**

All Proposed Project elements were analyzed by comparing existing conditions, as described in the Environmental Setting section, to conditions during implementation of the Proposed Project. The analysis focuses on issues related to surface hydrology, flood hazards, groundwater supply, and surface and groundwater quality. Because future construction associated with the Proposed Project can occur anywhere within the Planning Area, potential hydrology and water quality impacts associated with future development as a result of the Proposed Project implementation are analyzed qualitatively at a program level.

#### **Surface Water Hydrology**

The surface water hydrology impact analysis considers potential changes in the physical characteristics of water bodies, impervious surfaces, and drainage patterns throughout the town as a result of the Proposed Project's implementation.

## **Groundwater Hydrology**

Impacts on groundwater supply and recharge are assessed by comparing existing groundwater use and recharge capabilities with conditions within the Planning Area after implementation of the Proposed Project. Recharge is determined by the ability of water to infiltrate into the soil.

## **Surface and Groundwater Quality**

Impacts of the Proposed Project on surface water and groundwater quality were analyzed by using information on potential existing water quality conditions. Potential Proposed Project-related sources of water contaminants generated by residential activities, such as vehicle use, building maintenance, pesticide use, and trash generation, are considered. The potential for water quality objectives to be exceeded and beneficial uses to be compromised is also considered.

## **Flooding**

The flood risk analysis uses FEMA data and historical flood information to determine the existing flood zone and whether the Planning Area overlaps designated 100-year floodplains, whether it would affect the drainage system, and whether it was a flood risk. CEQA does not require an analysis of how existing environmental conditions will affect a project's residents or users unless the project would exacerbate an existing environmental hazard. Accordingly, hazards resulting from a project that places development in an existing or future flood hazard area are not considered impacts under CEQA unless the project would exacerbate the flood hazard. Thus, the analysis evaluates whether the Proposed Project would exacerbate existing or future flood hazards in the town, resulting in a substantial risk of loss injury or death. If evidence indicates it would not, then the analysis will conclude by stating such. If it could exacerbate the issue, then evidence is provided to determine if the exacerbation would or would not be significant.

## **IMPACTS**

### **Impact 3.9-1      Implementation of the Proposed Project would not violate any federal, state, or local water quality standards or waste discharge requirements. (*Less than Significant*)**

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

The RWQCB, MCSTOPPP, and Town Code and General Plan water quality protection requirements and conditions applicable to implementation of the Project are intended to reduce any potential construction period and post-construction water quality impacts to a less-than-significant level, consistent with federal and State water quality regulations and plans. These RWQCB, MCSTOPPP, and Town requirements and conditions apply to future housing development facilitated by the Proposed Project.

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

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

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

Development associated with the Proposed Project would be designed and maintained in accordance with Town, San Francisco Bay RWQCB, MCSTOPP, and NPDES regulations. Stormwater runoff would be treated using BMPs, as required. Therefore, at the program level, development associated with the Proposed Project would not violate any water quality standards

or waste discharge requirements or otherwise substantially degrade water quality. Therefore, this impact would be less than significant.

#### *Mitigation Measures*

None required.

**Impact 3.9-2      Implementation of the Proposed Project would not substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin. (*Less than Significant*)**

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

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

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

Based on the foregoing, at the program level, development under the Proposed Project would not substantially decrease groundwater supplies and would not impede sustainable groundwater management of the basin. Therefore, this impact would be less than significant.

### *Mitigation Measures*

None required.

**Impact 3.9-3      Implementation of the Proposed Project would not substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces in a manner which would result in substantial erosion, siltation, or flooding on- or off-site; substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite; create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or impede or redirect flood flows. (*Less than Significant*)**

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

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

Compliance with applicable regulations and implementation of erosion and sediment control BMPs discussed above would ensure that impacts associated with substantial alteration of the existing drainage pattern of the Planning Area would be reduced. Therefore, at the program level,

development under the Proposed Project would not result in substantial erosion, siltation, or flooding on- or off-site and impacts would be less than significant.

*Mitigation Measures*

None required.

**Impact 3.9-4     In flood hazard, tsunami, or seiche zones, implementation of the Proposed Project would not risk release of pollutants due to project inundation. (*Less than Significant*)**

As discussed above, there are approximately 54 acres of 100-year floodplains in the Planning Area, primarily comprised of lands in the floodplain adjacent to the confluence of Fairfax and San Anselmo Creeks. In addition, there are smaller areas along Fairfax Creek within the 100-year floodplain. There are approximately 44 acres of 500-year floodplains in the Planning Area, including the land along Wood Lane and Porteous Ave in the southern portion of Fairfax, as well as along Olema and Bothin roads within the Fairfax Creek floodplain. As shown in Figure 3.9-1, the remainder of the Planning Area is predominantly in an area of minimal flood hazard (flooding not anticipated in the 100-year or 500-year time frames).

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

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

*Mitigation Measures*

None required.

**Impact 3.9-5      Implementation of the Proposed Project would not conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan. (*Less than Significant*)**

As discussed under Impact 3.9-1, established programs for controlling stormwater runoff and reducing pollutants in stormwater, as stated in the Fairfax Town Code stormwater regulations and the MCSTOPPP, would apply to future housing development facilitated by the Project. These programs and regulations are designed for consistency with the NPDES MS4 permit, which itself complies with Federal clean water laws and is consistent with State clean water laws. Commonly practiced BMPs, as required by these regulations, would be implemented to control construction site runoff and reduce the discharge of pollutants to storm drain systems from stormwater and other nonpoint-source runoff. Construction runoff would also have to be in compliance with the appropriate water quality objectives for the region. The NPDES Construction General Permit requires stormwater discharges not to contain pollutants that cause or contribute to an exceedance of any applicable water quality objectives or water quality standards, including designated beneficial uses. Thus, implementation of water quality control measures and BMPs would ensure that water quality standards would be achieved, including the water quality objectives that protect designated beneficial uses of surface and groundwater, as defined in the Basin Plan. Therefore, the Proposed Project would not obstruct implementation of a water quality control plan.

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

***Mitigation Measures***

None required.



## 3.10 Land Use, Population, and Housing

This section assesses potential environmental impacts from future development under the Proposed Project, as related to land use, population, and housing, including evaluation of Proposed Project consistency with other applicable land use plans and regulations, population growth, community division, and housing displacement. This section describes existing land uses, demographics, and housing in the Planning Area, as well as relevant federal, State, and local regulations and programs.

There were three responses to the Notice of Preparation (NOP) regarding topics covered in this section, specifically concerned with the Proposed Project's consistency with the General Plan, population decline in Fairfax, and the Proposed Project's density standards. Comments are located in Appendix B of the DEIR. These comments are addressed under Impact 3.10-2 and Impact 3.10-3 and incorporated throughout the following analysis.

### Environmental Setting

---

#### PHYSICAL SETTING

##### Existing Land Use

Home to 7,399 residents, the Town of Fairfax is the fourth smallest jurisdiction in Marin County, encompassing just 2.2 square miles (1,435 acres). The town is composed largely of single-family homes, with a diverse range of small, locally-owned businesses along Sir Francis Drake Boulevard, Broadway, and Bolinas Road. Notable land uses in the downtown area include the Fairfax Post Office, Fairfax Theater, Fairfax Library, and the Marin Museum of Bicycling. Much of the rest of the community is made up of single-family neighborhoods with a dense tree canopy. The southern parts of Fairfax are lined with open space, including the Cascade Canyon Preserve, the Mount Tamalpais Watershed, Deer Park, and the Bald Hill Preserve in adjacent San Anselmo.

The relative acreage and distribution of existing land uses throughout the Planning Area are shown in Figure 3.10-1 and Table 3.10-1.

##### *Public/Institutional*

Within the Planning Area, public, institutional and civic land uses account for 53.1 acres or 3.7 percent of the land. This includes facilities such as the Fairfax Post Office, Fairfax Library, other educational facilities such as schools, and religious facilities.

### *Residential*

Residential land uses comprise 50.2 percent, or 720.6 acres of the Planning Area, and consist primarily of single-family homes but some multi-family homes distributed throughout the Planning Area.

### *Commercial*

Commercial uses, including retail and office uses, account for 46.4 acres, or 3.2 percent of the land in the Planning Area. These are primarily concentrated in the Town Center Area (commercial uses are concentrated downtown, centered on Sir Francis Drake Boulevard, Broadway, and Bolinas Drive). Typical commercial uses in the area include a variety of retail, restaurant and office uses, as well as auto-oriented retail stores and service stations.

### *Parks*

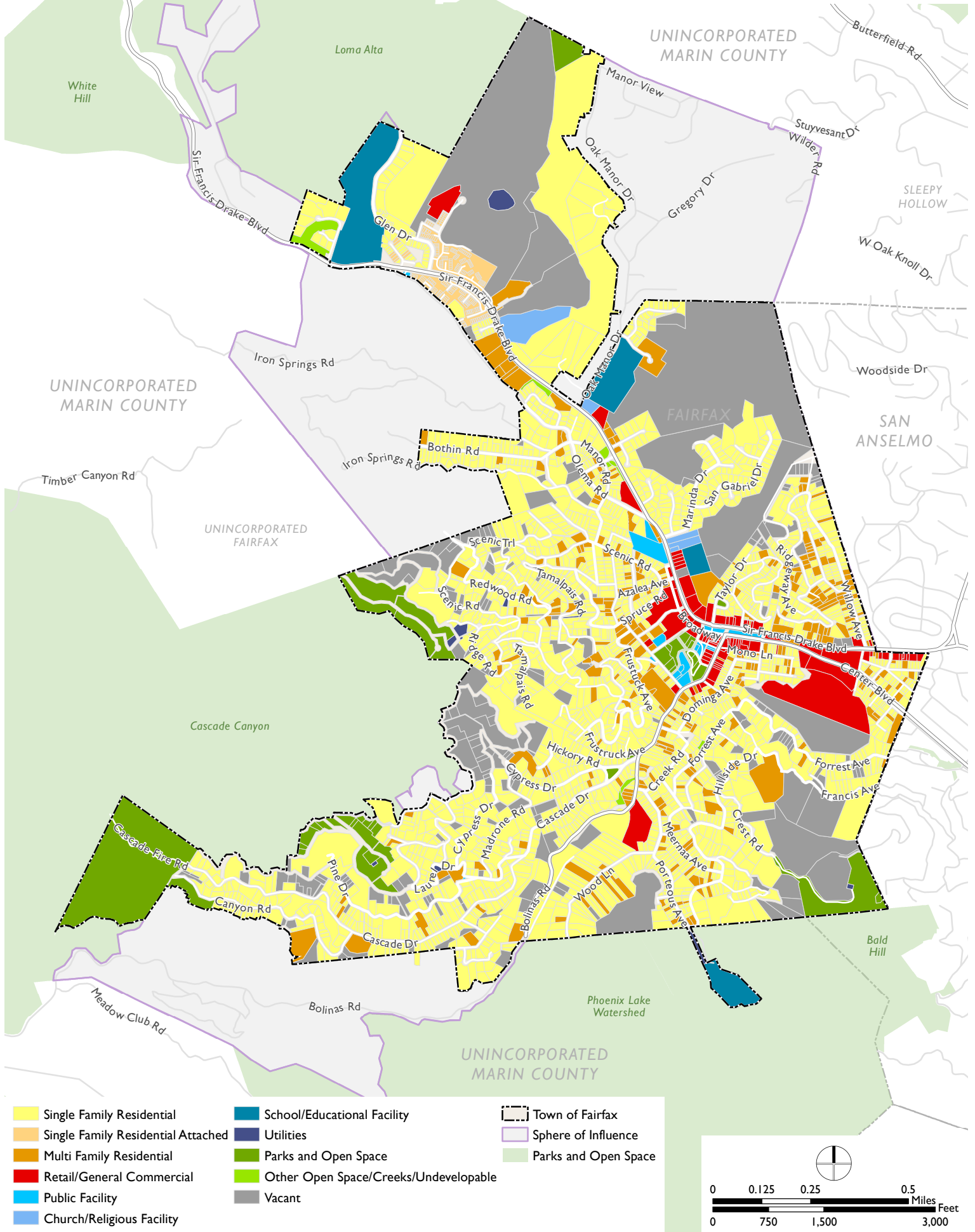
Parks and recreational spaces account for another 4.8 acres, or 0.3 percent of the Planning Area and are widely distributed throughout the Planning Area. Fairfax has parks, playgrounds and playing fields besides being surrounded by thousands of acres of accessible Open Space. The Mt. Tamalpais Watershed is an 18,500 acre natural resource providing and protecting the major source of domestic water for Central and Southern Marin County. Besides this primary purpose, the watershed is held in trust as a natural wildland of great biological diversity, as scenic open space and as an area for passive daytime recreation. With five reservoirs and miles of hiking, biking and horse trails, the Marin Municipal Water District (MMWD) watershed is located right at the edge of town. Other spaces include regional parks Peri Park, Bolinas Park, Contratti Park Ball Field, the Pavilion, Deer Park, and open space preserves such as Cascade Canyon and White Hill.

### *Vacant*

There are also 338 acres of vacant land, or 23.6 percent of land in the planning area, under a combination of public and private ownership. Almost all the remaining vacant land is located in steeply sloped hillside areas. Significant portions of Fairfax are in areas of environmental hazard.

The remaining 186.2 acres or 13.0 percent of the Planning Area is occupied by public streets and roads.

**Figure 3.10-1 Existing Land Use**



**Table 3.10-1: Existing Land Use Summary**

<i>Land Use</i>	<i>Acres</i>	<i>Percent</i>
Single Family Residential	616.7	43.0%
Multi-Family Residential	88.4	6.2%
Single Family Residential - Attached	15.6	1.1%
Designated Parks and Open Space	4.8	0.3%
Retail/General Commercial	46.4	3.2%
Public Facility	6.9	0.5%
Church/Religious Facility	8.9	0.6%
School/Educational Facility	37.3	2.6%
Other/Open Space/Creeks/Undevelopable	82.0	5.7%
Vacant	338.0	23.6%
Utilities	3.10	0.3%
Transportation/Roads/ROW	186.2	13.0%
<b>Total</b>	<b>1435.0</b>	<b>100.0%</b>

*Source: Dyett and Bhatia, 2023*

## Population

In 2020, the population of the Planning Area was approximately 7,399 residents. The population of Fairfax makes up 2.8 percent of Marin County. In Fairfax, roughly 13.1 percent of its population moved during the past year, on par with the regional rate of 13.4 percent. Since 2000, Fairfax's population has increased by 1.1 percent; this is a rate below the regional growth rate of 14.8 percent. The greatest recent population growth took place between 1990 and 2000 when the population increased by 5.6 percent before slowing down to 1.7 percent between 2000 and 2010. In the most recent decade between 2010 and 2020, growth has slowed down more to 0.6 percent.<sup>1</sup>

## Housing

In 2019, there were 3,633 housing units in the Planning Area.<sup>2</sup> According to Plan Bay Area 2050, the Association of Bay Area Governments (ABAG) predicts that between 2015 and 2050, the number of housing units in Central Marin (which includes Fairfax, San Anselmo, San Rafael, and Ross) will grow by 50 percent to reach 22,000 units.<sup>3</sup> Table 3.10-2 presents the anticipated population and job growth projections for Central Marin between 2015 and 2050 based on ABAG's 2050 projections. The Proposed Project would add up to 598 units to Fairfax, resulting in a 1.4 percent change between 2015 and 2031. The Proposed Project's 598 units and the RHNA housing

<sup>1</sup> California Department of Finance, E-5 series. Available: <https://dof.ca.gov/forecasting/demographics/estimates/e-5-population-and-housing-estimates-for-cities-counties-and-the-state-2020-2023/>. Accessed: July 19, 2023.

<sup>2</sup> U.S. Census Bureau, American Community Survey 5-Year Data (2015-2019), Table B25034

<sup>3</sup> Plan Bay Area 2050. Available: [https://www.planbayarea.org/sites/default/files/documents/Plan\\_Bay\\_Area\\_2050\\_Forecasting\\_Modeling\\_Report\\_October\\_2021.pdf](https://www.planbayarea.org/sites/default/files/documents/Plan_Bay_Area_2050_Forecasting_Modeling_Report_October_2021.pdf). Accessed: July 19, 2023.

units allocated for San Anselmo, San Rafael, and Ross combine to equal 4,772 units.<sup>4</sup> Therefore, the net increase of 598 units by 2031 in Fairfax will not cause Central Marin to exceed ABAG's projections of growing Central Marin by greater than 50 percent or to reach 22,000 units before 2050.

**Table 3.10-2: Plan Bay Area 2050 Central Marin Job Growth and Housing Projections, 2015–2050**

	2015	2050	Net Increase	Percent Change
Housing Units	44,000	66,000	22,000	50%
Jobs	63,000	49,000	-14,000	-23%

*Source: Dyett & Bhatia, 2023; ABAG Plan Bay Area 2050, 2021.*

## **Employment**

ABAG predicts Central Marin will have 49,000 jobs in 2050 – a 23 percent decrease between 2015 and 2050. The Proposed Project does not propose the creation of any new jobs that would contradict ABAG's anticipated decrease in local jobs.

## **REGULATORY SETTING**

### **Federal**

There are no federal regulations applicable to land use, population, and housing in the Planning Area. State, regional, and local regulations are discussed below.

### **State**

#### *California Government Code*

Article 8 of the Government Code (Sections 65450–65457) allows local planning agencies to prepare specific plans for the systematic implementation of the general plan for all or part of the area covered by the general plan. A specific plan must include, either through text or diagrams, the following information:

1. The distribution, location, and extent of the uses of land, including open space, within the area covered by the plan.
2. The proposed distribution, location, and extent and intensity of major components of public and private transportation, sewage, water, drainage, solid waste disposal, energy, and other essential facilities proposed to be located within the area covered by the plan and needed to support the land uses described in the plan.

---

<sup>4</sup> ABAG RHNA Methodology Report. Available: [https://abag.ca.gov/sites/default/files/documents/2022-12/Final%20RHNA%20Methodology%20Report%202023-2031\\_update\\_11-22.pdf](https://abag.ca.gov/sites/default/files/documents/2022-12/Final%20RHNA%20Methodology%20Report%202023-2031_update_11-22.pdf). Accessed: July 19, 2023.

3. Standards and criteria by which development will proceed as well as standards for the conservation, development, and utilization of natural resources, where applicable.
4. A program of implementation measures, including regulations, programs, public works projects, and financing measures necessary to carry out paragraphs (1), (2), and (3).

The specific plan must be consistent with the general plan and include a statement of the relationship of the specific plan to the general plan.

***Sustainable Communities and Climate Protection Act of 2008 (Chapter 728, Statutes of 2008)***

The Sustainable Communities and Climate Protection Act of 2008, otherwise known as Senate Bill (SB) 375, requires the integration of land use, housing, and transportation planning to achieve regional greenhouse gas (GHG) emission reductions, as adopted by the California Air Resources Board. SB 375 requires Metropolitan Planning Organizations (MPOs) to develop a Sustainable Communities Strategy (SCS)—a new element of the Regional Transportation Plan (RTP)—to plan for achieving GHG reduction targets. The SCS must demonstrate attainment of the regional GHG emissions reduction targets while accommodating the full projected population of the region.

**Regional**

***ABAG/MTC Plan Bay Area 2050***

The Metropolitan Transportation Commission (MTC), and Association of Bay Area Governments (ABAG) adopted Plan Bay Area 2050 in October 2021. Plan Bay Area is the integrated land use/transportation plan and demographic/economic forecast for the nine-county San Francisco Bay Area region. The plan coordinates housing plans, open space conservation efforts, economic development strategies, and transportation investments. Plan Bay Area 2050 focuses on four key issues—the economy, the environment, housing and transportation—outlining 35 strategies for growth and investment through 2050 to make the Bay Area more equitable for all residents and more resilient in the face of unexpected challenges.

Together, Plan Bay Area 2050's eight housing strategies work toward a more equitable, affordable future for residents with low incomes, and for all residents, by preserving and protecting the affordable housing currently available; stimulating new housing production; and prioritizing inclusive, mixed communities. Through advocacy, legislation, regional initiatives, planning and research over the next 30 years, MTC and ABAG will work with partners to secure a \$468 billion investment into the region's future housing needs, ensuring that everyone in the Bay Area has a safe, affordable home — especially those historically and systemically marginalized, underserved and excluded. Those strategies include:

- **Goals H1-H2:** Protect and preserve affordable housing by further strengthening renter protections beyond state law and preserving existing affordable housing
- **Goals H3-H6:** Spur housing production for residents of all income levels by allowing a greater mix of housing densities and types of Growth Geographies, building adequate

affordable housing to ensure homes for all, integrating affordable housing into all major housing projects, and transforming aging malls and office parks into neighborhoods.

- **Goals H7-H8:** Create inclusive communities by providing targeted mortgage, rental and small business assistance to Equity Priority Communities and accelerating reuse of public and community-owned land for mixed-income housing and essential services.

### *ABAG Regional Housing Needs Allocation*

The Regional Housing Needs Allocation (RHNA) process addresses the need for housing in communities throughout the State. To ensure that adequate housing is available for all income groups, the California Department of Housing and Community Development determines the regional need in coordination with ABAG, which is required to distribute the region's share of statewide need to cities and counties within its jurisdiction. The purpose of the RHNA is to allocate a "fair share" of the Bay Area's projected housing need to cities and counties by household income group, categorized as "very low," "low," "moderate," and "above moderate." According to the 2023–2031 RHNA, ABAG has preliminarily determined that Fairfax's fair share of regional housing need for the 2023 to 2031 period would be 490 units. Approximately 230 of these units would be allocated as housing affordable to very low- and low-income households.<sup>5</sup> The ABAG Executive Board adopted the Final RHNA Plan in December 2021.

### *Marin County 2023-2031 Housing Element*

State housing and planning laws require all California cities and counties include in their General Plan a housing element that establishes objectives, policies, and programs in response to community housing conditions and needs. The Housing Element is required to be updated periodically according to the statutory deadline set forth in the Government Code (Section 65580). This Housing Element update for the County of Marin represents the 6th update cycle, covering an eight-year planning period from January 31, 2023 through January 31, 2031.

- **Goal 1:** Use Land Efficiently Use Marin's land efficiently to meet housing needs and implement smart and sustainable development principles.
- **Goal 2:** Meet Housing Needs through a Variety of Housing Choices Respond to the broad range of housing needs in Marin County by supporting a mix of housing types, densities, designs and affordability levels.
- **Goal 3:** Ensure Leadership and Institutional Capacity. Build and maintain local government institutional capacity and monitor accomplishments to respond to housing needs effectively over time.

---

<sup>5</sup> Association of Bay Area Governments. May 2021. Draft Regional Housing Needs Allocation (RHNA) Plan: San Francisco Bay Area, 2023-2031. Available: [https://abag.ca.gov/sites/default/files/documents/2021-05/ABAG\\_2023-2031\\_Draft\\_RHNA\\_Plan.pdf](https://abag.ca.gov/sites/default/files/documents/2021-05/ABAG_2023-2031_Draft_RHNA_Plan.pdf). Accessed: July 13, 2023.

- **Goal 4:** Combat Housing Discrimination, Eliminate Racial Bias, Undo Historic Patterns of Segregation Lift barriers that restrict access in order to foster inclusive communities and achieve racial equity, fair housing choice, and opportunity for all local workers and current and future residents of Marin.

## **Local**

### *Town of Fairfax General Plan 2010-2030 (General Plan)*

The Town of Fairfax 2010-2030 General Plan (General Plan) was adopted in December 2010, superseding a plan from 35 years prior. It is the Town's long-range planning document that represents the community's vision for future development over the next 15 to 25 years. It contains eight elements: Land Use, Circulation, Housing, Town Center, Open Space, Conservation, Safety, and Noise. The General Plan's vision for the Planning Area is to "preserve the historic nature, visual aesthetic and vibrant business community of the downtown area while incorporating residential uses, to reduce automobile use and encourage public transit and bicycle and pedestrian transportation modes." The General Plan includes a number of goals, policies, design standards and new land use designations in order to achieve this vision and support development throughout Fairfax. The (General Plan) includes the following goals and policies associated with land use and population:

**Goal LU-1:** Preserve scenic and natural resources.

**Goal LU-2:** Preserve open space.

**Goal LU-3:** Restore natural habitats in Fairfax, including creeks and water-courses.

**Goal LU-4:** Minimize potential for wildfires and impacts from other natural catastrophes.

**Goal LU-5:** Manage future growth while preserving the area's natural resources.

**Policy LU-5.1.1:** New and renewed development shall occur primarily as infill development.

**Policy LU-5.1.1:** Identify and catalog all potential infill development sites within the Town.

**Goal LU-6:** Annex developed and undeveloped lands where advantageous to the Town.

**Goal LU-7:** Preserve human-centered scale and sense of community.

**Goal LU-8:** Preserve community diversity through affordable housing opportunities primarily along transit corridors.

**Goal LU-9:** Preserve and restore local historic buildings, features, and sites.



### *Fairfax Town Code*

The Fairfax Town Code contains many of the ordinances for the Town of Fairfax. The Town Code is organized by chapters, articles, divisions, and sections, and includes the City's Zoning Ordinance (Title 17 of the Town Code). The Town Code is updated as new ordinances are adopted by the Town Council. Detailed zoning regulations—including permitted and conditional uses, and development regulations—including provisions related to building height, bulk, and massing—are directly integrated within the Fairfax Zoning Ordinance.

The Town's Zoning Ordinance (Title 17 of the Fairfax Municipal Code) divides the community into 15 zoning districts and specifies the uses that are permitted, conditionally permitted, and, in some instances, uses that are specifically prohibited within each district. Each zoning district has developed standards that are designed to protect and promote the health, safety, and general welfare of the community. Within a typical district, there are regulations related to land use, lot size, coverage, building heights, parking, landscaping, and design criteria.

## Impact Analysis

---

For the purposes of this EIR, a significant impact would occur if implementation of the Proposed Project would:

- Criterion 1:** Physically divide an established community;
- Criterion 2:** Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect;
- Criterion 3:** Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure); or
- Criterion 4:** Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere.

## METHODOLOGY AND ASSUMPTIONS

The Proposed Project is considered consistent with the provisions of the identified regional and local plans if it meets the general intent of the applicable land use plans. The focus of this analysis is on plans, and policies within those plans, adopted for the purpose of avoiding or mitigating an environmental effect. A given project is not expected to conform precisely with each and every policy, as state law does not require precise conformity of a proposed project with every policy or land use designation for a site. Inconsistency is considered insignificant if it causes physical environmental impacts (State CEQA Guidelines Section 15382).

Potential impacts resulting from implementation of the Proposed Project were evaluated based on relevant information from the planning and policy documents listed in the Regulatory Setting section of this chapter and in consideration of the proposed land use designations, diagrams, and policies.

## RELEVANT PROPOSED PROJECT GOALS AND POLICIES

**Housing Goal #1:** Increase the range of housing options to meet the housing needs for all economic segments of the community.

**Policy 1-1:** Maintain sufficient land designated and appropriately zoned for housing to achieve a complementary mix of single-family and multi-family development to accommodate RHNA allocations at all levels throughout the planning period.

**Policy 1-2:** Promote development of a variety of housing types, sizes, and densities that meet community needs and affordability requirements based on the suitability of the land,

including the availability of infrastructure, the provision of adequate services and recognition of environmental constraints.

**Policy 1-3:** Promote mixed use developments with a residential component in Downtown Fairfax to provide workforce housing and locate higher density residential development in proximity to employment, shopping, transit, recreation, and other services.

**Policy 1-4:** Promote the provision of a variety of housing choices and types in the community, including innovative forms of housing with appropriate standards to ensure land use compatibility.

**Policy 1-5:** Partner with and support non-profit and for-profit organizations in their efforts to construct, acquire, and improve housing to accommodate households with lower and moderate incomes. Participation of non-profit and for-profit developers in an advisory role when implementing housing programs is desirable to help understand the needs and opportunities in the community

**Housing Goal #2:** Address housing affordability by addressing regulatory, process, and market factors that limit housing production and preservation in Fairfax.

**Policy 2-1:** Identify and work to reduce or remove regulatory and process-related barriers to housing development in Fairfax.

**Policy 2-2:** Ensure that development and design standards and guidelines provide an objective basis for regulating projects and reviewing and acting on development applications.

**Policy 2-3:** Establish zoning and other regulations that comply with all applicable requirements of State law and promote the development of a wide range of housing to meet the needs of community residents.

**Policy 2-4:** When feasible, consider reducing, waiving, or deferring development fees to facilitate the provision of true affordable housing.

**Policy 2-5:** Periodically review and revise Town development standards to facilitate quality housing that is affordable to lower and moderate income households.

**Policy 2-6:** Monitor all regulations, ordinances, departmental processing procedures and fees related to the rehabilitation and/or construction of dwelling units to assess their impact on housing costs.

**Policy 2-7:** Ensure that water and sewer providers are aware of the Town's intentions for residential development throughout Fairfax.

**Housing Goal #3:** Promote suitable and affordable housing for special needs populations, including housing for lower income households, large families, single parent households, the disabled, older adults, and people experiencing homelessness.

**Policy 3-1:** Promote the development of housing and programs for special needs populations, including seniors, single parents, persons with disabilities, and individuals and households experiencing homelessness.

**Policy 3-2:** In partnership with Marin County and non-profit affordable housing developers, seek out and support opportunities for the long-term preservation of naturally occurring affordable housing in Fairfax.

**Policy 3-3:** Support innovative public, private, and non-profit efforts in the development of affordable housing, particularly for the special needs groups.

**Policy 3-4:** Ensure that the Town's regulations, policies, practices, and procedures provide equal access to housing for persons with disabilities, including those with developmental disabilities.

**Housing Goal #4:** Foster equal housing opportunity for all residents of Fairfax, regardless of race, religion, sex, marital status, ancestry, national origin, color, or ability.

**Policy 4-1:** Ensure that existing and proposed housing in Fairfax is available to households regardless of ethnicity, race, family composition or source of income.

**Policy 4-2:** Diversify and expand the housing stock in Fairfax in order to better accommodate the varied housing needs of current and future residents.

**Policy 4-3:** Enforce fair housing laws and address discrimination in the building, financing, selling, or renting of housing based on race, religion, family status, national origin, disability, or other protected class.

**Policy 4-4:** Work collaboratively with local non-profit, public, and private sector partners to raise awareness and achieve implementation of fair housing practices.

**Housing Goal #5:** Monitor the effectiveness of housing programs to ensure that they respond to housing needs.

**Policy 5-1:** Ensure that the Town is meeting State requirements as well as the housing needs of current and future residents by developing and carrying out procedures for tracking progress toward achieving adopted housing goals and objectives.

**Policy 5-2:** Work with community groups, other jurisdictions and agencies, non-profit housing sponsors and the building and real estate industry when implementing Housing Element programs.

**Policy 5-3:** The Town will provide outreach and information to the community on the availability of programs to address individual housing needs, and will actively involve the community through information, outreach and review.

## **IMPACTS**

### **Impact 3.10-1    Development under the Proposed Project would not physically divide an established community. *(No Impact)***

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

Therefore overall, because the Proposed Project would not introduce any physical barriers to the Planning Area, it would result in no impact with respect to physically dividing an existing community.

#### ***Mitigation Measures***

None required.

### **Impact 3.10-2    Development under the Proposed Project would not cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. *(No Impact)***

## **Regional Plans**

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

for the next 30 years. The two efforts, however, are coordinated, with RHNA's near-term focus setting the stage for early implementation of Plan Bay Area 2050's envisioned growth pattern.

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

Table 3.10-3 presents the Plan Bay Area 2050 strategies that are applicable to the analysis of land use, population, and housing in this chapter and how the programs associated with the Proposed Project's goals (described above) complies with each of the strategies. Consistency with Plan Bay Area 2050 strategies not listed in Table 3.10-3 are further evaluated in other chapters of this EIR. Table 3.10-3 shows that the Proposed Project generally would not disrupt or hinder implementation of any Plan Bay Area 2050 strategies. Accordingly, development under the Proposed Project would not fundamentally conflict with Plan Bay Area 2050 and would result in no impact.

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

**Table 3.10-3: Plan Bay Area 2050 Strategies Applicable to the Proposed Project**

<i>Plan Bay Area 2050</i>	<i>Proposed Project Integration</i>
<b>Housing Strategies</b>	
<p><b>H3. Allow a greater mix of housing densities and types in Growth Geographies.</b> Allow a variety of housing types at a range of densities to be built in Priority Development Areas, select Transit-Rich Areas and select High Resource Areas.</p>	<p>Program-I-A: Develop and adopt Town Center Plan by integrating workforce housing into Downtown Fairfax</p> <p>Program-I-B: Utilize School Street Plaza to built 175 new housing units, including 35 affordable units</p> <p>Program-I-C: Amend the zoning code to allow for shopkeeper units</p> <p>Program-I-E: Amend the zoning code to allow for live-work units</p> <p>Program-I-G: Encourage innovative and 'non-traditional' forms of housing</p> <p>Program-I-H: Initiate programs to inform the public about ADU/JADU benefits</p> <p>Program-I-I: Develop pre-approved ADU floor plans</p> <p>Program-I-J: Provide technical assistance for ADU/JADU permitting and design</p> <p>Program-I-K: Provide fee discounts for ADU/JADU construction</p> <p>Program-I-L: Offer financial assistance program for ADU/JADU design and construction</p> <p>Program-I-M: Consider zoning incentives for ADUs/JADUs</p> <p>Program-2-A: Amend the zoning code to allow for a workforce housing overlay, allowing for property owners to redevelop their land with housing or mixed use project</p>
<p><b>H4. Build adequate affordable housing to ensure homes for all.</b> Construct enough deed restricted affordable homes to fill the existing gap in housing for the unhoused community and to meet the needs of low-income households</p>	<p>Program-2-E: Affordable housing density bonus</p> <p>Program-2-I: Recommend programs for minimizing housing expenses for low-and-moderate-income residents</p> <p>Program-3-B: Amend zoning code to include a definition of transitional and supportive housing consistent with State law and permit the housing type in all residential districts</p> <p>Program-3-C: Allow LBNCs as a by-right use</p> <p>Program-4-B: Wider acceptance of Housing Choice Vouchers</p>

*Source: Plan Bay Area 2050, 2021; Dyett & Bhatia, 2023.*

## Local Plans and Regulations

Local land use plans and regulations that cover the Planning Area include the Town of Fairfax General Plan and the Town Code. As the Proposed Project is an update to existing local policies and development standards, there are cases in which it differs from existing standards and

regulations. Any proposed amendments to the Zoning Code will be completed after adoption of the Housing Element.

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

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

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

Further, the Workforce Housing Overlay District allows multifamily residential development at much higher densities than previously permitted in the town, and it allows housing on some sites where residential uses were not previously permitted at all. However, implementation of the Proposed Project will require zoning amendments and future developments pursuant to the Proposed Project will need to be consistent with the new zoning amendments. Consequently, no conflicts would result.

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



Development associated with implementation of the Proposed Project and construction of approved pipeline projects is projected to result in up to approximately 1,171 new residents<sup>6</sup> and 598 new housing units. To accommodate the RHNA allocation, the Proposed Housing Element identifies strategies and programs to support live-work units, promote workforce housing, and promote ADUs/JADU production. Such programs will require amendments to the Town Code that add objective development standards, permit allowable floor area ratio (FAR) to be calculated on the basis of total site area rather than per parcel, reduce the rear setback requirements, eliminate the requirement for covered parking spaces to serve caretaker units, and revise the parking requirements for multi-family developments (Programs 1-D, 1-E, 1-M, 2-A, 2-C, 2-D, 2-E, 3-C). However, the Proposed Project would not involve changes to base zoning districts. Future residential projects consistent with the Proposed Project will be required to comply with the policies in the General Plan regarding land use and Town Code requirements associated with zoning districts, allowable uses, and development standards. All future residential development occurring within the town would be required to be evaluated in accordance with local regulations, including the General Plan and Town Code. Therefore, implementation of the Proposed Project would have no impact in regard to conflicts with a land use plan, policy, or regulation adopted to avoid an environmental effect.

#### *Mitigation Measures*

None required.

#### **Impact 3.10-3    Development under the Proposed Project would not induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure). (*Less than Significant*)**

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

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

---

<sup>6</sup> Projected population from development under the Proposed Project was estimated using 2021 ACS 5-Year Estimate Tables B25033 and B25024 to calculate average Fairfax household population numbers of 2.11 residents for single-family residential units and 1.87 residents for multifamily residential units. Average household population numbers were then applied to the 217 single-family units and 381 multifamily units to be built out under the Proposed Project.

Given that the Proposed Project's direct and indirect projected population growth is commensurate with regional growth projections, the Proposed Project would not induce substantial unplanned population growth in the Planning Area and the impact would be less than significant.

*Mitigation Measures*

None required.

**Impact 3.10-4    Development under the Proposed Project would not displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere. (*Less than Significant*)**

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

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

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

*Mitigation Measures*

None required.

## 3.11 Noise

This section assesses potential environmental impacts related to noise from future development under the Proposed Project, including those associated with noise standards, groundborne vibration, ambient noise levels, and airport noise. The section describes the characteristics, measurement, and physiological effects of noise and existing sources of noise in the Planning Area, as well as relevant federal, State, and local regulations and programs.

There were two responses to the Notice of Preparation (NOP) regarding topics covered in this section. Commenters had concerns about construction noise and impacts on sensitive species. These comments are addressed in this section and incorporated into the following analysis.

### Environmental Setting

---

#### PHYSICAL SETTING

##### Noise

##### *Noise Characteristics and Measurement*

Because of the technical nature of noise and vibration impacts, a brief overview of basic noise principles and descriptors is provided below.

Sound can be described as the mechanical energy of a vibrating object transmitted by pressure waves through a liquid or gaseous medium (e.g., air). Noise is generally defined as unwanted sound (i.e., loud, unexpected, or annoying sound). Acoustics is defined as the physics of sound. In acoustics, the fundamental scientific model consists of a sound (or noise) source, a receiver, and the propagation path between the two. The loudness of the noise source and obstructions or atmospheric factors affecting the propagation path to the receiver determines the sound level and characteristics of the noise perceived by the receiver. Acoustics addresses primarily the propagation and control of sound.

Sound, traveling in the form of waves from a source, exerts a sound pressure level (referred to as sound level) that is measured in decibels (dB), which is the standard unit of sound amplitude measurement. The dB scale is a logarithmic scale that describes the physical intensity of the pressure vibrations that make up any sound, with 0 dB corresponding roughly to the threshold of human hearing and 120 to 140 dB corresponding to the threshold of pain. Pressure waves traveling through air exert a force registered by the human ear as sound.

Sound pressure fluctuations can be measured in units of hertz (Hz), which correspond to the frequency of a particular sound. Typically, sound does not consist of a single frequency, but rather a broad band of frequencies varying in levels of magnitude, with audible frequencies of the sound spectrum ranging from 20 to 20,000 Hz. The typical human ear is not equally sensitive to this frequency range. As a consequence, when assessing potential noise impacts, sound is measured using an electronic filter that deemphasizes the frequencies below 1,000 Hz and above 5,000 Hz in a manner corresponding to the human ear's decreased sensitivity to these extremely low and extremely high frequencies. This method of frequency filtering or weighting is referred to as A-weighting, expressed in units of A weighted decibels (dBA), which is typically applied to community noise measurements. Some representative common outdoor and indoor noise sources and their corresponding A-weighted noise levels are shown in Table 3.11-1.

An individual's noise exposure is a measure of noise over a period of time; a noise level is a measure of noise at a given instant in time. However, noise levels rarely persist at that level over a long period of time. Rather, community noise varies continuously over a period of time with respect to the sound sources contributing to the community noise environment. Community noise is primarily the product of many distant noise sources, which together constitute a relatively stable background noise exposure, with many of the individual contributors being unidentifiable. The background noise level changes throughout a typical day, but does so gradually, corresponding to the addition and subtraction of distant noise sources, such as changes in traffic volume. What makes community noise variable throughout a day, besides the slowly changing background noise, is the addition of short-duration, single-event noise sources (e.g., aircraft flyovers, motor vehicles, sirens), which are readily identifiable to the individual.

**Table 3.11-1: Typical Noise Levels in the Environment**

<i>Source of Noise</i>	<i>A-Weighted Sound Pressure Level in Decibels</i>
Civil Defense Siren (100 feet in distance between source and listener)	130
Jet Takeoff (200 feet in distance between source and listener)	129
Riveting Machine	115
Rock Music Band	110
Piledriver (50 feet in distance between source and listener)	105
Ambulance Siren (100 feet in distance between source and listener)	100
Boiler Room	90
Printing Press Plant	89
Freight Cars (50 feet in distance between source and listener)	88
Garbage Disposal in the Home	85
Pneumatic Drill (50 feet in distance between source and listener)	80
Inside Sports Car: 50 mph	79
Vacuum Cleaner (10 feet in distance between source and listener)	69
Data Processing Center	65
Department Store	61
Speech (1 foot in distance between source and listener)	60
Auto Traffic near Freeway	58
Typical Minimum Daytime Levels – Residential Areas	55
Private Business Office	52
Large Transformer (200 feet in distance between source and listener)	49
Light Traffic (100 feet in distance between source and listener)	48
Average Residence	42
Typical Minimum Nighttime Levels – Residential Areas	41
Soft Whisper	30
Rustling Leaves	21
Recording Studio	20
Mosquito	10

Notes:

1. 10 decibels is the Threshold of Hearing

2. 120 decibels is the Threshold of Pain

These successive additions of sound to the community noise environment change the community noise level from instant to instant, requiring the noise exposure to be measured over periods of time to legitimately characterize an existing community noise environment. The following noise descriptors are used to characterize environmental noise levels over time, which are applicable to the Project.

- $L_{eq}$ : The equivalent sound level over a specified period of time, typically, one hour ( $L_{eq}$ ). The  $L_{eq}$  may also be referred to as the average sound level.
- $L_{max}$ : The maximum, instantaneous noise level experienced during a given period of time.
- $L_{min}$ : The minimum, instantaneous noise level experienced during a given period of time.
- $L_x$ : The noise level exceeded a percentage of a specified time period. For instance,  $L_{50}$  and  $L_{90}$  represent the noise levels that are exceeded 50 percent and 90 percent of the time, respectively.
- $L_{dn}$ : The average A-weighted noise level during a 24-hour day, obtained after an addition of 10 dB to measured noise levels between the hours of 10:00 p.m. to 7:00 a.m. to account for nighttime noise sensitivity. The  $L_{dn}$  is also termed the day-night average noise level (DNL).
- CNEL: The Community Noise Equivalent Level (CNEL) is the average A-weighted noise level during a 24-hour day that includes an addition of 5 dB to measured noise levels between the hours of 7:00 a.m. to 10:00 p.m. and an addition of 10 dB to noise levels between the hours of 10:00 p.m. to 7:00 a.m. to account for noise sensitivity in the evening and nighttime, respectively.

### *Physiological Effects of Noise*

Noise is generally loud, unpleasant, unexpected, or undesired sound that is typically associated with human activity that is a nuisance or disruptive. The effects of noise on people can be placed into four general categories:

1. Subjective effects (e.g., dissatisfaction, annoyance)
2. Interference effects (e.g., communication, sleep, and learning interference)
3. Physiological effects (e.g., startle response)
4. Physical effects (e.g., hearing loss)

Although exposure to high noise levels has been demonstrated to cause physical and physiological effects, the principal human responses to typical environmental noise exposure are related to subjective effects and interference with activities. Interference effects interrupt daily activities and include interference with human communication activities, such as normal conversations, watching television, telephone conversations, and interference with sleep. Sleep interference effects can include both awakening and arousal to a lesser state of sleep (Caltrans, 2013a).

With regard to the subjective effects, the responses of individuals to similar noise events are diverse and influenced by many factors, including the type of noise, the perceived importance of the noise, the appropriateness of the noise to the setting, the duration of the noise, the time of day and the

type of activity during which the noise occurs, and individual noise sensitivity. Overall, there is no completely satisfactory way to measure the subjective effects of noise, or the corresponding reactions of annoyance and dissatisfaction on people. A wide variation in individual thresholds of annoyance exists, and different tolerances to noise tend to develop based on an individual's past experiences with noise. Thus, an important way of predicting a human reaction to a new noise environment is the way it compares to the existing environment to which one has adapted (i.e., comparison to the ambient noise environment). In general, the more a new noise level exceeds the previously existing ambient noise level, the less acceptable the new noise level will be judged by those hearing it. With regard to increases in A-weighted noise level, the following relationships generally occur (Caltrans, 2013a):

- Except in carefully controlled laboratory experiments, a change of 1 dBA in ambient noise levels cannot be perceived;
- Outside of the laboratory, a 3 dBA change in ambient noise levels is considered to be a barely perceivable difference;
- A change in ambient noise levels of 5 dBA is considered to be a readily perceivable difference; and
- A change in ambient noise levels of 10 dBA is subjectively heard as a doubling of the perceived loudness.

These relationships occur in part because of the logarithmic nature of sound and the decibel scale. The human ear perceives sound in a non-linear fashion; therefore, the dBA scale was developed. Because the dBA scale is based on logarithms, two noise sources do not combine in a simple additive fashion, but rather logarithmically. Under the dBA scale, a doubling of sound energy corresponds to a 3 dBA increase. In other words, when two sources are each producing sound of the same loudness, the resulting sound level at a given distance would be approximately 3 dBA higher than one of the sources under the same conditions. For example, if two identical noise sources produce noise levels of 50 dBA, the combined sound level would be 53 dBA, not 100 dBA. Under the dB scale, three sources of equal loudness together produce a sound level of approximately 5 dBA louder than one source, and ten sources of equal loudness together produce a sound level of approximately 10 dBA louder than the single source (Caltrans, 2013a).

### ***Noise Attenuation***

When noise propagates over a distance, the noise level reduces with distance at a rate that depends on the type of noise source and the propagation path. Noise from a localized source (i.e., point source) propagates uniformly outward in a spherical pattern, referred to as "spherical spreading." Stationary point sources of noise, including stationary mobile sources such as idling vehicles, attenuate (i.e., reduce) at a rate between six dBA for acoustically "hard" sites and 7.5 dBA for "soft" sites for each doubling of distance from the reference measurement, as their energy is continuously spread out over a spherical surface (e.g., for hard surfaces, 80 dBA at 50 feet attenuates to 74 at 100 feet, 68 dBA at 200 feet, etc.). Hard sites are those with a reflective surface between the source and the receiver, such as asphalt or concrete surfaces or smooth bodies of water. No excess ground attenuation is assumed for hard sites and the reduction in noise levels with distance (drop-off rate) is simply the geometric spreading of the noise from the source. Soft sites have an absorptive ground

surface, such as soft dirt, grass, or scattered bushes and trees, which in addition to geometric spreading, increase the ground attenuation value by 1.5 dBA (per doubling distance) (Caltrans, 2013a).

Roadways and highways consist of several localized noise sources on a defined path, and hence are treated as “line” sources, which approximate the effect of several point sources. Noise from a line source propagates over a cylindrical surface, often referred to as “cylindrical spreading.” Line sources (e.g., traffic noise from vehicles) attenuate at a rate between 3 dBA for hard sites and 4.5 dBA for soft sites for each doubling of distance from the reference measurement (Caltrans, 2013a). Therefore, noise due to a line source attenuates less with distance than that of a point source with increased distance.

Additionally, receptors located downwind from a noise source can be exposed to increased noise levels relative to calm conditions, whereas locations upwind can have lowered noise levels. Atmospheric temperature inversion (i.e., increasing temperature with elevation) can increase sound levels at long distances (e.g., more than 500 feet). Other factors such as air temperature, humidity, and turbulence can also have significant effects on noise levels (Caltrans, 2013a).

### *Noise-Sensitive Receptors*

Many land uses are considered sensitive to noise. Noise-sensitive receptors are land uses associated with indoor and/or outdoor activities that may be subject to stress and/or significant interference from noise, such as residential dwellings, transient lodging, dormitories, hospitals, educational facilities, and libraries. Industrial and commercial land uses are generally not considered sensitive to noise. Special Status species and their habitat may also be considered noise sensitive. Existing noise-sensitive receptors within the Planning Area include single- and multi-family residential housing, schools, and parks, and the Jose Moya del Pino Library.

### *Existing Noise Conditions and Sources*

The predominant source of noise in the Planning Area, as in most communities, is motor vehicles on roadways. Motor vehicle noise is of concern because it is characterized by a high number of individual events, which often create a sustained noise level, and because of its proximity to noise-sensitive uses. Roadways with the highest traffic volumes and speeds produce the highest noise levels. Sir Francis Drake Boulevard, which bisects the Town of Fairfax, is the major east-west arterial from West Marin to Highway 101 and is the predominant source of motor vehicle noise in the Planning Area.

The Planning Area does not have major stationary sources of noise, such as large factories. While there are no industrial plants or factories that significantly affect noise levels in the Planning Area, construction, heating and cooling equipment, truck loading, and recreational activities contribute to the Planning Area’s overall noise environment.



## **Ground Vibration**

### *Characterization and Measurement*

While sound is the transmission of energy through the air, groundborne vibration is the transmission of energy through the ground or other solid medium and is perceived by humans as motion (of the ground, floor, or building). Vibrations can also generate noise by transmitting energy through the air.

Groundborne vibration can be quantified in two main ways. One commonly used descriptor is PPV, or Peak Particle Velocity. As seismic waves travel outward from a vibration source, they cause rock and soil particles to oscillate. The actual distance that these particles move is usually only a few ten-thousandths to a few thousandths of an inch. The rate or velocity (in inches per second) at which these particles move is the commonly accepted descriptor of the vibration amplitude, referred to as the peak particle velocity (PPV). This type of vibration will be discussed in more detail below under Construction Vibration.

Groundborne vibration can also be quantified by the root-mean-square (RMS) velocity amplitudes, which can be useful for assessing human annoyance. The RMS amplitude is expressed in terms of the velocity level in decibel units (VdB). The background vibration velocity level in residential areas is usually around 50 VdB or lower. The vibration velocity level threshold of perception for humans is approximately 65 VdB. Most perceptible indoor vibration is caused by sources within buildings, such as the operation of mechanical equipment, movement of people, or the slamming of doors. Typical outdoor sources of perceptible groundborne vibration are heavy construction equipment, steel-wheeled trains, and traffic on rough roads. If a roadway is smooth, the groundborne vibration from traffic is rarely perceptible.

Table 3.11-2 summarizes the typical groundborne vibration velocity levels and average human response to vibration that may be anticipated when a person is at rest in quiet surroundings. If the person is engaged in any type of physical activity, vibration tolerance increases considerably. The duration of the event has an effect on human response, as does its daily frequency of occurrence. Generally, as the duration and frequency of occurrence increase, the potential for adverse human response increases.

Groundborne noise is a secondary component of groundborne vibration. When a building structure vibrates, noise is radiated into the interior of the building. Typically, this is a low-frequency sound that can be perceived as a low rumble. The magnitude of the sound depends on the frequency characteristic of the vibration and the manner in which the room surfaces in the building radiate sound. Groundborne noise is quantified by the A-weighted sound level inside the building. The sound level accompanying vibration is generally 25 to 40 dBA lower than the vibration velocity level in VdB. Groundborne vibration levels of 65 VdB can result in groundborne noise levels of up to 40 dBA, which can disturb sleep. Groundborne vibration levels of 85 VdB can result in groundborne noise levels of up to 60 dBA, which can be annoying to daytime noise-sensitive land uses such as schools (Federal Transit Administration, 2006).

### *Construction Vibration*

As described above, vibration resulting from the operation of heavy construction equipment is often reported in PPV, which is the rate or velocity, in inches per second, at which rock and soil particles oscillate as seismic waves travel outward from a vibration source.

The operation of heavy construction equipment, particularly pile driving equipment and other impact devices (e.g., pavement breakers), creates seismic waves that radiate along the surface of and downward into the ground. These surface waves can be felt as ground vibration. Vibration from operation of this equipment can result in effects ranging from annoyance of people to damage of structures. Variations in geology and distance result in different vibration levels containing different frequencies and displacements. In all cases, vibration amplitudes decrease with increasing distance.

**Table 3.11-2: Typical Levels of Groundborne Vibration**

<i>Human or Structural Response</i>	<i>Vibration Velocity Level (VdB)</i>	<i>Typical Sources (50 feet from source)</i>
Threshold for minor cosmetic damage to fragile buildings	—100—	Blasting from construction project
		Bulldozer or heavy-tracked construction equipment
Difficulty in reading computer screen	—90—	
		Upper range of commuter rail
Threshold for residential annoyance for occasional events (e.g., commuter rail)	—80—	Upper range of rapid transit
Threshold for residential annoyance for frequent events (e.g., rapid transit)		Typical commuter rail Bus or truck over bump
	—70—	Typical rapid transit
Approximate threshold for human perception of vibration; limit for vibration-sensitive equipment		Typical bus or truck on public road
	—60—	
		Typical background vibration
	—50—	

*Source: Federal Transit Administration, 2006.*

Perceptible groundborne vibration is generally limited to areas within a few hundred feet of construction activities. Vibration amplitude attenuates over distance and is a complex function of how energy is imparted into the ground and the soil or rock conditions through which the vibration

is traveling. The following equation is used to estimate the vibration level at a given distance for typical soil conditions (Federal Transit Administration, 2006). PPV<sub>ref</sub> is the reference PPV at 25 feet.

$$PPV = PPV_{ref} \times (25/Distance)^{1.5}$$

Table 3.11-3 summarizes typical vibration levels generated by construction equipment (Federal Transit Administration, 2006) at the reference distance of 25 feet and other distances as determined using the attenuation equation above.

Tables 3.11-4 and 3.11-5 summarize guidelines developed by the California Department of Transportation (Caltrans) for damage and annoyance potential from transient and continuous vibration that is usually associated with construction activity. Equipment or activities typical of continuous vibration include: excavation equipment, static compaction equipment, tracked vehicles, traffic on a highway, vibratory pile drivers, pile-extraction equipment, and vibratory compaction equipment. Equipment or activities typical of single-impact (transient) or low-rate repeated impact vibration include: impact pile drivers, blasting, drop balls, “pogo stick” compactors, and crack-and-seat equipment. Table 3.11-6 summarizes groundborne vibration criteria permissible for different land use categories provided by Caltrans.

**Table 3.11-3: Vibration Source Levels for Construction Equipment**

<i>Equipment</i>	<i>PPV at 25 Feet</i>	<i>PPV at 50 Feet</i>	<i>PPV at 75 Feet</i>	<i>PPV at 100 Feet</i>	<i>PPV at 175 Feet</i>
Pile driver (impact) <sup>a</sup>	0.65	0.230	0.125	0.081	0.035
Pile driver (sonic/vibratory) <sup>a</sup>	0.65	0.230	0.125	0.081	0.035
Hoe ram or large bulldozer	0.089	0.0315	0.0171	0.0111	0.0048
Large bulldozer	0.089	0.0315	0.0171	0.0111	0.0048
Loaded trucks	0.076	0.0269	0.0146	0.0095	0.0041
Jackhammer	0.035	0.0124	0.0067	0.0044	0.0019
Small bulldozer	0.003	0.0011	0.0006	0.0004	0.0002

Note:

a. The Caltrans Transportation and Construction Vibration Guidance Manual (Caltrans 2013b) is used as the source for vibration from a vibratory pile driver.

*Source: Federal Transit Administration, 2006.*

**Table 3.11-4: Vibration Damage Potential Threshold Criteria Guidelines**

<i>Structure and Condition</i>	<i>Maximum PPV (inches/second)</i>	
	<i>Transient Sources</i>	<i>Continuous/Frequent Intermittent Sources</i>
Extremely fragile historic buildings, ruins, ancient monuments	0.1	0.1
Fragile buildings	0.2	0.1
Historic and some old buildings	0.5	0.3
Older residential structures	0.5	0.3
New residential structures	1.0	0.5
Modern industrial/commercial buildings	2.0	0.5

Notes:

Transient sources create a single isolated vibration event, such as blasting or drop balls. Continuous/frequent intermittent sources include impact pile drivers, pogo-stick compactors, crack-and-seat equipment, vibratory pile drivers, and vibratory compaction equipment.

PPV = peak particle velocity.

Source: California Department of Transportation 2013b.

**Table 3.11-5: Vibration Annoyance Potential Criteria Guidelines**

<i>Human Response</i>	<i>Maximum PPV (inches/second)</i>	
	<i>Transient Sources</i>	<i>Continuous/Frequent Intermittent Sources</i>
Barely perceptible	0.04	0.01
Distinctly perceptible	0.25	0.04
Strongly perceptible	0.9	0.10
Severe	2.0	0.4

Notes:

Transient sources create a single isolated vibration event, such as blasting or drop balls. Continuous/frequent intermittent sources include impact pile drivers, pogo-stick compactors, crack-and-seat equipment, vibratory pile drivers, and vibratory compaction equipment.

PPV = peak particle velocity.

Source: California Department of Transportation 2013b.

**Table 3.11-6: Groundborne Vibration Impact Criteria**

<i>Land Use Category</i>	<i>Groundborne Vibration Impact Level (VdB)</i>		
	<i>Frequent Events<sup>a</sup></i>	<i>Occasional Events<sup>b</sup></i>	<i>Infrequent Events<sup>c</sup></i>
Category 1: Buildings where vibration would interfere with interior operations (research facilities, hospitals with vibration sensitive equipment)	65 <sup>d</sup>	65 <sup>d</sup>	65 <sup>d</sup>
Category 2: Residences and buildings where people normally sleep	72	75	80
Category 3: Institutional land uses with primarily daytime uses (schools, churches)	75	78	83

**Notes:**

- a. *Frequent Events* is defined as more than 70 vibration events of the same source per day. Most rapid transit projects fall into this category.
- b. *Occasional Events* is defined as between 30 and 70 vibration events of the same source per day. Most commuter trunk lines have this number of operations.
- c. *Infrequent Events* is defined as fewer than 30 vibration events of the same kind per day. This category includes most commuter rail branch lines.
- d. This criterion limit is based on levels that are acceptable for most moderately sensitive equipment, such as optical microscopes. Vibration-sensitive manufacturing or research may require detailed evaluation to define the acceptable vibration levels. Ensuring lower vibration levels in a building often requires special design of the heating, ventilation, and air-conditioning systems and stiffened floors.

N/A = not applicable

*Source: California Department of Transportation 2013b.*

## **REGULATORY SETTING**

### **Federal Regulations**

#### *Environmental Protection Agency*

Under the authority of the Noise Control Act of 1972, the United States Environmental Protection Agency (U.S. EPA) established noise emission criteria and testing methods published in Parts 201 through 205 of Title 40 of the Code of Federal Regulations (CFR) that apply to some transportation equipment (e.g., interstate rail carriers, medium trucks, and heavy trucks) and construction equipment. In 1974, USEPA issued guidance levels for the protection of public health and welfare in residential land use areas of an outdoor  $L_{dn}$  of 55 dBA and an indoor  $L_{dn}$  of 45 dBA. These guidance levels are not considered as standards or regulations and were developed without consideration of technical or economic feasibility.

### *Occupational Safety and Health Administration*

Under the Occupational Safety and Health Act of 1970 (29 United States Code [U.S.C.] Section 1919 et seq.), the Occupational Safety and Health Administration (OSHA) has adopted regulations designed to protect workers against the effects of occupational noise exposure. These regulations list permissible noise level exposure as a function of the amount of time during which the worker is exposed. The regulations further specify a hearing conservation program that involves monitoring the noise to which workers are exposed, ensuring that workers are made aware of overexposure to noise, and periodically testing the workers' hearing to detect any degradation.

### *Department of Housing and Urban Development*

The U.S. Department of Housing and Urban Development's environmental criteria and standards are presented in 24 Code of Federal Regulations (CFR) Part 51. New construction proposed in high noise areas (exceeding 65 dBA DNL) must incorporate noise attenuation features to maintain acceptable interior noise levels. A goal of 45 dBA DNL is set forth for interior noise levels and attenuation requirements are geared toward achieving that goal. It is assumed that with standard construction, any building will provide sufficient attenuation to achieve an interior level of 45 dBA DNL or less if the exterior level is 65 dBA DNL or less. Approvals in a "normally unacceptable noise zone" (exceeding 65 dB, but not exceeding 75 dB) require a minimum of 5dB of additional noise attenuation for buildings having noise sensitive uses if the DNL is greater than 65 dB, but does not exceed 70 dB, or a minimum of 10 dB of additional noise attenuation, if the day-night average is greater than 70 dB, but does not exceed 75 dB.

### *Federal Highway Administration*

An assessment of noise and consideration of noise abatement per Title 23 of the CFR, Part 772, "Procedures for Abatement of Highway Traffic Noise and Construction Noise," is required for proposed federal or federal-aid highway construction projects on a new location, or the physical alteration of an existing highway that significantly changes either the horizontal or vertical alignment, or increases the number of through-traffic lanes. The FHWA considers noise abatement for sensitive receivers, such as picnic areas, recreation areas, playgrounds, active sport areas, parks, residences, motels, hotels, schools, places of worship, libraries, and hospitals when "worst-hour" noise levels approach or exceed 67 dBA Leq. The California Department of Transportation (Caltrans) has further defined "approach" as meaning to be within 1 dB of the Noise Abatement Criteria (NAC).

## **State Regulations**

### *State of California Noise Standards*

The State of California does not have statewide standards for environmental noise, but the Governor's Office of Planning and Research (OPR) has established general plan guidelines for evaluating the compatibility of various land uses as a function of community noise exposure. The purpose of these guidelines is to maintain acceptable noise levels in a community setting for different land use types. Noise compatibility by different land uses types is categorized into four general levels: "normally acceptable," "conditionally acceptable," "normally unacceptable," and

“clearly unacceptable.” For instance, a noise environment ranging from 50 dBA CNEL to 65 dBA CNEL is considered to be “normally acceptable” for multi-family residential uses, while a noise environment of 75 dBA CNEL or above for multi-family residential uses is considered to be “clearly unacceptable.”

In addition, California Government Code Section 65302 requires each county and city in the State to prepare and adopt a comprehensive long-range general plan for its physical development, with Section 65302(f) specifically requiring a noise element to be included in the general plan. The noise element must: (1) identify and appraise noise problems in the community and analyze and quantify current and projected noise levels; (2) show noise contours for noise sources stated in CNEL; (3) use noise contours as a guide for establishing a pattern of land uses; and (4) implement measures and possible solutions that address existing and foreseeable noise problems.

The State of California has also established noise insulation standards for new multi-family residential units, hotels, and motels that would be subject to relatively high levels of transportation-related noise. These requirements are collectively known as the California Noise Insulation Standards (Title 24, California Code of Regulations). The noise insulation standards set forth an interior standard of 45 dBA CNEL in any habitable room. They require an acoustical analysis demonstrating how dwelling units have been designed to meet this interior standard where such units are proposed in areas subject to noise levels greater than 60 dBA CNEL. Title 24 standards are enforced by local jurisdictions through the building permit application process.

## **Local Regulations**

### *Town of Fairfax Municipal Code (Town Code)*

The Town of Fairfax Noise Control Ordinance (Chapter 8.20 of the Town Code) establishes standards for acceptable exterior and interior noise levels and describes how noise shall be measured. The ordinance specifies exterior noise limits by land use which is 50 dBA during the day and 40 dBA at night for single-family residential, 55 dBA during the day and 50 dBA at night for multi-family residential, and 60 dBA during the day and 55 dBA at night for commercial. In addition, the operation of any mechanically powered tools or equipment for construction, demolition or property maintenance work is permitted between 8:00 a.m. and 6:00 p.m. Monday through Friday, and 9:00 a.m. to 4:00 p.m. on weekends and holidays.

### *Town of Fairfax 2010-2030 General Plan (General Plan)*

The Noise Element of the Town of Fairfax General Plan contains noise land use compatibility standards for transportation noise. Figure N-10 outlines acceptable exterior noise exposure levels of up to 50  $L_{DN}$  for auditoriums, concert halls, and amphitheaters; 60  $L_{DN}$  for single-family residential, schools, libraries, museums, hospitals, personal care, meeting halls, and churches; 65  $L_{DN}$  for multi-family residential, hotels, motels, outdoor sports and recreation, neighborhood parks, and playgrounds; and 70  $L_{DN}$  for office buildings, business commercial, and professional. The General Plan includes the following goals and policies associated with noise and vibration:

**Goal N-1:** Make land uses compatible with the noise environment.

**Policy N-1.1.1:** All new development must include an analysis of potential noise impacts.

**Policy N-1.1.2:** The Town will maintain a pattern of land uses that separates noise-sensitive land uses from major traffic noises, to the extent feasible.

**Policy N-1.1.3:** New development of residential or other noise-sensitive land uses should not be allowed in noise impacted areas unless effective mitigation measures are incorporated into the project design to reduce noise levels in outdoor activity areas to 60 dBA LDN or less.

**Policy N-1.1.4:** Interior noise levels shall not exceed 45 LDN in all new residential units (single- and multi-family).

**Policy N-1.1.5:** New development of noise-sensitive land uses shall not be allowed where the noise level due to non-transportation noise sources will exceed the standards in the noise ordinance.

**Policy N-1.1.6:** Where noise-sensitive land uses are proposed in areas exposed to existing or projected exterior non-transportation noise levels exceeding the Noise Ordinance limits, an acoustical analysis shall be submitted by the applicant so that noise mitigation may be included in the design of new development.

**Goal N-2:** Reduce noise from traffic.

**Policy N-2.1.1:** The Town will employ innovative techniques and materials to reduce noise.

**Goal N-3:** Maintain the current quality of the acoustical environment.

**Policy N-3.1.1:** The Town will periodically analyze the acoustical environment of the community.

**Policy N-3.1.2:** Noise created by new non-transportation noise sources shall be mitigated so as not to exceed the noise level standards of the Noise Ordinance. Where proposed non-transportation noise sources are likely to produce noise levels exceeding the standards, an acoustical analysis shall be required as a part of project review or as part of the environmental review process so that noise mitigation may be included in the project design.

**Policy N-3.1.3:** All acoustical analyses shall:

- Be the responsibility of the applicant.
- Be prepared by a qualified person experienced in the fields of environmental noise assessment and architectural acoustics.
- Include representative noise level measurements with sufficient sampling periods and locations to adequately describe local conditions.
- Estimate existing and projected (20 years) noise levels in terms of LDN and/or the standards of the noise ordinance, and compare those levels to the policies of this Element.



- Recommend appropriate mitigation to achieve compliance with the adopted policies and standards of this Element. Where the noise source in question consists of intermittent single events, the report must address the effects of maximum noise levels in sleeping rooms in terms of possible sleep disturbance.
- Describe a post-project assessment program which could be used to evaluate the effectiveness of the proposed mitigation measures.

**Policy N-3.1.4:** Implement appropriate standard controls (e.g., some or all of Standard Controls a-h above) for all construction projects.

**Policy N-3.1.5:** Consider CEQA review for construction projects lasting more than 18 months, and submittal of detailed construction noise management plans.

## **Impact Analysis**

---

### **SIGNIFICANCE CRITERIA**

For the purposes of this EIR, a significant impact would occur if implementation of the Proposed Project would:

- Criterion 1:**    **Generate a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies;**
- Criterion 2:**    **Generate excessive groundborne vibration or groundborne noise levels; or**
- Criterion 3:**    **For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, expose people residing or working in the project area to excessive noise levels.**

### **METHODOLOGY AND ASSUMPTIONS**

This analysis is based on noise modeling performed by Charles M. Salter Associates, informed by traffic modeling prepared by Fehr & Peers for the Proposed Project's study network, including data on traffic volumes, as well as on land use and roadway network changes assumed as part of the Proposed Project. For the purposes of this analysis, street traffic volumes are per traffic engineer data received in July 2023 and are considered the baseline that is compared to noise levels associated with implementation of the Proposed Project.

#### **Construction Noise**

Construction noise from development facilitated by the Proposed Project is estimated on the basis of noise levels for various pieces of construction equipment reported by the FTA's Noise and Vibration Impact Assessment (2018). It is conservatively assumed that construction equipment typically operates as close as 25 feet from the nearest noise-sensitive receptors. Construction noise level estimates do not account for the presence of intervening structures or topography, which could reduce noise levels at receptor locations. New development facilitated by the Proposed Project would have a significant impact if temporary construction noise during permitted daytime hours could expose noise-sensitive receptors to significantly adverse noise levels, or if construction would not meet one of the standards in Chapter 8.20 of the Town Code.

#### **On-site Operational Noise**

On-site activities at new development facilitated by the Proposed Project would have a significant impact if it would expose neighboring noise-sensitive land uses to noise levels exceeding the Town's standards in its General Plan and in Chapter 8.20 of the Town Code, as described above in Regulatory Setting.

## **Traffic Noise**

Traffic-related noise impacts are evaluated using the FHWA Highway Traffic Noise Prediction Model (FHWA RD-77-108). This model requires various parameters, including traffic volumes, vehicle mix, vehicle speed, and roadway geometry to compute typical equivalent noise levels during daytime, evening, and nighttime hours. The resultant noise levels are weighted and summed over 24-hour periods to determine the CNEL values. The traffic volumes for each roadway segment will be used along with the FHWA Traffic Noise Model to calculate L<sub>dn</sub> at a distance of 50 feet from the roadway centerlines for local roadways. Noise standards found in the Town of Ross General Plan 2007-2025 are used to evaluate potential traffic noise impacts in the Planning Area, as discussed above. According to the General Plan, new development of residential or other noise-sensitive land uses should not be allowed in noise impacted areas unless effective mitigation measures are incorporated into the project design to reduce noise levels in outdoor activity areas to 60 dBA L<sub>DN</sub> or less.

## **Stationary Noise**

As noted above, this analysis evaluates impacts associated with the Proposed Project at the program level, given that specific details on future mechanical equipment or HVAC equipment and layout cannot be known at this time. Accordingly, the specific noise sources that might occur in conjunction with development of land uses allowable under the Proposed Project also cannot be known at this time. Therefore, stationary and other noise source impacts will be discussed on a qualitative basis, considering the potential for new noise sources to exceed established standards.

## **Groundborne Vibration**

The Town has not adopted a significance threshold to assess vibration impacts during construction. The general human response to different levels of groundborne vibration velocity levels is described in Table 3.11-5. To determine vibration impacts during construction under the Proposed Project, vibration levels were calculated at vibration-sensitive receptors using VdB and compared to the FTA guidelines set forth in the FTA Transit Noise and Vibration Assessment (2018). The following vibration thresholds are established by the FTA for the disturbance of people:

- 65 VdB for buildings where low ambient vibration is essential for interior operations, such as hospitals and recording studios
- 72 VdB for residences and buildings where people normally sleep, including hotels
- 75 VdB for institutional land uses with primary daytime use, such as churches and schools

These thresholds apply to “frequent events,” which the FTA defines as vibration events occurring more than 70 times per day. The thresholds for frequent events are considered appropriate because of the scale and duration of the construction activity associated with the Proposed Project. In addition, this analysis applies the following FTA thresholds in Table 3.11-4 for potential structural damage to buildings from construction vibration.

## IMPACTS

**Impact 3.11-1      Implementation of the Proposed Project would not result in generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies. (*Less than Significant*)**

### *Construction*

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

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

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

**Table 3.11-7: Typical Noise Levels for Construction Equipment**

<i>Equipment</i>	<i>Estimated Noise Levels at Nearest Sensitive Receptors (dBA Leq)</i>		
	<i>25 feet</i>	<i>50 feet</i>	<i>100 feet</i>
Air Compressor	86	80	74
Backhoe	86	80	74
Concrete Mixer	91	85	79
Dozer	91	85	79
Grader	91	85	79
Jack Hammer	94	88	82
Loader	86	80	74
Paver	91	85	79
Pile-drive (Impact)	107	101	95
Pile-driver (Sonic)	101	95	89
Roller	91	85	79
Saw	82	76	70
Scarified	89	83	77
Scraper	91	85	79
Truck	90	84	78

*Source: FTA, 2018.*

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

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

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

### *On-Site Operational Noise*

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

### *Traffic Noise*

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

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

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

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

increase in traffic under the Proposed Project is considered to be a less-than-significant noise impact and no mitigation is required.

**Table 3.11-8: Traffic Noise Analysis Summary**

<i>Roadway</i>	<i>Existing (DNL in dB)<sup>1</sup></i>	<i>2040 + Project (DNL in dB)</i>	<i>Projected Increase (dB)</i>	<i>Significant Impact?<sup>2</sup></i>
Sir Francis Drake (from Butterfield Road to Willow Avenue)	68	69	0.5	No
Sir Francis Drake (northwest of downtown)	70	71	0.5	No
Center Blvd <sup>3</sup>	66	n/a	n/a	No
Bolinas Road <sup>3</sup>	63	n/a	n/a	No

Notes:

<sup>1</sup> DNL is estimated to be equal to the peak hour Leq.

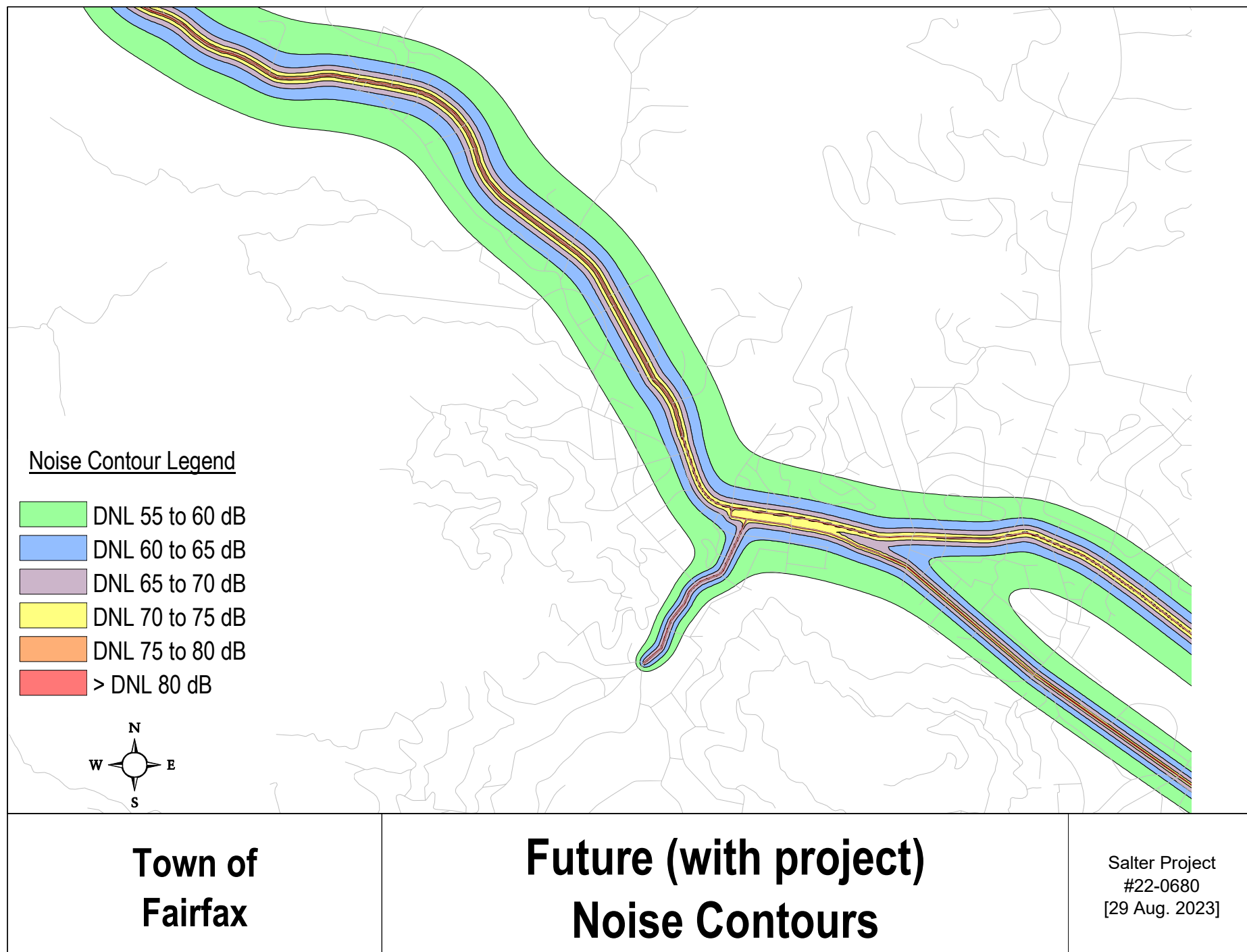
<sup>2</sup> A 3 dB or less change in noise levels traffic would not constitute a significant impact, because such a change in noise is considered just noticeable.

<sup>3</sup> No future traffic data available for road segments.

*Source: Salter & Associates, 2023.*

### *Mitigation Measures*

None required.





**Impact 3.11-2      Development under the Proposed Project would not generate excessive groundborne vibration or groundborne noise levels. (*Less than Significant*)**

*Construction Vibration*

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

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

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

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

*Operational Vibration*

Stationary Source Vibration

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

equipment, stationary source vibration impacts associated with implementation of the Proposed Project would be less than significant.

#### Traffic Vibration

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

#### *Mitigation Measures*

None required.

#### **Impact 3.11-3      The Proposed Project would not be located within the vicinity of a private airstrip or an airport land use plan or expose people residing or working in the Planning Area to excessive noise levels. (*No Impact*)**

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

#### *Mitigation Measures*

None required.

## 3.12 Public Services and Recreation

This section provides an evaluation of potential impacts on public facilities and services as a result of the Proposed Project, including impacts related to fire, police, school services, and park and recreation facilities. This section describes existing public services and facilities in the Planning Area, as well as relevant federal, State, and local regulations and programs.

Three responses to the Notice of Preparation (NOP) related to topics addressed in this section. Comments highlighted the need to address environmental impacts associated with the provision of adequate public services and associated infrastructure with an increasing population. These comments are located in Appendix B of the DEIR and are addressed under Impact 3.12-1 below.

### Environmental Setting

---

#### PHYSICAL SETTING

##### Police Protection

The Fairfax Police Department (FPD) consists of the Chief of Police, one lieutenant, two sergeants, one detective, six patrol officers, four dispatchers and one police service technician. Supplementing this full-time staff are, three part time dispatchers and two police cadet.<sup>1</sup> The FPD headquarters is located in the Fairfax Town Hall, at 144 Bolinas Road.

The FPD participates in Region II (Alameda, Del Norte, Humboldt, Mendocino, Lake, Sonoma, Napa, Solano, Marin, Contra Costa, San Mateo, Santa Clara, Santa Cruz, San Benito, and Monterey Counties) of the California State Mutual Aid System, with Marin County acting as the regional coordinator. The California State Mutual Aid System allows inter-jurisdictional police force collaboration for emergency services. The California Highway Patrol provides highway and traffic safety services on unincorporated roadways and all freeway systems, including U.S. Highway 101 which runs parallel to Fairfax.

According to the Fairfax Police Department Policy Manual, at least one supervisor shall be deployed during each watch with the exception of the hours from 0300 to 0700, unless otherwise approved by the Chief of Police. Minimum staffing levels should result in the scheduling of at least

---

<sup>1</sup> Town of Fairfax. No date. *Fairfax Police*. Available: <https://www.townoffairfax.org/departments/police/>. Accessed: July 13, 2021.

two officers during Friday and Saturday nights between the hours of 2100 and 0300 and one officer at all other times.<sup>2</sup>

## **Fire Protection**

The Ross Valley Fire Department (RVFD) is a Joint Powers Authority (JPA) consolidated department that services Ross, San Anselmo, Sleepy Hollow, and Fairfax. The department currently has four fire stations located within the jurisdiction. Station 18 in the Town of Ross, Station 19 and Station 20 in the Town of San Anselmo, and Station 21 in the Town of Fairfax. Located at 10 Park Road in Fairfax, Fire Station 21 was built in 1974, with a minor remodel in 2007. Fire Station 21's daily on-duty emergency response personnel consist of a Fire Captain and an engineer/firefighter, one of which is a paramedic. The station houses one Type 1 Fire Engine (structural firefighting), one Type 3 Fire Engine (wildland firefighting), and one utility vehicle. The four-wheel drive Type 3 Engine is utilized for wildland fire responses and responses that require driving off-road. It also serves as a reserve fire engine for off-duty personnel and volunteer firefighters.

The RVFD currently has 36 full-time paid employees. The current minimum staffing for the department is nine on duty personnel consisting of two firefighters (one captain and one engineer) at each one of the four fire stations and one Battalion Chief housed at Station 19. The RVFD also has one Fire Chief (vacant at this time), one administrative assistant, one Sr. Fire Inspector, one Fire Inspector, one Emergency Preparedness Coordinator, one Defensible Space Lead I Inspector, and one Defensible Space Lead II Inspector. In addition, RVFD has an active volunteer force of 15 members.<sup>3</sup>

During 2012 – 2013 (the most recent data), approximately 52 percent of RVFD's emergency responses throughout its service area were for medical assistance, and RVFD responded to 1,901 calls throughout its service area, 782 of which were in the Town of Fairfax.<sup>4</sup> Based on the Town's 2013 population of 7,503<sup>5</sup>, this equates to approximately one RVFD service call per 9.6 people in the Town. Standards of response coverage benchmarks, as outlined in the Ross Valley Fire Department Annual Report 2012-2013, include on scene arrival of the first unit within eight minutes of receipt of a 911 call in 90 percent of requests for service for priority responses and wildland fire responses. For building fires, a 14 personnel in 15 minutes standard was set. The RVFD responded to 93 percent of all priority incidents within eight minutes and 100 percent of wildland fire incidences within eight minutes during 2012 to 2013.<sup>6</sup>

---

<sup>2</sup> Fairfax Police Department. 2022. Fairfax PD Policy Manual. Available:

<https://www.townoffairfax.org/documents/fpd-policy-manual/>. Accessed: July 13, 2023.

<sup>3</sup> Ross Valley Fire Department. 2013. Annual Report 2012-2013. Available:

[https://www.rossvalleyfire.org/images/Annual\\_Report\\_09\\_13\\_Final\\_Version.pdf](https://www.rossvalleyfire.org/images/Annual_Report_09_13_Final_Version.pdf). Accessed : July, 14 2023.

<sup>4</sup> Ibid.

<sup>5</sup> American Community Survey (ACS). 2009-2013. DP05 ACS Demographic and Housing Estimates.

<sup>6</sup> Ross Valley Fire Department. 2013. Annual Report 2012-2013. Available:

[https://www.rossvalleyfire.org/images/Annual\\_Report\\_09\\_13\\_Final\\_Version.pdf](https://www.rossvalleyfire.org/images/Annual_Report_09_13_Final_Version.pdf). Accessed : July, 14 2023.

## **Schools**

The Ross Valley School District (RVSD) consists of five public schools, serving Fairfax and San Anselmo. Of the public schools in RVSD, four are elementary schools and one is a middle school. Of the RVSD schools, Manor Elementary School and White Hill Middle School are located in Fairfax and service the Planning Area. Along with Fairfax students, White Hill Middle School also services San Anselmo students. As shown in Table 3.12-1, enrollment in schools that service Fairfax has seen a decline, particularly post-pandemic. The entire RVSD has seen a decline of approximately 550 students since its historical height of enrollment in 2016-2017. RVSD enrollment was 1,739 in 2022-2023 and it is estimated that enrollment will be 1,722 for 2023-2024, 1,724 for 2024-2025, and 1,741 for 2025-2026.

RVSD has not performed a recent capacity/utilization study. Further, RVSD student generation rates based on new construction are likely too low given the communities that make up RVSD do not typically experience much new residential development and current rates are based on last decade's construction considerations. Given the rapid change in housing growth caused by the housing elements in Towns of Fairfax and San Anselmo as well as the County of Marin, updated student generation rates would require a new study. Such a study is not budgeted for nor scheduled to be conducted for RVSD.

However, the Marin County Office of Education (MCOE) collaborates with the county's 17 school districts by providing financial oversight and centralized services in the areas of business, technology, professional development, emergency services, maintenance, and operations. As shown in Table 3.12-2, the MCOE also uses a student generation rate of .2 used to determine school facility needs throughout its service area.

**Table 3.12-1: Ross Valley School District Schools that Service Fairfax**

<i>School</i>	<i>Address</i>	<i>Enrollment</i>			
		<i>2018-2019</i>	<i>2019-2020</i>	<i>2020-2021</i>	<i>2021-2022</i>
Manor Elementary School	150 Oak Manor Dr, Fairfax CA 94930	275	253	217	225
White Hill Middle School	101 Glen Dr #1338, Fairfax CA 94930	744	765	670	664

*Source: Ross Valley School District. 2023. School Accountability Report Cards (SARCS). Available: <https://www.rossvalleyschools.org/domain/256>. Accessed: July 14, 2023.*

**Table 3.12-2: MCOE Student Generation Rates**

<i>Dwelling Type</i>	<i>Student Generation Rates</i>
Multi-Family Dwellings – Apartments, Condominiums	0.2
Single Family Detached Homes, Townhouses	0.2
Below Market Rate – Apartments, Condominiums, Townhouses	0.2

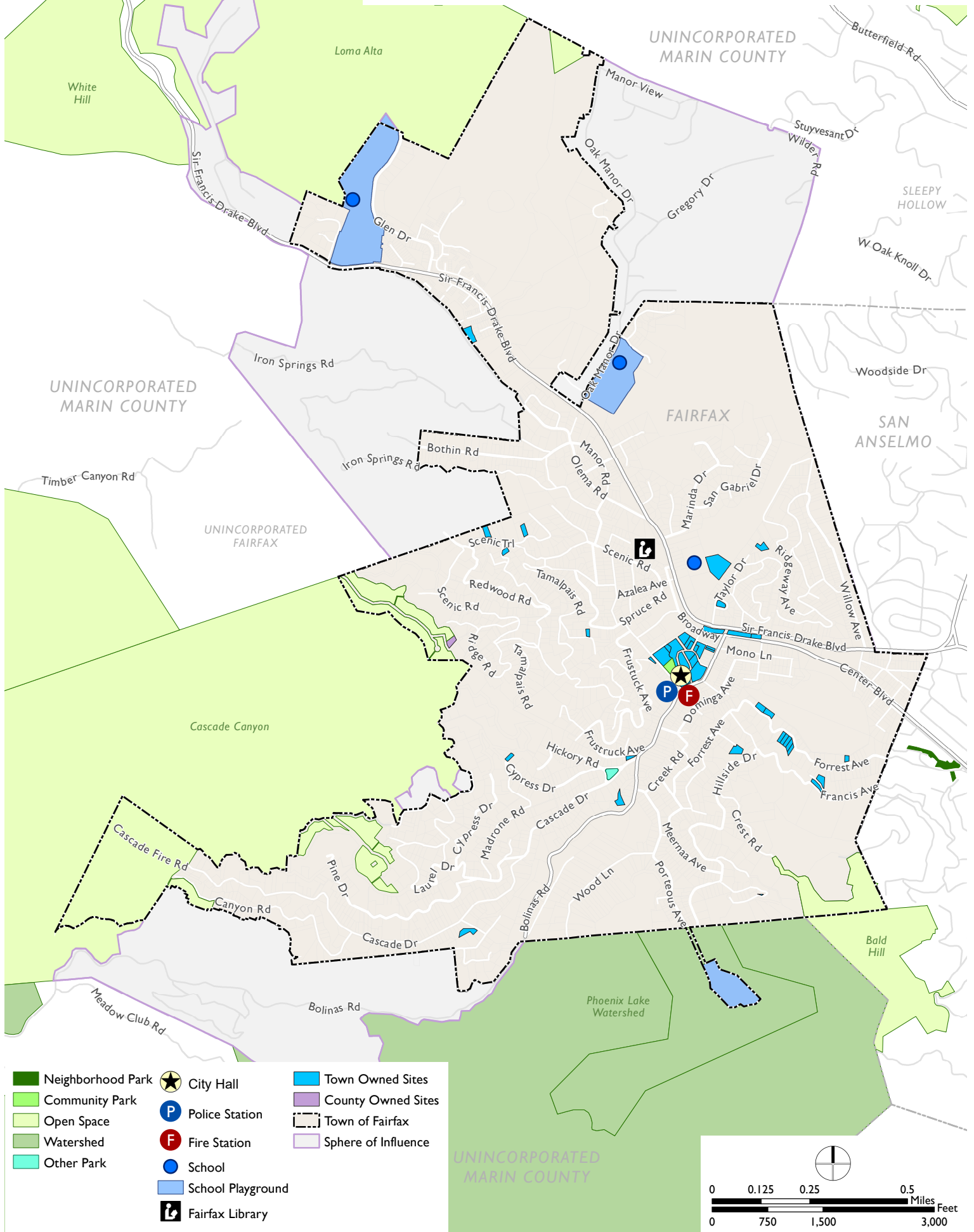
*Source: MCOE, 2022*

## **Parks and Other Public Facilities**

There are three parks within Fairfax, with parks and open space totaling 4.79 acres of the total 1,435 acres within the town. Regionally, the Cascade Canyon Preserve is located to the west of Fairfax and the Deer Park Wildlife Reserve is located to the south. The Department of Public Works (DPW) Park Maintenance Division is responsible for the maintenance of Town-owned facilities such as Peri Park, Bolinas Park, and the Contratti ballfield. This division also oversees irrigation management and Town weed abatement/landscaping. According to the U.S. Census, the population of Fairfax was estimated to be 7,399 in 2020. Subsequently, the Town's current parkland ratio is .65 acres of parkland per 1,000 residents.

The Town also has a variety of public spaces to support community programs and events. These public spaces include features such as the Women's Club, the Pavilion, sports facilities, playgrounds and play equipment, outdoor public seating, and open grassy fields. In addition, the Marin County Fairfax Library is located within the town at 2097 Sir Francis Drake Blvd. See Figure 3.12-1 for the identification of parks, schools, and other public facilities located in Fairfax.

**Figure 3.12-1: Map of Parks, Schools and Public Facilities**



## **REGULATORY SETTING**

### **Federal Regulations**

There are no federal regulations related to public services or recreation that apply to the Planning Area.

### **State Regulations**

#### *California Fire and Building Code*

The State of California provides minimum standards for building design through the California Building Code (CBC), which is located in Part 2 of Title 24, California Building Standards Code, of the CCR. The CBC is based on the International Building Code but has been amended for California conditions. It is generally adopted on a jurisdiction-by-jurisdiction basis, subject to further modification based on local conditions. Commercial and residential buildings are plan-checked by local building officials for compliance with the CBC. Typical fire safety requirements of the CBC include: the installation of sprinklers in all high-rise buildings; the establishment of fire resistance standards for fire doors, building materials, and particular types of construction; and the clearance of debris and vegetation within a prescribed distance from occupied structures in wildfire hazard areas.

#### *California Code of Regulations*

The California Code of Regulations, Title 5 Education Code, governs all aspects of education within the State. California State Assembly Bill 2926 (AB 2926) – School Facilities Act of 1986 – was enacted by the State of California in 1986 and added to the California Government Code (Section 65995). It authorizes school districts to collect development fees, based on demonstrated need, and generate revenue for school districts for capital acquisitions and improvements. It also established that the maximum fees which may be collected under this and any other school fee authorization are \$1.50 per square foot (\$1.50/ft<sup>2</sup>) for residential development and \$0.25/ft<sup>2</sup> for commercial and industrial development.

AB 2926 was expanded and revised in 1987 through the passage of AB 1600, which added Section 66000 et seq. of the Government code. Under this statute, payment of statutory fees by developers serves as total mitigation under CEQA to satisfy the impact of development on school facilities. However, subsequent legislative actions have alternatively expanded and contracted the limits placed on school fees by AB 2926.

#### *Senate Bill 50, California Government Code 65995(b), Education Code Section 17620, and the Mitigation Fee Act*

Senate Bill (SB) 50 (funded by bonds sold under Proposition 1A, approved in 1998) limits the power of cities and counties to require mitigation of school facilities impacts as a condition of approving new development and provides instead for a standardized developer fee. SB 50 generally provides for a 50/50 State and local school facilities funding match. SB 50 also provides for three levels of statutory impact fees. The application level depends on whether State funding is available, whether



the school district is eligible for State funding, and whether the school district meets certain additional criteria involving bonding capacity, year round school, and the percentage of moveable classrooms in use.

SB 50 amended the California Government Code Section 65995, which contains limitations on Education Code Section 17620, the statute that authorizes school districts to assess development fees within school district boundaries. Government Code Section 65995(b)(3) requires the maximum square footage assessment for development to be increased every two years, according to inflation adjustments. On January 24, 2018, the State Allocation Board approved increasing the allowable amount of statutory school facilities fees (Level I School Fees) to \$3.79 per square foot of assessable space for residential development of 500 square feet or more, and to \$0.61 per square foot of chargeable covered and enclosed space for commercial/industrial development. During Fiscal Year 2021 – 2022, the RVSD levied developer fees at \$2.44 per square foot for residential development and \$0.38 per square foot for commercial development.<sup>7</sup>

Enacted as Assembly Bill (AB) 1600, the Mitigation Fee Act requires a local agency establishing, increasing, or imposing an impact fee as a condition of development to identify the purpose of the fee and the use to which the fee is to be put. The agency must also demonstrate a reasonable relationship between the fee and the purpose for which it is charged, and between the fee and the type of development plan on which it is to be levied. The act came into force on January 1, 1989.

### *California Commission on Peace Officer Standards and Training*

The California Commission on Peace Officer Standards and Training (POST) advocates for, exchanges information with, sets selection and training standards for, and works with law enforcement and other public and private entities. POST was established by the Legislature in 1959 to identify common needs that are shared by representatives of law enforcement.

## **Local Regulations**

### *Town of Fairfax 2010-2030 General Plan (General Plan)*

The Town of Fairfax 2010-2030 General Plan (General Plan) includes the following goals and policies associated with public services and recreation:

**Goal LU-1:** Preserve scenic and natural resources.

**Policy LU-1.1.2:** Additional park areas should be created in existing neighborhoods where practicable.

**Goal OS-3:** Preserve the sensory qualities of open space for recreational, cultural, educational, and spiritual experiences.

---

<sup>7</sup> Ross Valley School District. 2022. Annual Accounting of Developer Fees Fiscal Year 2021-2022. Available: <https://www.rossvalleyschools.org/Page/70>. Accessed: July 14, 2023.

**Policy OS-1.4.5:** Dedicate all or part of privately owned parcels in the inventory for use as open space, whenever possible.

**Policy OS-3.1.1:** Identify and map the existing recreational trails in and between open space lands in the Fairfax Planning Area. This inventory will include trails that have been historically used by the public for recreation since 1950 and continue to be used.

**Policy OS-3.1.3:** Maintain the trails on the Fairfax Recreational Trail Map by marking and improving the trails as appropriate.

### *Fairfax Town Code*

Chapter 8.04, California Fire Code, outlines the Town Fire Code which includes information on emergency planning and preparedness, fire service features, and fire protection systems. The chapter adopts and amends the 2022 California Fire Code.

Section 16.24.100, Dedication of land for public purposes, provides parkland dedication requirements for subdivisions. As a condition to the approval of a tentative map or parcel map, the subdivider shall dedicate land, pay fees, or a combination of both for park or recreational facilities in accordance with the provisions of this section, California Government Code Section 66477, and the parks and recreation element of the general plan. The payment of fees, or the dedication of land, or both, shall be in a proportionate amount necessary to provide five acres of property devoted to local park or recreational purposes for each 1,000 persons residing in the town. Subdivisions containing less than five parcels and not used for residential purposes shall be exempted from the requirements of this section.

## **Impact Analysis**

---

### **SIGNIFICANCE CRITERIA**

For the purposes of this EIR, a significant impact would occur if implementation of the Proposed Project would:

**Criterion 1:** Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

- a. Fire protection,
- b. Police protection,
- c. Schools,
- d. Parks, or
- e. Other public facilities;

**Criterion 2:** Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated; or

**Criterion 3:** Include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment.

### **METHODOLOGY AND ASSUMPTIONS**

Criteria from Appendix G of the State CEQA Guidelines were used to determine whether the Proposed Project would have a significant impact related to public services and recreation. Potential project-related impacts were analyzed based on their potential to result in either physical degradation of public facilities, or a reduction of public service ratios such that construction of a new public service facility would be required to meet service ratio needs. Future service ratios anticipated under project conditions were compared to goal ratios identified in applicable documents (e.g., the General Plan), as well as other local planning documents, to identify the project's potential to result in impacts.

### **IMPACTS**

**Impact 3.12-1** Development under the Proposed Project would not result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the

**construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services: fire protection, police protection, schools, parks, or other public facilities. (*Less than Significant*)**

### *Police Service*

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

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

In consultation between the Town and the FPD Chief of Police<sup>8</sup>, the department has no plans to increase staffing/equipment levels or construct new facilities between 2023 and 2031. The FPD does not anticipate the need to construct new facilities to serve the Town of Fairfax in 2031, assuming the construction of up to 598 housing units occurs. The additional residential units can still be adequately served by the existing staffing of two officers on duty 24/7. However, the FPD plans to reinstate a currently frozen position to allow for consistently having two officers on duty 24/7 when vacations, training, sick time off are taken into account from existing staffing. As such, the Proposed Project would not require the construction of new police facilities. Impacts would be less than significant.

### *Fire Protection*

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

---

<sup>8</sup> R. Tabaranza, personal communication, July 3, 2023.

The increased local projected buildout population and housing units generated by the Proposed Project would likely result in a subsequent increase in fire and emergency medical service calls to the Planning Area compared to existing conditions. In consultation between the Town and the RVFD Interim Fire Chief<sup>9</sup>, the department does not anticipate a need to construct or expand their station facilities as a result of the buildout of up to 598 housing units under the Proposed Project. Correspondence with service providers is located in Appendix F of the DEIR.

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

### *Schools*

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

In consultation between the Town and the RVSD Superintendent<sup>10</sup>, the district does not have any current plans to increase staffing/equipment levels or to construct new facilities between 2023 and 2031. Based on the Proposed Project, the district anticipates that they would have sufficient space at Manor School to service Fairfax students for transitional kindergarten (TK) through Grade 5. However, since White Hill Middle School also services San Anselmo students along with Fairfax students, growth planned in the Town of San Anselmo and County of Marin housing elements would further increase enrollment at White Hill Middle School. Therefore, the RVSD anticipates that there will be a need for new/expanded facilities at White Hill Middle School.

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

---

<sup>9</sup> D. Mahoney, personal communication, July 5, 2023.

<sup>10</sup> M. Trahan, personal communication, July 6, 2023.

review at the time the design is proposed in order to identify and mitigate project-specific impacts as appropriate.

For example, White Hill Middle School is located in a high/very high liquefaction zone and a High Fire Hazard Severity Zone. Any new development or expansion of the school's facility would be required to comply with applicable regulations further detailed in Section 3.6: Geology and Soils and Section 3.15: Wildfire. Such regulations include complying with the provisions of the California Building Code related to soils and foundations and General Plan policies that require site-specific geotechnical analyses for all new developments and substantial improvement proposals. The Town of Fairfax General Plan also details emergency response and evacuation preparations to minimize risks of fire danger, such as vegetation management and defensible space activities, maximizing access for emergency response vehicles, and enforcing provisions of the California Fire Code. As such, compliance with existing regulations would reduce impacts to a less than significant level related to the provisions of school facilities.

### *Parks*

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

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

### *Other Public Facilities*

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

In the event that a new public service or community facility is needed, construction of such a facility could result in subsequent environmental impacts; the specific impacts of which are not known at this time and any analysis would require speculation. General Plan Goal OS-1 requires the protection and preservation of open space lands in the Planning Area. Therefore, it is likely that any new public service or community facilities necessary to serve the Planning Area would be located and constructed in an urbanized and developed area to mitigate environmental impacts. The environmental impacts related to traffic, noise, air quality, and GHG emissions during construction and operation of the park facilities have been considered throughout the technical modeling provided in other chapters of this EIR. Future recreational facilities will tier from this EIR to identify and mitigate site-specific impacts if and when design of those parks is complete. Therefore, public service and community facilities impacts of the Proposed Plan would be less than significant.

#### *Mitigation Measures*

None required.

#### **Impact 3.12-2    Development under the Proposed Project would not increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated (*Less than Significant*)**

As discussed under Impact 3.12-1, population growth associated with implementation of the Proposed Project could increase demand for the Town's existing neighborhood parks and potentially require the construction of new or physically altered facilities to meet the increased demand for parkland. There are three parks within Fairfax, totaling approximately 4.79 acres, that are managed by the Town's Department of Public Works (DPW) Park Maintenance Division, as well as additional recreational facilities such as regional parks, trails, and school athletic fields that are not managed by the Town's Park Maintenance Division.<sup>11</sup>

Construction of new parks and physical alteration of existing parks to accommodate increasing population may result in environmental impacts. However, environmental impacts related to construction emissions, vehicle miles traveled (VMT), and biological resources associated with construction of expansion of the proposed parks are accounted for in technical modeling provided in other chapters of this EIR. Future parks will tier from this EIR to identify and mitigate site specific impacts if and when design of those parks is complete. The General Plan includes various goals and policies to ensure adequate open space is provided within the City. Compliance with General Plan Policy LU-1.1.2 requires additional park areas to be created in existing neighborhoods where practicable. In addition, Policy OS-1.4.5 requires the Town to dedicate a portion of privately-owned undeveloped and underdeveloped lands that connect or expand to existing open space for open space uses. Further, Section 16.24.100 of the Town Code requires developers to pay in-lieu fees or dedicate parkland which would help ensure that population growth associated with the Proposed

---

<sup>11</sup> Town of Fairfax. 2012. Town of Fairfax 2010-2030 General Plan. Available: <https://www.townoffairfax.org/general-plan/>. Accessed: July 18, 2023.

Project would not result in substantial physical deterioration of existing parks and recreation facilities. Therefore, this impact would be less than significant.

*Mitigation Measures*

None required.

**Impact 3.12-3    Development under the Proposed Project would not require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment. (*Less than Significant*)**

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

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

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

*Mitigation Measures*

None required.



## 3.13 Transportation

This section evaluates the potential impacts to transportation that could arise from implementation of the Proposed Project. The analysis evaluates the possible impacts of the Proposed Project on vehicle miles traveled (VMT), and determines if the Proposed Project would conflict with adopted policies, plans, and programs regarding public transit and bicycle and pedestrian facilities, substantially increase hazards due to a design feature or incompatible uses, or result in inadequate emergency access.

There were six responses to the Notice of Preparation (NOP) regarding topics covered in this section. The California Department of Transportation (Caltrans) provided a comment in support of development patterns that reduce VMT and stated that the Town is responsible for all Project mitigation. Other commenters expressed concern about development patterns that increase vehicular use, as well as subsequent congestion on arterials and greenhouse gas emissions. These comments are addressed in this section and incorporated into the following analysis.

## Environmental Setting

---

### PHYSICAL SETTING

#### Circulation Network

Regionally, US 101 is a major freeway that functions as the primary north-south route through Marin County, connecting Marin's major population centers to destinations to the south (including San Francisco) via the Golden Gate Bridge, as well as Sonoma County and northern California to the north. State Route (SR) 1 provides access along much of Marin County's coastline, connecting smaller coastal area communities to US 101 near Tamalpais Valley, and points north in Sonoma County near Tomales. Other key roadway connections to adjacent jurisdictions include I-580, which provides access between Marin County and the East Bay via the Richmond-San Rafael Bridge, and SR 37, which links Novato to Sonoma, Napa, and Solano Counties to the east.

Locally, Sir Francis Drake Boulevard (SFD Blvd) bisects the Town of Fairfax and serves as the major east-west arterial from West Marin to Highway 101. Collector streets that are intended to carry traffic from collector and minor residential streets to an arterial, such as SFD Blvd, include Center Boulevard, Broadway, and Bolinas Road. There are also several minor residential streets throughout the town which are low-capacity streets primarily serving low density residential uses. Minor residential streets are provided within the residential neighborhoods of the Planning Area.

## **Vehicle Miles Traveled**

One performance measure used to quantify automobile travel is VMT, which refers to the amount of automobile travel attributable to a project as well as the distance traveled. In 2013, Governor Brown signed Senate Bill (SB) 743, which added Public Resources Code Section 21099 to the California Environmental Quality Act (CEQA). Public Resources Code Section 21099 changes the way transportation impacts are analyzed in transit priority areas, and aligns local environmental review methodologies with statewide objectives to reduce greenhouse gas (GHG) emissions, encourage infill mixed-use development in designated priority development areas, reduce regional sprawl, and reduce VMT in California.

Increased VMT leads to various direct and indirect impacts on the environment and human health. Among other effects, increased VMT on the roadway network leads to increased emissions of air pollutants, including GHGs, and increased energy consumption. The transportation sector is associated with more GHG emissions than any other sector in California. As documented in the Fairfax Climate Action Plan 2030, about 53 percent of the Town's GHG emissions are produced by local transportation. Reducing VMT is one of the most effective means for reducing the town's GHG emissions.

VMT is typically an output from travel demand models. Its calculation is based on the estimated number of vehicles multiplied by the distance traveled by each vehicle. This analysis uses the following VMT metrics:

- **Household VMT per capita**, which measures all the VMT by motor vehicle on a typical weekday associated with a residential use, such as trips to work, school, or shop, and divides that VMT by the number of residents in the Planning Area.

The VMT forecasts generated for this CEQA assessment were produced using the Transportation Authority of Marin Demand Model (TAMDM). For this CEQA assessment, the 2015 base year for TAMDM was updated and validated for a new 2019 base year for the City of San Rafael General Plan Update. A key reason for applying the updated 2019 base year is that it includes the SMART rail system that was not in place in 2015. This analysis includes a 2040 No Project scenario that is based on the TAMDM horizon year and reflects land use changes and transportation improvements consistent with the San Rafael General Plan 2040 adopted in 2021. The 2019 base year model developed for the San Rafael General Plan Update was validated based on model confidence thresholds defined in the California Transportation Commission 2017 RTP guidelines. VMT estimates were produced using the updated 2019 TAMDM model for all 1,400 analysis zones within Marin County as well as for the entire Bay Area. Table 3.13-1 provides an existing VMT summary for the Town of Fairfax.

**Table 3.13-1: Existing (2019) VMT Summary**

<i>Geography</i>	<i>Home-Based VMT</i>	<i>Home VMT Per Resident</i>
Baseline Town VMT Metric	122,350	16.3

*Source: Fehr & Peers based on the results of the Transportation Authority of Marin Demand Model, 2023.*

## **Existing Transit System**

Regionally, Golden Gate Transit offers transportation between San Francisco and the North Bay, with buses and ferries connecting San Francisco to Marin County. Marin Transit provides bus service in Marin County. The system's biggest hub is the San Rafael Transit Center in San Rafael, with smaller hubs in Novato, San Anselmo, and Marin City. Bus routes #228, #625, #23, and #68 connect Fairfax to the greater county with stops along SFD Blvd. Sonoma-Marín Area Rail Transit (SMART) is a rail line opened in 2017 that connects Marin County and Sonoma County, with stops at Sonoma County Airport, Santa Rosa, Rohnert Park, Petaluma, Novato, San Rafael, and Larkspur. Currently there is no neighborhood transit service, except for the limited service for the elderly and the disabled, by appointment, via Whistlestop Wheels.

## **Existing Bicycle System**

The Town of Fairfax Bicycle and Pedestrian Plan (adopted in 2008 and updated in 2016) identifies the following distinct types of bikeway facilities:

- **Class I Bikeway**—Typically called a “multi-use path,” a Class I bikeway provides bicycle and pedestrian travel on a paved right-of-way completely separated from any street or highway.
- **Class II Bikeway** —Often referred to as a “bicycle lane,” a Class II bikeway provides a striped and stenciled lane for one-way travel on a street or highway.
- **Class III Bikeway** —Generally referred to as a “bicycle route,” a Class III bikeway provides for shared use with motor vehicle traffic and is identified only by signing and/or pavement marking stencils.

The Town’s existing bikeway system is composed of approximately 4.63 miles of Class I multi-use pathways, Class II bicycle lanes and Class III bicycle routes. The primary bicycling corridor serves the east-west route from the border with San Anselmo through downtown to the unincorporated area at the base of White’s Hill. The majority of the Town’s bikeways are signed Class III Bicycle Routes, which provide direct routes along busier arterial or collector roadways.

## **Existing Pedestrian System**

Sidewalks are found on at least one side of the street throughout the downtown business district and on many adjacent residential streets. With the exception of most sidewalks within the Downtown area, many of these walkways in Fairfax do not meet ADA requirements for width, obstructions, tripping hazards, or curb ramps. Sidewalks are generally lacking in the hillside neighborhood areas and along some of the smaller residential streets in the neighborhoods surrounding downtown. In addition, the Bicycle and Pedestrian Advisory Committee has identified a lack of direct pedestrian connections between residential neighborhood streets along potential property line rights-of-way that would allow more direct walking routes.

## **Planned Transportation Network Improvements**

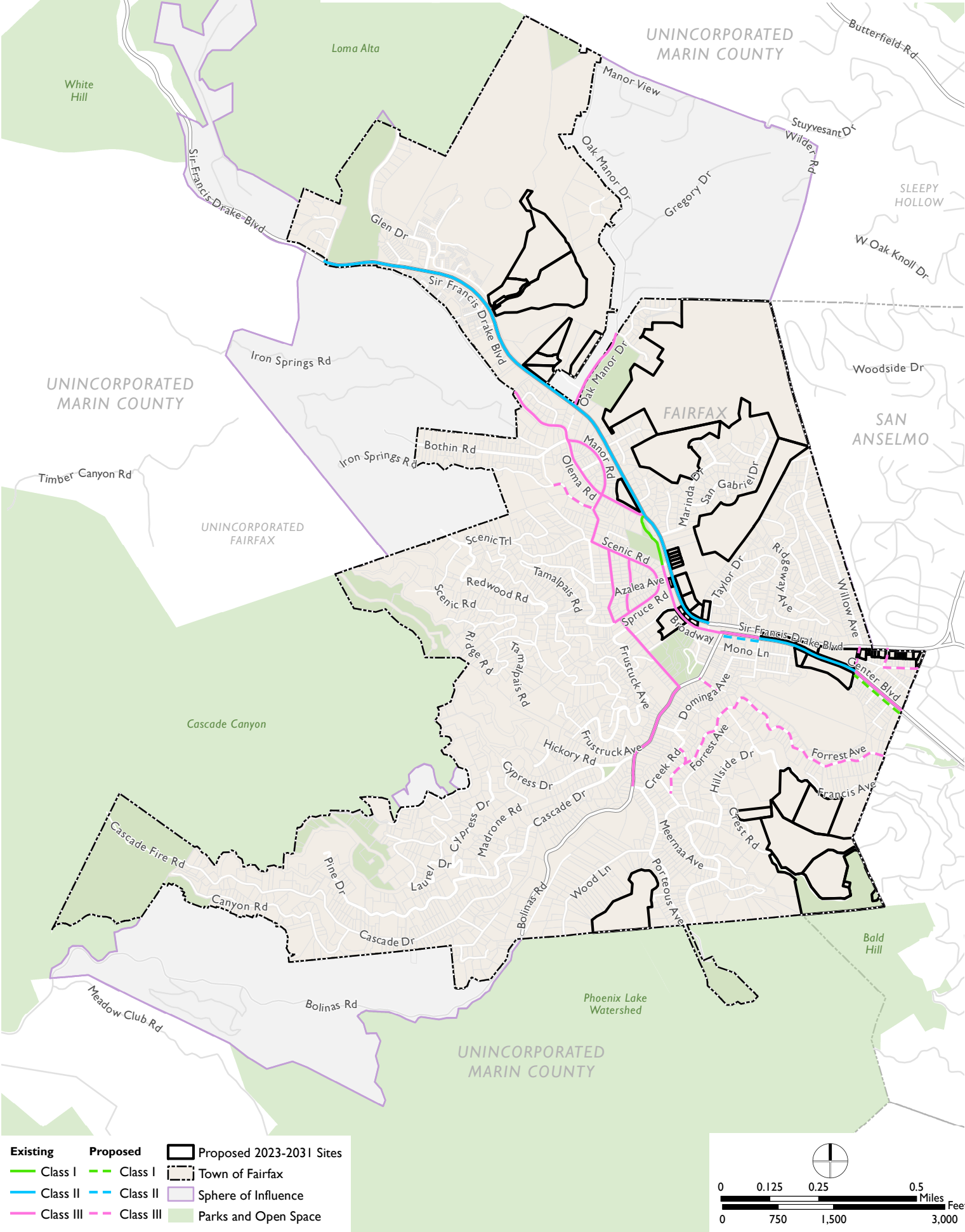
Several improvements are planned for bicycle and pedestrian travel within the Planning Area as described below; there are no planned roadway improvements for the Town of Fairfax. These

improvements include projects planned by the Town and are not related to the Proposed Project; they would be implemented regardless of the Proposed Project. Improvements with reasonably foreseeable approval and funding are assumed in the analysis of future-year 2040 conditions. However, not all planned improvements have final design plans, full approvals, and/or full funding. Planned improvements for transportation modes are summarized below by primary travel category.

There are 4.73 miles of bikeways proposed for the Town of Fairfax. As shown in Figure 3.13-1, Fairfax's current bikeway system is composed primarily of Class II and III bicycle routes. The current update proposes a new Class I Pathway at the east end of Town, parallel to Center Boulevard. In addition to this pathway, a bicycle and pedestrian bridge is proposed connecting Hawthorne Court and Sir Francis Drake Boulevard, as a means of making Manor School more accessible to students. Proposed Class II bicycle lanes in Fairfax are intended primarily to complete gaps in the east-west bikeway, as well as improving bicycle access to local businesses to transit at the Parkade. Proposed Class III bicycle routes in Fairfax are intended to expand the existing east-west bikeway system, creating direct connections to and through neighborhoods and to schools, parks and other destinations, providing alternate routes to busier streets, and adding alternate connections to neighboring communities.

The proposed pedestrian network improvements would close sidewalk gaps and address ADA-compliance issues along certain routes to access downtown and local schools. In addition, it is proposed that the Town conduct a comprehensive sidewalk and pathway inventory in order to develop a detailed electronic inventory of sidewalk gaps needing to be installed and develop a process for prioritizing and filling these gaps. Other proposed pedestrian network improvements include the reduction of curb radii, curb ramp improvements, signalized intersection improvements, and uncontrolled crosswalk improvements.

Figure 3.13-1: Existing and Proposed Bicycle Network



Sources: MarinMap, 2022; Town of Fairfax, 2022; Dyett & Bhatia, 2022

## **REGULATORY SETTING**

### **State**

#### *Senate Bill 743*

SB 743 has changed the way transportation impact analysis is conducted as part of CEQA compliance. With these changes, automobile delay, level of service (LOS), and other similar measures of vehicular capacity or traffic congestion would no longer be the basis for determining significant impacts under CEQA. According to SB 743, these changes are intended to “more appropriately balance the needs of congestion management with statewide goals related to infill development, promotion of public health through active transportation, and reduction of greenhouse gas emissions.”

In December 2018, the Governor’s Office of Planning and Research (OPR) completed an update to the CEQA Guidelines to implement the requirements of SB 743. The guidelines state that VMT must be the metric used to determine significant transportation impacts. The guidelines require all lead agencies in California to use VMT-based thresholds of significance in CEQA documents published after July 2020.

### **Regional**

#### *Metropolitan Transportation Commission (MTC)*

Most of the federal, State, and local financing available for transportation projects is allocated at the regional level by MTC, the transportation planning, coordinating, and financing agency for the nine-county Bay Area. Integrated with the Association of Bay Area Government’s (ABAG’s) regional land use plan, the current regional transportation plan, Plan Bay Area 2050, was adopted by MTC and ABAG in October 2021. Plan Bay Area 2050 is both the Bay Area’s Regional Transportation Plan (RTP) as well as its Sustainable Communities Strategy (SCS). Plan Bay Area grew out of “The California Sustainable Communities and Climate Protection Act of 2008,” which requires each of the State’s 18 metropolitan areas to reduce GHG emissions from cars and light trucks. Accordingly, Plan Bay Area 2050 recommends increasing non-auto travel mode share and reducing VMT per capita and per employee through promoting transit-oriented development, as well as investments in transit and active transportation modes. These strategies seek to not only improve mobility within the region, but also reduce regional and statewide GHG emissions.

Although MTC adopted Plan Bay Area 2050 in October 2021, technical modeling performed in support of this analysis relies on Plan Bay Area 2040 because the Transportation Authority of Marin travel demand model, which was used to estimate the VMT metrics associated with the Proposed Project, is based on Plan Bay Area 2040 and has not yet been updated to reflect Plan Bay Area 2050. The analysis below considers consistency with the adopted Plan Bay Area 2050.

#### *Transportation Authority of Marin (TAM)*

The Transportation Authority of Marin (TAM), as a Congestion Management Agency and the Transportation Sales Tax Authority of Marin County, manages transportation projects in Marin

County, California, with local, regional, state, and federal funding. TAM's Board of Commissioners is the governing organization of TAM and is made up of 11 members who are public officials and are appointed by each of Marin County's cities and town councils, as well as five members from the County Board of Supervisors.

TAM is tasked with preparing a Congestion Management Program (CMP) to fulfill the state legislative requirements of Propositions 111 and 116, approved in June 1990. TAM's congestion management program monitors local multi-modal transportation networks level of service on roadways, bicycle and pedestrian facilities and transit services, and identifies improvements to the performance of these multi-modal systems. The CMP consists of a system monitoring effort, performance measurement and capital improvement plan for these systems. As required by state legislation, TAM maintains a travel demand model to forecast proposed changes to the transportation network.

The TAM also administers the Safe Routes to Schools (SR2S) Program, which the Town of Ross participates in. The program works to relieve traffic congestion around schools by promoting alternatives to commuting to school, such as walking, biking, taking the bus and carpooling. In addition, the program helps improve safety, promote a healthy lifestyle for youth, and enhance the sense of community in neighborhoods. It does this through classroom education, special events, infrastructure improvements, a crossing guard program, and other strategies.

## **Local**

### *Town of Fairfax General Plan 2010-2030 (General Plan)*

The Town of Fairfax General Plan 2010-2030 (General Plan) includes the following goals and policies associated with transportation:

**Goal C-1:** Maintain Sir Francis Drake as a functional regional arterial.

**Policy C-1.1:** To the extent permitted by regional transportation plans, maintain the commercial and community function of Sir Francis Drake Boulevard in the Town Center.

**Policy C-1.2:** To the extent allowed by law, continue to make safety the first priority of Town-wide transportation planning. Prioritize pedestrian, bicycle, and automobile safety over vehicle level-of-service.

**Policy C-1.3:** Promote Pedestrian and bicycle circulation to ensure that automobile convenience does not compromise bicycle and pedestrian safety and convenience.

**Policy C-1.4:** Maintain, as funding permits, the Town's bicycle and pedestrian corridor from Olema to Pacheco on Broadway and from Pacheco to Pastori on Center Boulevard.

**Policy C-1.5:** Participate in the Non-Motorized Pilot Program study of the San Rafael – San Anselmo – Fairfax corridor.

**Policy C-1.6:** Preserve Center Boulevard and the Parkade for future use as a light rail corridor with bicycle and pedestrian paths.

**Policy C-1.7:** Coordinate the timing of traffic signals with adjacent jurisdictions.

**Policy C-1.8:** Ensure amenities to support public transportation.

**Goal C-2:** Promote the safe use of collector streets by automobiles, cyclists and pedestrians.

**Policy C-2.1:** Vigorously and consistently enforce speed limits and other traffic laws for all modes of transportation.

**Policy C-2.2:** Maintain the street, sidewalk and pathway network through a regular maintenance program.

**Policy C-2.3:** Encourage the safe use of bicycles for commuting and recreational use.

**Policy C-2.4:** Encourage pedestrian use of trails and other pedestrian oriented rights of way as an effective means of accessing downtown as well as various neighborhoods, and open space See Appendix C-A for a list of trails.

**Policy C-2.5:** Comply with State and Federal Regulations related to universal accessibility and Americans with Disabilities Act (ADA).

**Policy C-2.6:** Promote safe use of the collector streets for pedestrians and cyclists.

**Policy C-2.7:** Where possible maintain or expand pedestrian and bicycle oriented rights of way between collector streets in appropriate locations so as to enable and encourage safe use.

**Goal C-3:** Maintain the narrow and curving streets of Fairfax neighborhoods as part of the Town's distinct sense of place, with flexible street standards to preserve distinct neighborhood streetscape qualities.

**Policy C-3.1:** Since many local streets in Fairfax do not have sidewalks, ensure that speed limits are set to reduce danger to children and other pedestrians.

**Policy C-3.2:** Upgrade local streets to optimal traffic engineering standards only where there is a demonstrated public safety need to do so.

**Policy C-3.3:** Ensure that local streets created to serve new development are designed to resemble those serving similar areas, provided that they meet public safety requirements.

**Policy C-3.4:** Avoid major increases in street capacity unless necessary to remedy severe traffic congestion or critical neighborhood traffic problems or where necessary for emergency vehicle access. Where capacity is increased, balance the needs of motor vehicles with those of pedestrians and bicyclists.



**Goal C-4:** Ensure access by emergency service vehicles and public evacuation.

**Policy C-4.1:** Coordinate with both the Ross Valley Fire Department and the Marin Municipal Water District to ensure safe conditions on roads. Identify evacuation routes for all areas of Town.

**Policy C-4.2:** Coordinate with the Ross Valley Fire Department to identify standards, needs and opportunities for emergency vehicle turn-outs and turn-arounds on town streets.

**Goal C-5:** Consider pedestrian and bicycle facilities as an integral part of a complete circulation network that provide affordable, healthy and ecological means of transportation.

**Policy C-5.1:** Improve and maintain the existing network of sidewalks and bike paths, bike lanes, pavement markings (cross walks, shared lane markings).

**Policy C-5.2:** Improve accessibility and safety of pedestrian links, especially between the Public Library, Town Center (Bolas Road and Broadway), and Fair Anselm.

**Policy C-5.3:** Expand the network of pedestrian trails and bicycle facilities to serve neighborhoods, taking into account safety concerns caused by steep grade residential streets and substandard roads in the hills.

**Policy C-5.4:** Preserve and make continuous the network of bicycle and pedestrian routes that allows the traversing of the downtown area along quiet back streets and alleys.

**Policy C-5.5:** Link the Fairfax bike path networks with the countywide system.

**Policy C-5.6:** Develop facilities, services, and programs that encourage and promote walking and bicycling.

**Policy C-5.7:** Encourage pedestrian-friendly design features, such as sidewalks, street trees, on-street parking, public spaces, gardens, outdoor furniture, art and interesting architectural details.

**Policy C-5.8:** Bicycle and pedestrian oriented development should be encouraged in the Town Center Planning Area.

**Policy C-5.9:** Create safe, direct, pedestrian crossings across the Parkade and between the Parkade and surrounding shops and services.

**Goal C-6:** Promote less reliance on single-occupant vehicles.

**Policy C-6.1:** Make land use decisions that encourage walking, bicycling, and public transit use; particularly ensuring existing and future bus service.

**Policy C-6.2:** Consider the use of additional parking fees and tax revenues to fund alternative transportation projects.

**Policy C-6.3:** Support the development and expansion of comprehensive, effective programs to reduce auto use at both the local and regional level and promote and encourage improved transit options, including restoring the light rail vehicle system; particularly by privatizing (through “right-pricing”) the true cost of auto use, whereby mass transit systems will become more economically viable at lower thresholds of housing densities.

**Policy C-6.4:** Encourage amenities, such as seating, lighting, and signage at bus stops to increase rider comfort and safety and protection from elements.

**Goal C-7:** Promote a shift from conventional to new vehicle designs, including electrification of transportation.

**Policy C-7.1:** Support state and federal legislation to reduce motor vehicle emissions, noise, and fuel consumption.

**Goal C-8:** Improve circulation and safety in the downtown area.

**Policy C-8.1:** Promote better utilization of the Elsie Lane/Bank Street to connect Bolinas Road to Broadway and Sir Francis Drake Boulevard.

**Goal S-3:** Minimize risk due to fire hazards.

**Policy S-3.1.3:** Maximize access and egress for emergency response vehicles. Also see Conservation Element, Goal C-4.

#### *Town of Fairfax Bicycle and Pedestrian Plan*

The Town of Fairfax Bicycle and Pedestrian Plan (adopted in 2008 and updated in 2016) provides for a town-wide system of bicycle paths and routes, along with bicycle-related programs and support facilities, intended to ensure bicycling becomes a viable transportation option for people who live, work, and recreate in Fairfax. The goals of the Bicycle and Pedestrian Plan include increasing bicycle and pedestrian access, making the bicycle an integral part of daily life in Fairfax, and encouraging walking as a daily form of transportation. Recommended transportation improvements in the town are described above on page 3.13-3.

#### *Town of Fairfax Municipal Code (Town Code)*

Chapter 10.32 of the Town Code establishes the Town of Fairfax Trip Reduction Ordinance (TRO) in which it incorporates the Marin County Congestion Management Agency (CMA) minimum trip reduction and travel demand requirements. The ordinance applies to all employers within the town with 100 or more employees at an individual work site. The ordinance requires all employers to disseminate trip reduction information, conduct an annual employee trip survey, and designate an “employee transportation coordinator” to be responsible for administering the employer requirements for trip reduction.

Chapter 16.24 of the Town Code provides general requirements and improvements for subdivisions, including streets and pedestrian ways. Streets and alleys, where appropriate, shall be provided subject to approval by the review authority and subject to the Town's standards that delineate widths, intersections, grades, alleys, curbs, and roadbeds. Chapter 12.16 of the Town Code also regulates private roads, including the radii of all curves, width, and grades.

Chapter 17.056, Traffic Impact Permit, of the Town Code outlines several transportation-related regulations. The purpose of the chapter is to assess traffic impacts of development, permit development on a scale proportionate to existing transportation facilities, permit development when appropriate traffic mitigation measures can be adopted, and avoid neighborhood disruption through traffic. A currently valid traffic impact permit (TIP) is a prerequisite to any building permit, site improvement, occupancy permit or any discretionary approval from the Town for applicable projects. The TIP shall be accompanied by a traffic study that is found by the town's Traffic Engineer to be complete and in compliance with professional and written standards for the reports. A traffic impact mitigation plan approved by the Planning Commission and Town Council must adequately mitigate the project's adverse traffic impacts.

In addition, the Town has developed Objective Design and Development Standards. This Form-Based Code (FBC) sets forth the standards for neighborhood design, building form, lighting, and uses within form-based zones. These standards reflect the community's vision for implementing the intent of the Fairfax General Plan to facilitate housing production and specifically infill housing production, through development that reinforces the highly valued character and scale of the Town's walkable centers, neighborhoods, and corridors. This FBC has been integrated with Title 17 (Zoning).

## **Impact Analysis**

---

### **SIGNIFICANCE CRITERIA**

For the purposes of this EIR, a significant impact would occur if the Proposed Project would:

- Criterion 1: Conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, and bicycle and pedestrian facilities**
- Criterion 2: Conflict or be inconsistent with CEQA Guidelines Section 15064.3, Subdivision (b)**
- Criterion 3: Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible land uses (e.g., farm equipment)**
- Criterion 4: Result in inadequate emergency access**

### **ASSUMPTIONS AND METHODOLOGY**

This section describes the methodology for VMT forecasts developed for this transportation assessment and as supporting data for other assessments in the CEQA document including the GHG assessment. The new CEQA Guidelines Section 15064.3(b)(4) establishes that the lead agency has discretion to choose the most appropriate methodology to evaluate a project's vehicle miles traveled, including whether to express the change in absolute terms, per capita, per household or in any other measure. A lead agency may use models to estimate a project's vehicle miles traveled and may revise those estimates to reflect professional judgment based on substantial evidence.

The VMT forecasts generated for this CEQA assessment were produced using the Transportation Authority of Marin Demand Model (TAMDM). For this CEQA assessment, the 2015 base year for TAMDM was updated and validated for a new 2019 base year for the City of San Rafael General Plan Update. A key reason for applying the updated 2019 base year is that it includes the SMART rail system that was not in place in 2015. This analysis includes a 2040 No Project scenario that is based on the TAMDM horizon year and reflects land use changes and transportation improvements consistent with the San Rafael General Plan 2040 adopted in 2021. The 2019 base year model developed for the San Rafael General Plan Update was validated based on model confidence thresholds defined in the California Transportation Commission 2017 RTP guidelines. VMT estimates were produced using the updated 2019 TAMDM model for all 1,400 analysis zones within Marin County as well as for the entire Bay Area. Appendix E includes the VMT forecast methodology and impact assessment performed by the Fehr & Peers for the Proposed Project.

### **RELEVANT PROPOSED PROJECT GOALS AND POLICIES**

The following goals, policies and programs from the Proposed Housing Element are relevant to the Project:

- Policy 1-3** Promote mixed use developments with a residential component in Downtown Fairfax to provide workforce housing and locate higher density residential

development in proximity to employment, shopping, transit, recreation, and other services.

**Program 1-A Develop and Adopt Town Center Plan.** The General Plan includes an optional Town Center Element proposing adoption of a Town Center Plan that envisioned reinforcing the role of the downtown and strengthening the Town's economic base. Through this program, the Town will develop and adopt a Plan including goals, policies, and objective standards that will allow more development of the Town Center. Policies should provide for increasing residential development in an area that offers easier access to shops, services, and public transit. Additional residential development in the downtown will also support the vitality of existing commercial retail and service uses. Policies should include regulatory incentives to encourage residential and mixed-use development.

**Responsibility:** Planning and Building

**Timeframe:** Adopt Town Center Plan by the end of 2026

**Objective:** Integrate workforce housing into Downtown Fairfax

**Funding:** General Fund

**Program 1-B School Street Plaza.** Centrally located on Broadway in Downtown Fairfax, this approximately 2-acre site is adjacent to Contratti Field and within easy walking distance of shops, restaurants, Fairfax Market, and transit services. The property owner has had pre-application consultations with Town staff regarding a high-density, mixed income residential development with an affordability component. Through this program, the Town will:

- Establish objective standards for workforce housing in high density residential developments, including design criteria and affordability requirements;
- Meet quarterly with the property owner to help advance site planning;
- Work with the property owner to identify incentives (such as reduced common open space requirements in view of park adjacency and shared parking provisions) that can be offered to facilitate provision of affordable housing units onsite;
- Ensure that the residents of the 13 existing live/work units onsite have first right of refusal on new units, including rental or sales price concessions, and/or receive relocation assistance, consistent with the requirements of State law.

**Responsibility:** Planning and Building

**Timeframe:** Initiate quarterly meetings in Q3 2023; target completion of construction in 2028

**Objective:** 175 new housing units by 2028, including 35 affordable units

**Funding:** General Fund

## **IMPACTS**

### **Impact 3.13-1    Implementation of the Proposed Project would not conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, and bicycle and pedestrian facilities (*Less than Significant*)**

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

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

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

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

Rockridge Rd, will continue to improve multimodal transportation options for existing and proposed single family residential developments.

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

*Mitigation Measures*

None required.

**Impact 3.13-2 Implementation of the Proposed Project would conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b). (*Significant and Unavoidable*)**

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

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

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

**Table 3.13-2: Daily Home-Based Vehicle Miles Traveled (VMT) for Residential Uses**

<i>Scenario</i>	<i>Home-Based VMT</i>	<i>Home-Based VMT Per Resident</i>
Baseline Town VMT Metric (2019)	122,350	16.3
2040 Plus Housing Element Units	142,900	14.6
<b><i>Percent Change in Home-Based VMT per capita</i></b>		-10.4%

Notes:

1. The VMT shown in the table above is home-based VMT for all residential uses in the project including single family residential, multi-family residential, affordable housing, and the residential care facility.
2. The VMT per resident values are based on 7,515 residents for the baseline (2019) scenario and 9,777 future residents for the 2040 plus Project scenario.

Source: Fehr & Peers, 2023.

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

**Table 3.13-3: CAPCOA Mitigation Measures to Reduce VMT**

<b><i>Mitigation Measure</i></b>	<b><i>Type of Actions</i></b>	<b><i>VMT Mitigation Potential</i></b>
Infill intensification strategies	Increase residential density	≤ 30.0%
	Increase job density	≤ 30.0%
	Provide transit-oriented development	≤ 31.0%
	Improve street connectivity	≤ 30.0%
Employer-based TDM strategies	Implement commute trip reduction program (Voluntary)	≤ 4.0%
	Implement commute trip reduction program (Mandatory)	≤ 26.0%
	Implement commute trip reduction marketing	≤ 4.0%
	Provide ridesharing program	≤ 8.0%
	Implement subsidized or discounted transit program	≤ 5.5%
	Provide end-of-trip bicycle facilities	≤ 4.4%
	Provide employer-sponsored vanpool	≤ 20.4%
	Price workplace parking	≤ 20.0%
	Implement employee parking cash-out	≤ 12.0%
	Provide community-based travel planning	≤ 2.3%
	Provide electric vehicle charging infrastructure	≤ 11.9%



<b><i>Mitigation Measure</i></b>	<b><i>Type of Actions</i></b>	<b><i>VMT Mitigation Potential</i></b>
Parking demand management strategies	Limit residential parking supply	≤ 13.7%
	Unbundle residential parking costs from property costs	≤ 15.7%
	Implement market price public parking (on-street)	≤ 30.0%
Non-motorized transportation incentives	Provide pedestrian network improvement	≤ 6.4%
	Construct or improve bike facility	≤ 0.8%
	Construct or improve bike boulevard	≤ 0.2%
	Expand bikeway network	≤ 0.5%
	Implement conventional carshare program	≤ 0.15%
	Implement electric carshare program	≤ 0.18%
	Implement pedal (non-electric) bikeshare program	≤ 0.02%
	Implement electric bikeshare program	≤ 0.06%
Transit service enhancements	Implement scootershare program	≤ 0.07%
	Extend transit network coverage or hours	≤ 4.6%
	Increase transit service frequency	≤ 11.3%
	Implement transit-supportive roadway treatments	≤ 0.6%
	Reduce transit fares	≤ 1.2%

Source: CAPCOA, 2021.

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

Employer-based transportation demand management (TDM) strategies, which reduce reliance on single-occupancy vehicles by encouraging alternative modes of travel, can be effective in reducing VMT because the commute to work is a significant contributor to home-based VMT. Employer-based TDM programs are often the most effective means of reducing trips, while area-wide programs are less likely to result in large reductions in commute trips because they must accommodate greater diversity in the factors that influence commuters’ choice of travel mode.<sup>1</sup>

<sup>1</sup> Federal Highway Administration, Office of Traffic Management IVHS (HTV-31), "A Guidance Manual for Implementing Effective Employer-based Travel Demand Management Programs," accessed on September 8, 2023 at <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwjFyPT076OBAXVAhu4BHBS>

Examples of employer-based TDM strategies include promoting carpooling and ride sharing; providing employee shuttles; providing amenities such as showers, lockers, and bicycle racks to encourage cycling; offering transit incentives; and permitting compressed work schedules and telecommuting. Nearly 93 percent of employed Fairfax residents commute to jobs in other communities, including San Rafael (12 percent), San Anselmo (8 percent), Novato (6 percent), Petaluma (5.7 percent), Rohnert Park (3.4 percent), San Francisco (3 percent), Richmond (2.9 percent), and Santa Rosa (2.2 percent).<sup>2</sup> However, since employers are predominantly located outside of Fairfax, the Town does not have the legal authority to require employer-based TDM programs. Further, given that employer residents of Fairfax commute to many different communities for work, the effectiveness of many of the employer-based TDM strategies described above would be limited. Therefore, employer-based TDM strategies do not represent a feasible mitigation option.

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

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

---

[WvBhMQFnoECBIOAQ&url=https%3A%2F%2Frosap.nrl.bts.gov%2Fview%2Fdot%2F2641%2Fdot\\_2641\\_DS1.pdf&usg=AOvVaw3UQaamXg5AMYzPqpW-3MqI&opi=89978449](https://www.fairfax.ca.gov/DocumentCenter/View/2641/DS1.pdf?&url=https%3A%2F%2Frosap.nrl.bts.gov%2Fview%2Fdot%2F2641%2Fdot_2641_DS1.pdf&usg=AOvVaw3UQaamXg5AMYzPqpW-3MqI&opi=89978449)

<sup>2</sup> U.S. Census, On the Map, accessed on September 1, 2023 at <https://onthemap.ces.census.gov>

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

#### *Mitigation Measures*

No feasible mitigation available.

*Significance After Mitigation:* Significant and Unavoidable

#### **Impact 3.13-3    Implementation of the Proposed Project would not substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible land uses (e.g., farm equipment) (*Less than Significant*)**

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

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

Through the design and engineering review process, Town staff and staff from other relevant agencies will evaluate development proposals as well as modifications to the existing transportation facilities and new proposed facilities to ensure public health and safety. Requirements include adequate and safe sidewalks or crosswalks, dedicated and protected bicycle facilities, realigning sharp curves, prohibiting certain movements, signaling intersections, and improving sight

distance, among other measures. Projects in the Town Center, including School Street Plaza and workforce housing sites, may require site access improvements. Any such improvements would be required to comply with the provisions set forth in the Town Code, and the Fire Department as set forth in the Fire Code. Provisions include sidewalk standards in Chapter 12.08 of the Town Code as well as the Town's Objective Design and Development Standards. Such standards require streets to be applied to create walkable and safe neighborhoods with redundant routes for vehicular, bicycle, and pedestrian circulation.

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

As such, the Proposed Project would not substantially increase hazards due to design features and it would be compatible with existing uses in the area. Therefore impacts would be less than significant.

#### *Mitigation Measures*

None required.

#### **Impact 3.13-4 Implementation of the Proposed Project would not result in inadequate emergency access. (*Less than Significant*)**

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

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

In addition, Town staff review all development applications to ensure that applicable requirements are met, including provisions for adequate access for emergency responders and response vehicles,

consistent with the Fire Code. Further, Section 17.040.070 for the Town Code requires all fire protection plans for development to be approved by the Fire Department Chief.

Compliance with existing regulations and standards would ensure that Proposed Project impacts related to emergency access would be less than significant.

***Mitigation Measures***

None required.

## 3.14 Utilities and Service Systems

This section assesses potential environmental impacts from future development under the Proposed Project as related to public utilities, including water, wastewater, and stormwater systems, and solid waste services. This section describes existing water, wastewater, stormwater, and solid waste infrastructure and services in the Planning Area, as well as relevant federal, State, and local regulations and programs.

There were four responses to the Notice of Preparation (NOP) regarding topics covered in this section. Commenters had concerns about sufficient water supplies to support development pursuant to the Proposed Project and utility service system upgrades. These comments are located in Appendix B of the DEIR. Comments are addressed under Impact 3.14-2 and incorporated throughout the following analysis.

### Environmental Setting

---

#### PHYSICAL SETTING

##### Water System

The Marin Municipal Water District (Marin Water or MMWD) supplies water to the Town of Fairfax. Most of the District's water supply comes from a network of seven local, rain-fed reservoirs. The District treats water at its three treatment plants, the Bon Tempe Treatment Plant (BTTP) near Ross, the San Geronimo Treatment Plant (SGTP) in Woodacre, and the Ignacio treatment facility in Novato. This supply is supplemented with water from Sonoma County Water Agency (SCWA or Sonoma Water), which provides surface water from the Russian River and to a lesser extent groundwater from the Santa Rosa Plain Subbasin of the Santa Rosa Valley Basin (California Department of Water Resources [DWR] Basin No. 1-55.01). Some recycled water is also used for non-potable uses such as landscape irrigation, cooling towers, car washes, and toilet flushing.<sup>1</sup>

Water consumption patterns in the MMWD service area are a function of many independent factors, including growth, weather conditions, economic conditions, and water conservation efforts. Table 3.14-1 summarizes the projected normal year source and water supply volume in five-year increments over the next 25 years. Table 3.14-2 shows the projected supply and demand totals for a single dry year, and Table 3.14-3 shows the projected supply and demand totals for multiple dry year periods extending five years. The district is projected to have sufficient supplies to meet projected demands in normal years, single dry years, and multiple dry years through 2045.<sup>2</sup>

---

<sup>1</sup> Marin Municipal Water District. June 2021. 2020 Urban Water Management Plan for Marin Municipal Water District. Available: <https://www.marinwater.org/WaterSupplyPlanning>. Accessed : July 3, 2023.

<sup>2</sup> Ibid.

**Table 3.14-1: Normal Year Supply and Demand Comparison (AFY)**

	2025	2030	2035	2040	2045
Water Supply	84,761	85,017	84,751	84,784	84,852
Water Demand	38,019	38,046	37,974	38,051	38,207
Difference	46,742	46,972	46,777	46,733	46,645

Source: Marin Municipal Water District, 2021. Available: <https://www.marinwater.org/WaterSupplyPlanning>.

**Table 3.14-2: Single Dry Year Supply and Demand Comparison (AFY)**

	2025	2030	2035	2040	2045
Water Supply	52,132	52,137	52,135	52,139	52,149
Water Demand	38,019	38,046	37,974	38,051	38,207
Difference	14,113	14,091	14,161	14,088	13,942

Source: Marin Municipal Water District, 2021. Available: <https://www.marinwater.org/WaterSupplyPlanning>.

**Table 3.14-3: Multiple Dry Years Supply and Demand Comparison (AFY)**

		2025	2030	2035	2040	2045
First Year	Water Supply	79,556	79,560	79,560	79,562	79,567
	Water Demand	38,019	38,046	37,974	38,051	38,207
	Difference	41,537	41,514	41,586	41,511	41,360
Second Year	Water Supply	84,321	85,313	84,342	84,314	84,262
	Water Demand	38,019	38,046	37,974	38,051	38,207
	Difference	46,302	46,267	46,368	46,263	46,055
Third Year	Water Supply	86,430	86,448	86,419	86,453	86,530
	Water Demand	38,019	38,046	37,974	38,051	38,207
	Difference	48,411	48,402	48,445	48,402	48,323
Fourth Year	Water Supply	72,700	72,695	72,728	72,696	72,627
	Water Demand	38,019	38,046	37,974	38,051	38,207
	Difference	34,681	34,649	34,754	34,645	34,420
Fifth Year	Water Supply	69,441	69,432	69,471	69,432	69,328
	Water Demand	38,019	38,046	37,974	38,051	38,207
	Difference	31,422	31,386	31,497	31,381	31,121

Source: Marin Municipal Water District, 2021. Available: <https://www.marinwater.org/WaterSupplyPlanning>.

## **Electricity, Natural Gas, and Telecommunications**

Pacific Gas and Electric (PG&E) provides natural gas and electric infrastructure in the town. In addition, the Town of Fairfax Department of Public Works (DPW) oversees the management, maintenance and construction of public facilities and infrastructure and the public rights-of-way. This includes oversight, management and supervision of private contractors who perform capital projects and maintenance on street lighting and traffic signals. Public Works operations staff provides maintenance and complete minor repairs of the Town's basic infrastructure including catch basin cleaning and storm drainage system and storm drain repairs.

One hardline phone company, SBC, provides basic telephone service in the Planning Area. Residents have the option of choosing between various long distance telephone service providers. In addition, wireless telecommunication services are provided to county residents and businesses by a number of private companies. Among the users of telecommunication facilities are cable television companies. Comcast/Xfinity is the primary provider of cable television in the county. Some companies also provide cable television services either separately or bundled with telecommunication services.

## **Garbage, Recycling, and Organics Collection Service**

Fairfax contracts with Marin Sanitary Service (MSS) for waste and recycling collection and handling. Demolition and construction waste is handled by Marin Sanitary Service's Resource Recovery Center. MSS also owns and operates the Marin Recycling Center. MSS transports the Town's non-recyclable waste to Redwood Landfill located just north of Novato, which is the only permitted landfill operating in the county. The landfill's maximum permit capacity is 19,100,000 cubic yards with a remaining capacity of 26 million cubic yards. The maximum permitted intake at the landfill is approximately 2,300 tons per day.<sup>3</sup>

## **Stormwater**

Fairfax is located in the Upper Ross Valley, with a topography set amid hills that rise from the valley floor. Most parcels within the Town limit are developed, and almost all the remaining vacant land is located in steeply sloped hillside areas. Impervious surfaces within the Planning Area include major and minor roadways, residential and commercial development, schools, and recreation complexes with paved areas (e.g., basketball courts). Streets in the Planning Area include storm drainage facilities, including a number of underground culverts/storm drains and engineered channels. The Town of Fairfax reviews drainage and erosion control plans as part of a site development and/or building permit to ensure the latest National Pollutant Discharge Elimination System (NPDES) requirements are reflected and implemented as part of the permitted work. For more details, see Section 3.10: Hydrology and Water Quality.

---

<sup>3</sup> California Department of Resources Recycling and Recovery. 2021. SWIS Facility/Site Activity Details: Redwood Landfill (21-AA-0001). Available: <https://www2.calrecycle.ca.gov/SolidWaste/SiteActivity/Details/3054?siteID=1727>. Accessed : July 3, 2023.



## **Wastewater**

The Central Marin Sanitation Agency (CMSA) treats wastewater from the central Marin County area, including Ross Valley. The CMSA Wastewater Treatment Plant (WWTP) has a permitted dry weather treatment capacity of 10 million gallons per day (mgd) and a corresponding sustained peak secondary treatment capacity of 30.0 mgd. Table 3.14-4 shows the average daily dry weather flow for the past three years with the volumes projected for FY24 and FY25. Decreases in average dry weather flow are associated with lower water usage by customers due to their increased water conservation efforts during the proclaimed drought years.<sup>4</sup>

The plant was designed for a wet weather capacity of 90 mgd.<sup>5</sup> The Wet Weather Improvements Project (WWIP) was completed in 2010 to handle increasing wet weather flows. These improvements expanded the plant's wet weather capacity of over 125 mgd. With the construction of an effluent pump station, the WWTP is no longer reliant on the storage pond for effluent flow shaving, but it is still available for emergencies and to facilitate shutdowns and maintenance activities.<sup>6</sup>

**Table 3.14-4: Average Daily Effluent Flow (MGD)**

	<i>FY21</i>	<i>FY22</i>	<i>FY23</i>	<i>FY24</i>	<i>FY25</i>
Dry Weather Flow (July-Sept)	8.3	7.5	8.3	8.2	8.2
Permitted Dry Weather Treatment Capacity	10	10	10	10	10
Difference	1.7	2.5	1.7	1.8	1.8

Source: Central Marin Sanitation Agency, 2021. Available:  
<https://www.cmsa.us/FY24%20&%20FY25%20BUDGET%20ADOPTED%202023%2006-22%20GFOA%20WEBSITE.pdf>.

## **REGULATORY SETTING**

### **Federal**

#### *Federal Safe Drinking Water Act*

The Safe Drinking Water Act (SDWA), administered by the U.S. Environmental Protection Agency (EPA) in coordination with the states, is the main federal law that ensures the quality of drinking water. Under the SDWA, the U.S. EPA sets standards for drinking water quality and oversees the states, localities, and water suppliers who implement those standards. The Department of Public Health administers the regulations contained in the SDWA in the State of California.

<sup>4</sup> Central Marin Sanitation Agency. 2021. Adopted Biennial Operating and Capital Budget. Available:  
<https://www.cmsa.us/FY24%20&%20FY25%20BUDGET%20ADOPTED%202023%2006-22%20GFOA%20WEBSITE.pdf>. Accessed: July 3, 2023.

<sup>5</sup> Central Marin Sanitation Agency. 2018. 2017 Facilities Master Plan. Available:  
[https://www.cmsa.us/assets/documents/administrative/2017FacilitiesMasterPlan\\_FINAL.pdf](https://www.cmsa.us/assets/documents/administrative/2017FacilitiesMasterPlan_FINAL.pdf). Accessed: July 3, 2023.

<sup>6</sup> Ibid.

### *United States Environmental Protection Agency*

The 1986 amendments to the Safe Drinking Water Act and the 1987 amendments to the Clean Water Act (CWA) established the EPA as the primary authority for water programs. The EPA is the federal agency responsible for providing clean and safe surface water, groundwater, and drinking water, and protecting and restoring aquatic ecosystems. The planning area is in EPA Region 9 (Pacific Southwest), which includes Arizona, California, Hawaii, Nevada, Pacific Islands, and Tribal Nations.

### *Federal Water Pollution Control Act of 1972 (Clean Water Act)*

The CWA establishes the basic structure for regulating discharges of pollutants into "waters of the United States." The CWA specifies a variety of regulatory and non-regulatory tools to sharply reduce direct pollutant discharges into waterways, finance municipal wastewater treatment facilities, and manage polluted runoff. Some of these tools include Total Maximum Daily Loads (TMDLs), water quality certification, and regulations on discharge of dredge or fill material. For more details, see Section 3.10: Hydrology and Water Quality.

### *National Pollutant Discharge Elimination System*

The CWA was amended in 1987 to include urban and stormwater runoff, which required many cities to obtain a National Pollution Discharge Elimination System (NPDES) permit for stormwater conveyance system discharges. Section 402(p) of the CWA prohibits discharges of pollutants contained in stormwater runoff, except in compliance with a NPDES permit. For more details, see Section 3.10: Hydrology and Water Quality.

## **State**

### *California Porter–Cologne Water Quality Control Act*

The Porter-Cologne Water Quality Control Act established the State Water Resources Control Board (SWRCB) and nine regional water quality control boards to address water quality and rights regulation. The five-member SWRCB protects water quality by setting statewide policy, coordinating and supporting the Regional Water Quality Control Board (RWQCB) efforts, and reviewing petitions that contest RWQCB actions. The SWRCB is also solely responsible for allocating surface water rights. Each RWQCB makes critical water quality decisions for its region, including setting standards, issuing waste discharge requirements, determining compliance with those requirements, and taking appropriate enforcement actions. The planning area lies within the jurisdiction of the San Francisco RWQCB.

The Act authorizes the SWRCB to enact state policies regarding water quality in accordance with CWA 303. In addition, the Act authorizes the SWRCB to issue waste discharge requirements (WDRs) for projects that would discharge to State waters. SWRCB Order No. 2006-0003 provides a consistent statewide approach to reducing sanitary sewer overflows (SSOs) by requiring public sewer system operators to take all feasible steps to control the volume of waste discharged into the system, to prevent sanitary sewer waste from entering the storm sewer system, and to develop a sewer system management plan.

The Porter-Cologne Water Quality Control Act further requires the SWRCB or the RWQCBs adopt water quality control plans (basin plans) for the protection of water quality. Basin plans also provide the technical basis for determining waste discharge requirements, taking enforcement actions, and evaluating clean water grant proposals. For more details, see Chapter 3.10: Hydrology and Water Quality.

The SWRCB also manages the Division of Drinking Water (DDW), which regulates public water supply systems. Regulatory responsibilities include the enforcement of the federal and State Safe Drinking Water Acts, the regulatory oversight of public water systems, issuance of water treatment permits, and certification of drinking water treatment and distribution operators. State regulations for potable water are contained primarily within the Food and Agricultural Code, the Government Code, the Health and Safety Code, the Public Resources Code, and the Water Code. Regulations are from Title 17 and Title 22 of the California Code of Regulations.

Recycled water programs are also regulated by the SWRCB. The regulations governing recycled water are found in a combination of sources including the Health and Safety Code, Water Code, and Titles 22 and 17 of the California Code of Regulations. Issues related to treatment and distribution of recycled water are generally under the influence of the SWRCB.

### *California Department of Water Resources*

DWR is also responsible for overseeing the statewide process of developing and updating the California Water Plan (Bulletin 160 series); protecting and restoring the Sacramento–San Joaquin Delta; regulating dams, providing flood protection, and assisting in emergency management; educating the public about the importance of water and its proper use; and providing technical assistance to service local water needs.

### *Senate Bills 610 and 221*

Enacted in 2002, SB 610, which was codified in the State Water Code beginning with section 10910, requires the preparation of a water supply assessment (WSA) for projects within cities and counties that propose to construct 500 or more residential units or the equivalent. SB 610 stipulates that when environmental review of certain large development projects is required, the water agency that is to serve the development must complete a WSA to evaluate water supplies that are or will be available during normal, single-dry, and multiple-dry years during a 20-year projection to meet existing and planned future demands, including the demand associated with a proposed project. The Marin Municipal Water District (MMWD) is currently conducting a WSA, with a final draft report published in May 2023.

Enacted in 2001, SB 221, which was codified in the State Water Code beginning with section 10910, requires that the legislative body of a city or county, which is empowered to approve, disapprove, or conditionally approve a subdivision map, must condition such approval upon proof of sufficient water supply. The term "sufficient water supply" is defined in SB 221 as the total water supplies available during normal, single-dry, and multiple-dry years within a 20-year projection that would meet the projected demand associated with the proposed subdivision. The definition of sufficient water supply also includes the requirement that sufficient water encompasses not only the proposed subdivision, but also existing and planned future uses, including agricultural and industrial uses.

### *The Water Conservation Act of 2009 (SB X7-7)*

California legislation enacted in 2009 as SB 7 of the 7th Special Legislative Session (SB X7-7) instituted a new set of urban water conservation requirements known as "20 Percent By 2020." These requirements stipulate that urban water agencies reduce per-capita water use within their service areas by 20 percent relative to their use over the previous 10 to 15 years.

### *Green Building Code and Title 24 Updates*

The California Green Building Standards Code (CALGreen) (proposed Part 11, Title 24) was adopted as part of the California Building Standards Code (24 California Code of Regulations). Part 11 established voluntary standards that became mandatory under the 2010 edition of the code. These involved sustainable site development, energy efficiency (in excess of California Energy Code requirements), water conservation, material conservation, and internal air contaminants. The current energy efficiency standards were adopted in 2019 and took effect on January 1, 2020.

### *State Updated Model Water Efficient Landscape Ordinance (Assembly Bill 1881 (2006))*

The State Legislature adopted the Water Conservation in Landscaping Act of 2006 (AB 1881) requiring the Department of Water Resources to update the State Model Water Efficient Landscape Ordinance (MWELo). All local land use agencies are required to adopt the MWELo, or develop an ordinance that is at least as effective by January 1, 2010. The State updated MWELo again in 2015, increasing efficiency standards from the previous version. The State requires cities and counties to adopt landscape water conservation ordinances by July 15, 2015.

### *California Urban Water Management Planning Act*

The California Legislature enacted the Urban Water Management Planning Act of 1983 (California Water Code Sections 10610 through 10656) to support conservation and efficient use of urban water supplies at the local level. The act requires every urban water supplier that provides water to 3,000 or more customers, or over 3,000 AF of water annually, to make every effort to ensure the appropriate level of reliability in its water service to meet the needs of its customers during normal, dry, and multiple-dry years. The act requires that total projected water use be compared to water supply sources over the next 20 years in five-year increments, that planning occur for single- and multiple-dry water years, and that plans include a water recycling analysis that incorporates a description of the wastewater collection and treatment system within the agency's service area along with current and potential recycled water uses.

Applicable urban water suppliers within California are required by the Water Code to prepare and adopt a UWMP and update it every five years. A UWMP is required in order for a water supplier to be eligible for the DWR-administered state grants, loans, and drought assistance. A UWMP provides information on water use, water resources, recycled water, water quality, reliability planning, demand management measures, best management practices (BMPs), and water shortage contingency planning for a specified service area or territory.

### *California Emergency Graywater Regulations*

In 2009, as part of the Governor's declared State of Emergency, Chapter 16A "Nonpotable Water Reuse Systems" was incorporated into the 2007 California Plumbing Code. Chapter 16A establishes minimum requirements for the installation of graywater systems in residential occupancies regulated by the California Department of Housing and Community Development, providing guidance and flexibility designed to encourage the use of graywater. The standards allow small graywater systems to be installed in homes without a construction permit, substantially reducing the barriers to installing small residential graywater systems in California. The purpose of the regulations is to conserve water by facilitating greater reuse of laundry, shower, sink, and similar sources of discharge for irrigation and/or indoor use; to reduce the number of noncompliant graywater systems by making legal compliance easily achievable; to provide guidance for avoiding potentially unhealthful conditions; and to provide an alternative way to relieve stress on private sewage disposal systems.

### *Assembly Bill (AB) 1668 and Senate Bill (SB) 606*

Passed in 2018, AB 1668 and SB 606 establish guidelines for efficient water use and a framework for the implementation and oversight of the new standards, which must be in place by 2022. The two bills strengthen the state's water resiliency in the face of future droughts with provisions that include:

- Establishing water use objectives and long-term standards for efficient water use that apply to urban retail water suppliers; comprised of indoor residential water use, outdoor residential water use, commercial, industrial and institutional (CII) irrigation with dedicated meters, water loss, and other unique local uses.
- Providing incentives for water suppliers to recycle water.
- Identifying small water suppliers and rural communities that may be at risk of drought and water shortage vulnerability and providing recommendations for drought planning.
- Requiring both urban and agricultural water suppliers to set annual water budgets and prepare for drought.

According to the fact sheet, each urban water supplier, starting in November of 2023, will calculate its own objective based on the water needed in its service area for efficient indoor residential water use, outdoor residential water use, commercial, industrial and institutional (CII) irrigation with dedicated meters and reasonable amounts of system water loss from leaks. In determining their objectives, water suppliers will also consider other unique local uses and credits for potable water reuse, based on standards adopted by the state water board.

### *California's Department of Resources Recycling and Recovery*

California Department of Resources Recycling and Recovery (CalRecycle) is the State's leading authority on recycling, waste reduction, and product reuse. CalRecycle plays an important role in the stewardship of California's vast resources and promotes innovation in technology to encourage economic and environmental sustainability. CalRecycle brings together the State's recycling and

waste management programs and continues a tradition of environmental stewardship. Mandated responsibilities of CalRecycle are to reduce waste, promote the management of all materials to their highest and best use, and protect public health and safety and the environment.

***California Integrated Waste Management Act (AB 939)***

Assembly Bill 939, California's Integrated Waste Management Act of 1989, mandates that 50 percent of solid waste be diverted by the year 2000 through source reduction, recycling, and composting. AB 939 also establishes a goal for all California counties to provide at least 15 years of ongoing landfill capacity. This requires each region to prepare a source reduction and recycling element to be submitted to CalRecycle, which administers programs formerly managed by the state's Integrated Waste Management Board and Division of Recycling.

***California Solid Waste Reuse and Recycling Access Act of 1991 (AB 1327)***

AB 1327 was established in 1991, which required CalRecycle to develop a model ordinance for the adoption of recyclable materials in development projects. Local agencies were then required to adopt the model, or an ordinance of their own, governing adequate areas for collection and loading of recyclable materials in development projects.

***Disposal Measurement System Act of 2008 (SB 1016)***

SB 1016 maintains the 50 percent diversion rate requirement established by AB 939, while establishing revised calculations for those entities that did not meet the 50 percent diversion rate. SB 1016 also established a per capita disposal measurement system to make the process of goal measurement, as established by AB 939, simpler, timelier, and more accurate. The new disposal-based indicator—the per capita disposal rate—uses only two factors: a jurisdiction's population (or in some cases employment) and its disposal as reported by disposal facilities.

***Solid Waste Diversion (AB 341)***

Effective July 1, 2012, AB 341 established a policy goal for the state that no less than 75 percent of solid waste generated be source reduced, recycled, or composted by the year 2020. This report, as directed by the Legislature, provides strategies to achieve that 75 percent goal. A Report to the Legislature accompanied the passage of AB 341 and outlined five strategies and three additional focus areas as potential pathways that can be pursued to achieve this goal. Subsequent reports on the State of Recycling and Disposal were published in 2015, 2016, and 2017.

AB 341 also requires commercial enterprises that generate four cubic yards or more of solid waste weekly to participate in recycling programs. This requirement includes multifamily housing complexes of five units or more, regardless of the amount of solid waste generated each week.

***Assembly Bill 1826***

Adopted in 2016, Assembly Bill 1826 (AB 1826) requires state agencies, businesses, and multifamily complexes that generate specific quantities of organic or solid waste each week enroll in organic recycling programs through an applicable solid waste disposal company. Organic recycling

programs may take the form of composting, mulching, or anaerobic digestion. Businesses and multifamily residential housing complexes that generate the following quantities are required to implement organic or solid waste recycling programs under AB 1826:

- Eight or more cubic yards of organic waste per week as of April 1, 2016;
- Four or more cubic yards of organic waste per week as of January 1, 2017; and
- Four or more cubic yards of solid waste per week as of January 1, 2019.

CalRecycle is currently evaluating whether California has achieved its statewide organic disposal goal of reducing organic waste disposal to 50 percent of 2014 levels by 2020. If this goal is not achieved, organic composting and recycling requirements will be expanded such that businesses that generate two or more cubic yards of solid waste per week must comply.

### ***SB 1383: Short-Lived Climate Pollutants***

In 2016, Governor Brown signed Senate Bill 1383 into California law, establishing statewide greenhouse gas emission reduction goals:

- By 2020, reduce the amount of organic material disposed in landfills by 50% from the 2014 level, and
- By 2025, reduce the amount of organic material disposed in landfills by 75% from the 2014 level.
- By 2025, no less than 20% of edible food currently disposed must also be recovered for human consumption.

This law expands upon the requirements of AB 341: Mandatory Commercial Recycling and AB 1826: Mandatory Commercial Organics. However, SB 1383 is unique in that it impacts residents in addition to businesses, and it requires some businesses to donate excess edible food to feed people in addition to diverting organic materials from the garbage. As the most aggressive waste reduction law to be adopted in California for the past 30 years, SB 1383 includes significant penalties for non-compliance.

The State has committed to reduce greenhouse gas emissions, improve human health, and create clean jobs that support resilient local economies. Implementing the statewide plan under SB 1383 will reduce short-lived, harmful, super pollutants with significant global warming impacts, and is essential to achieving California's climate goals. Organic waste in landfills emit 20 percent of the state's methane, a climate super pollutant 84 times more potent than carbon dioxide.

## **Regional**

### ***Marin Municipal Water District 2020 Urban Water Management Plan***

Marin Municipal Water District's Urban Water Management Plan (UWMP) was prepared in response to California's Urban Water Management Planning Act, Water Code Sections 10610 through 10656. The act requires every urban water supplier that provides water to more than 3,000

customers for municipal purposes or supplies more than 3,000 acre-feet of water annually to prepare and adopt an UWMP and update the plan every 5 years. In June 2021, the District's 2020 Urban Water Management Plan was published. This plan is an update to the 2015 UWMP and carries forward information from that plan that remains current and is relevant to this plan and provides additional information as required by amendments to the Urban Water Management Planning Act (UWMP Act; CWC §10610 – 10657). The UWMP discusses the status of projects, programs, and studies regarding water supply planning, water conservation, and recycled water. The district manages several programs and projects in the county that focus on water quality, pollution prevention, water conservation, and stream and creek protection.

## **Local Regulations**

### *Town of Fairfax 2010-2030 General Plan*

The Town of Fairfax 2010-2030 General Plan (General Plan) includes the following goals and policies associated with utilities and service systems:

**Goal LU-5:** Manage future growth while preserving the area's natural resources.

**Objective LU-5.1:** Permit new and renewed development and extension of urban services in a manner that preserves the area's natural and cultural resources.

**Policy LU-5.1.2:** Development shall be discouraged in areas not served by existing utilities.

**Goal CON-4:** Water conservation and quality.

**Objective CON-4.1:** Promote water conservation to reduce overall demand on water supply resources.

**Policy CON-4.1.1:** Promote water conservation policies and programs to cut water demand by 20 percent by 2015.

**Objective CON-4.2:** Protect natural water quality.

**Policy CON-4.2.1:** Provide connection to the sanitary sewer network for all town parcels.

**Goal CON-7:** Waste management.

**Objective CON-7.1:** Employ "zero waste" principles to reduce the amount of waste generated in Fairfax by 80 percent before 2015 and 100 percent by 2025.

**Policy CON-7.1.1:** Reduce the amount of non-recyclable waste generated by Fairfax residents, businesses and government.

**Policy CON-7.1.1:** Reduce the total amount of waste generated by Fairfax residents, businesses and government.



**Objective CON-7.2:** Increase the usage of materials and products made from pre- and post-consumer recycled materials, and materials made from renewable sources, by Fairfax residents and government agencies.

**Policy CON-7.2.1:** Encourage the use of products made from recycled or bio-sourced materials whenever feasible.

### *Fairfax Town Code*

Chapter 8.14 of the Fairfax Town Code is the Collection, Recycling, and Disposal of Waste Generated from Construction, Demolition, and Renovation Projects Ordinance. According to the ordinance, the percentage of incoming waste from construction, demolition, and alteration activities that is diverted from landfill disposal is required to be a minimum of 70 percent.

Chapter 15.04.040 of the Fairfax Town Code regulates septic systems in the town. According to the Code, every building in which plumbing fixtures are installed and every premises having drainage piping thereon, shall have a connection to a public sewer. A permit may be issued for the repair, replacement, or alteration of a previously constructed septic tank or sewage disposal system other than a septic system where no public sewer is available. Chapter 13.04.030 reiterates that connection to a public sanitary sewer is required. Every building where persons reside, congregate or are employed which is situated upon property, an extremity of which is within 400 feet (measured in a horizontal plane) of an approved public sanitary sewer, shall be connected to the sewer by the owner of the premises.

Chapter 17.068.220 outlines standards for utilities. All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from systems into floodwaters. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

Chapter 17.132 is the Town's Water Conservation Ordinance. This chapter of the code requires developments to comply with the latest adopted water conservation ordinance of the MMWD. Such ongoing Marin Water rules relate to irrigation limits, swimming-pool filling, fixing leaks, and using recycled water whenever feasible.

Chapter 19.04 regulates wireless telecommunication facilities in the Planning Area. The purpose of this chapter is to provide a uniform set of standards for the permitting, development, siting, installation, design, operation, and maintenance of wireless telecommunications facilities in the town to avoid visual impacts and impacts to listed and candidate endangered species and habitats. No wireless telecommunications facility shall be located or modified within the town on any property, including the public right-of-way, without a use permit subject to the requirements of this chapter.

## **Impact Analysis**

---

For the purposes of this EIR, a significant impact would occur if implementation of the Proposed Project would:

- Criterion 1:**    **Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects;**
- Criterion 2:**    **Have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry, and multiple dry years;**
- Criterion 3:**    **Result in a determination by the wastewater treatment provider which serves, or may serve, the project that it has adequate capacity to serve the projects projected demand in addition to the providers existing commitments;**
- Criterion 4:**    **Generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals; or**
- Criterion 5:**    **Comply with federal, state, and local management and reduction statutes and regulations related to solid waste.**

## **METHODOLOGY AND ASSUMPTIONS**

Potential impacts on utilities and service systems are analyzed within the context of existing plans and policies, permitting requirements, local ordinances, the Fairfax Town Code, and the policies included in the Proposed Project. All project elements were analyzed by comparing baseline conditions, as described in the Environmental Setting, to conditions during construction and/or operation of the project. Availability and capacity for each utility anticipated under Proposed Project conditions were compared to forecasted availability and capacity identified in Town planning documents, including the General Plan, the General Plan EIR, and the Marin Municipal Water District Strategic Water Supply Assessment (WSA).

## **IMPACTS**

- Impact 3.14-1**    **Development under the Proposed Project would not require or result in the relocation or construction of new or expanded water, or wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects. (*Less than Significant*)**

## *Water*

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

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

Within the Planning Area, water is delivered through distribution mains in most of the major streets. Implementation of the Proposed Project would primarily consist of infill development on underutilized commercial sites and ADUs. As such, there is already water utility infrastructure in place to serve future development needs. The remainder of sites proposed are comprised of low impact clustered residential development in undeveloped hillside areas. Such developments pursuant to the Proposed Project would be required to install new water mains within the street network to serve fire and domestic water needs. Final sizing of any particular line will be subject to modeling of the system that must rely on water use parameters of any particular project or group of projects once those details are known. Clustering would minimize grading and conserve environmental resources, thus reducing construction impacts to the maximum extent practicable.

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

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

### *Wastewater*

A significant impact would occur if the Proposed Project would require the construction or relocation of wastewater treatment facilities which could cause significant environmental effects. The Planning Area is within the service boundaries of the Central Marin Sanitation Agency (CMSA), which serves the central Marin County area. The CMSA WWTP has a permitted dry weather treatment capacity of 10 million gallons per day (mgd) and a wet weather capacity of over 125 mgd. As shown in Table 3.14-4, the agency's average daily dry weather flows have consistently been below the permitted dry weather treatment capacity. Decreases in average dry weather flow are associated with lower water usage by customers due to their increased water conservation efforts during the proclaimed drought years.<sup>7</sup>

In 2018, CMSA prepared a Facilities Master Plan that details a condition assessment of the Wastewater Treatment Plant (WWTP) at the agency. CMSA utilizes development projections contained in the general plans of the cities, towns, and unincorporated areas of Marin County to plan for future growth-related demand for wastewater treatment. The plan details capital projects that are recommended for assets or facilities that are in need of rehabilitation or replacement. The CMSA service area includes 105,040 Marin County residents in 2020.<sup>8</sup> While the Proposed Project could involve development of up to 598 new housing units by 2031, this represents an extremely small increase with respect to the total available capacity and agency service area. As such, there would be sufficient sewer capacity to serve development under the Proposed Project.

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

The land use and population projections developed for the Proposed Project and used as the basis for technical modeling in this EIR account for the construction of this new local conveyance infrastructure. Therefore, the environmental impacts related to construction period traffic, noise, air quality, and GHG emissions have been considered throughout this EIR at a programmatic level. Where new streets are to be constructed; installation of the mains will be done concurrently with roadway construction. However, it is important to note that there are no specific projects

---

<sup>7</sup> Central Marin Sanitation Agency. 2021. Adopted Biennial Operating and Capital Budget. Available: <https://www.cmsa.us/FY24%20&%20FY25%20BUDGET%20ADOPTED%202023%2006-22%20GFOA%20WEBSITE.pdf>. Accessed: July 3, 2023.

<sup>8</sup> Ibid.

proposed on these sites and accordingly the specific location and design details of any future development cannot be known at this time. At such time specific developments are proposed, if any project-specific impacts not identified and mitigated in this Draft EIR would result, subsequent project-level CEQA may be required. As such, compliance with existing regulations and implementation of Proposed Project policies would reduce impacts to the maximum extent practicable. Overall, buildout of the Proposed Project would result in less than significant impacts related to the provision of wastewater treatment and conveyance facilities.

### ***Stormwater***

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

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

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

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

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

### *Power and Telecommunications*

A significant impact would occur if the Proposed Project would require the construction or relocation of power and telecommunications infrastructure which could cause significant environmental effects. PG&E is expected to be able to meet overall demand for electricity and natural gas for all its customers, including Marin County, in the future.<sup>9</sup> PG&E will continue to maintain and upgrade its electrical and natural gas distribution systems as needed based on future demand trends. For electricity, this includes local and regional distribution lines, undergrounding or poles where needed, and transformer stations. For natural gas, this includes local and regional pipelines and transmission stations.

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

In addition, the need for telecommunication systems will likely grow with development pursuant to the Proposed Project. The facilities and networks for these telecommunication services are presently provided by a number of private firms that will expand as consumer demand continues to grow. There is no evidence that this incremental amount of new housing in already developed areas or new population growth will require major telecommunications improvements or new facilities. According to the California Public Utilities Commission, local telecommunication companies have anticipated at least this level of growth in its long-range service planning process.<sup>10</sup> Therefore, it is anticipated that the Proposed Project would not require or result in the relocation or construction of new or expanded telecommunications facilities, the construction or relocation of which could cause significant environmental effects.

It is important to note that that there are no specific projects proposed on these sites and accordingly the specific location and design details of any future development cannot be known at this time. At such time specific developments are proposed, if any project-specific impacts not identified and mitigated in this Draft EIR would result, subsequent project-level CEQA may be

---

<sup>9</sup> Pacific Gas & Electric Corporation (PG&E), Corporate Website accessed July 2023.

[https://www.pge.com/en\\_US/about-pge/company-information/regulation/general-rate-case/grc.page](https://www.pge.com/en_US/about-pge/company-information/regulation/general-rate-case/grc.page).

<sup>10</sup> California Public Utilities Commission, Communications Division, Internet and Phone Section, website <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone>.

required. In addition, Chapter 19.04 of the Town Code requires any wireless telecommunications facility to have a use permit in order to minimize environmental impacts. As such, compliance with existing regulations would reduce impacts to the maximum extent practicable. Overall, buildout of the Proposed Project would result in less than significant impacts related to the provisions of power and telecommunications facilities.

#### *Mitigation Measures*

None required.

#### **Impact 3.14-2 Development under the Proposed Project would have sufficient water supplies available to serve the Planning Area and reasonably foreseeable future development during normal, dry and multiple dry years. (*Less than Significant*)**

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

In June 2021, MMWD published its 2020 Urban Water Management Plan. As shown in Tables 3.14-1 through 3.14-3, the plan assesses water service reliability during normal, single dry-year, and multiple dry-year hydrologic conditions and ensures that steps are in place should a critical water shortage occur. The UWMP accounts for Association of Bay Area Government (ABAG) population projections through 2040. Based on this analysis, the district expects the available supplies to be sufficient to meet projected demands in all hydrologic conditions, including for a normal, single dry, and multiple dry years through 2045, while considering the impacts of climate change. Further, MMWD services the populous eastern corridor of Marin County, with the Town of Fairfax representing only a small portion of the district's demand. Therefore, sufficient water supply is available to serve development and future population under the Proposed Project through 2031 during normal, dry, and multiple dry years.

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

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

in non-extended drought years with more durable supply and increased storage to ensure a sufficient water supply is available to serve development under the Proposed Project during normal, dry, and multiple dry years.

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

Therefore, based on the findings of the UMWP and SWSA, MMWD would have sufficient water supplies available to serve development pursuant to the Proposed Project during normal, dry, and multiple dry years. As such, impacts would be less than significant.

#### *Mitigation Measures*

None required.

#### **Impact 3.14-3    Development under the Proposed Project would not result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments. (*Less than Significant*)**

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

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

#### *Mitigation Measures*

None required.



**Impact 3.14-4 Development under the Proposed Project would not generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals. (*Less than Significant*)**

*Construction*

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

*Operation*

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

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

Further, between 2005 and 2010, solid waste generation in Fairfax decreased by 33.5 percent with the implementation of various programs and requirements, and residential development under the Proposed Plan would be required to comply with Senate Bill 1883, which requires a 75 percent reduction in organic waste disposal from 2014 levels by 2025.<sup>11</sup> As such, implementation of the Proposed Project would not generate solid waste in excess of established standards or in excess of the capacity of local infrastructure. Impacts would be less than significant.

---

<sup>11</sup> Town of Fairfax. 2014. Town of Fairfax Climate Action Plan. Available:  
[https://www.townoffairfax.org/documents/climate-action-plan\\_2030/](https://www.townoffairfax.org/documents/climate-action-plan_2030/). Accessed: July 6, 2023.

*Mitigation Measures*

None required.

**Impact 3.14-5 Development under the Proposed Project would not conflict with federal, state, and local management and reduction statutes and regulations related to solid waste. (*Less than Significant*)**

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

Federal, State, and local statutes and regulations related to solid waste include AB 939, AB 1327, SB 1016, AB 341, and AB 1826. Developments pursuant to the Proposed Project would be subject to policies in the Town of Fairfax 2010-2030 General Plan aimed at increasing waste diversion, recycling, and green purchasing. For example, the General Plan requires the town to reduce the amount of waste generated in Fairfax by 100 percent by 2025. In addition, Program CON-7.1.2.4 requires the Town to continue to implement the Source Reduction and Recycling Element of the California Integrated Waste Management Act of 1989 (AB 939). Additional programs include enacting ordinances that reduce the amount of non-recyclable waste created by residents and business activities and reduce the amount of waste created by construction activities.

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

*Mitigation Measures*

None required.

## 3.15 Wildfire

This section describes the environmental and regulatory setting for wildfires. It also describes events related to wildfires that have already occurred in the Planning Area and that could occur during implementation of the Proposed Project. A wildland fire is a fire in which the primary fuel is natural vegetation and can consume thousands of acres of vegetation, timber and agricultural lands, as well as developed properties located in or adjacent to susceptible areas. Wildfires can be caused by human actions as well as natural events, such as lightning or high winds.

There were nine responses to the Notice of Preparation (NOP) regarding topics covered in this section. Commenters primarily had concerns about impacts on evacuation safety from development pursuant to the Proposed Project. These comments are addressed in this section and incorporated into the following analysis.

### Environmental Setting

---

#### PHYSICAL SETTING

A wildland fire is a fire in which the primary fuel is natural vegetation and can consume thousands of acres of vegetation, timber and agricultural lands, as well as developed properties located in or adjacent to susceptible areas. Wildfires can be caused by natural events, such as lightning or high winds. Most wildfires in the country are human caused (89 percent on average from 2017 to 2021), although the wildfires caused by lightning tend to be slightly larger and burn more acreage (52 percent of the average acreage burned from 2017 to 2021 was ignited by lightning).<sup>1</sup>

Marin County is a region with a long history of wildland fires. Along the coastline, wildfires are typically kept at bay by the regular fog that keeps land surfaces relatively moist. However, above the fog bank, inland land surfaces are dry and more susceptible to wildfires particularly during the months of August, September, and October. Northern California Diablo winds, which can exacerbate wildfire risk, are most common in the late summer through early winter. These warm

---

<sup>1</sup> Congressional Research Service. November 2022. Wildfire Statistics. Available: <https://sgp.fas.org/crs/misc/IF10244.pdf>.

winds lower the relative humidity of the area are dry out vegetation, and under these wind regimes California typically experiences its largest and most destructive fires.<sup>2</sup>

Recent research indicates that higher average summer temperatures will likely increase the area burned and fire severity in California, particularly in Northern California.<sup>3</sup> Future changes in fire frequency and severity are difficult to predict; however, regional climate change associated with elevated greenhouse gas concentrations could alter large weather patterns and produce conditions conducive to extreme fire behavior. A warmer climate will bring drier winters, higher spring temperatures, and early snowmelt. Combined with drought conditions, this leads to drier soils in early summer, drier vegetation, and an increase in the number of days in the year with flammable fuels, all which further raise the likelihood and severity of fires throughout the year.<sup>4</sup>

### **Wildland Urban Interface (WUI) Zones**

The Wildland Urban Interface (WUI) is the transition zone between areas of native vegetation and developed areas. Approximately 60,000 acres – 18 percent of the County’s land area – falls within the wildland urban interface (WUI) where residences (i.e., homes and structures) are adjacent to or intermixed with open space and wildland vegetation.<sup>5</sup> The term “WUI” is not a designation of potential wildfire severity but a defined description of an area where urban development meets undeveloped lands at risk of wildfires. Because of the mix and density of structures with natural fuels in close proximity to each other, combined with more limited access and egress routes, fire management is more complex in WUI environments. In Marin County specifically, many of the access roads within the WUI are narrow, winding and often climb hillsides with overgrown vegetation, making it difficult and costly to reduce fire hazards, fight wildfires, and protect homes and lives in these areas. The Marin County Fire Department has indicated that certain local roads in Fairfax do not afford firefighters quick access to fires.

Fairfax is situated in the Ross Valley with steep, wooded hillsides at the southern and western edges of the Planning Area boundary which serves as a WUI area. To help alleviate wildfire risk, the Marin Wildfire Prevention Authority is currently implementing a 38-mile shaded fuel break project around structures in the WUI zones at the periphery of communities adjacent to undeveloped open spaces, including parcels in the Upper Ross Valley. Project implementation began in summer 2022 and is expected to continue through 2024. Future maintenance would include phased implementation of recommended vegetation management activities along the shaded fuel break. The shaded fuel break will create and maintain a continuous reduced-fuel and forest-health-restoration zone intended to reduce wildfire intensity and rate of spread as well as to

---

<sup>2</sup> FIRE Safe Marin. December 2020. Marin County Community Wildfire Protection Plan. Available: [https://secureservercdn.net/72.167.25.213/j0i.68d.myftpupload.com/wp-content/uploads/CWPP\\_2020\\_Final\\_1-4-2021\\_FSM\\_published.pdf](https://secureservercdn.net/72.167.25.213/j0i.68d.myftpupload.com/wp-content/uploads/CWPP_2020_Final_1-4-2021_FSM_published.pdf).

<sup>3</sup> Westerling A.L. August 2018. Wildfire Simulations for California’s Fourth Climate Change Assessment: Projecting Changes in Extreme Wildfire Events with a Warming Climate. Available: [https://www.energy.ca.gov/sites/default/files/2019-11/Projections\\_CCCA4-CEC-2018-014\\_ADA.pdf](https://www.energy.ca.gov/sites/default/files/2019-11/Projections_CCCA4-CEC-2018-014_ADA.pdf).

<sup>4</sup> FIRE Safe Marin. December 2020. Marin County Community Wildfire Protection Plan. Available: [https://secureservercdn.net/72.167.25.213/j0i.68d.myftpupload.com/wp-content/uploads/CWPP\\_2020\\_Final\\_1-4-2021\\_FSM\\_published.pdf](https://secureservercdn.net/72.167.25.213/j0i.68d.myftpupload.com/wp-content/uploads/CWPP_2020_Final_1-4-2021_FSM_published.pdf).

<sup>5</sup> Ibid

provide strategic and safer locations for firefighters and emergency personnel to fight a wildfire in the event of ignition. Figure 3.15-1 shows the WUI areas in Marin County as identified in the Marin County Multi-Jurisdictional Local Hazard Mitigation Plan (LHMP). The Town of Fairfax falls almost entirely within a WUI area.

### **Slope and Aspect**

According to CAL FIRE, sloping land increases susceptibility to wildfire because fire typically burns faster up steep slopes and they may hinder firefighting efforts.<sup>6</sup> Following severe wildfires, sloping land is also more susceptible to landslide or flooding from increased runoff during substantial precipitation events. Aspect is the direction that a slope faces, and it determines how much radiated heat the slope will receive from the sun. Slopes facing south to southwest will receive the most solar radiation; thus, they are warmer and the vegetation drier than on slopes facing a northerly to northeasterly direction, increasing the potential for wildfire ignition and spread.<sup>7</sup>

Marin County is topographically diverse, with rolling hills, valleys, and ridges that trend from northwest to southeast. Elevation throughout the county varies considerably, with Mt. Tamalpais' peak rising 2,574 feet above sea level and many communities at or near sea level. Correspondingly, there is considerable diversity in slope percentages. The San Geronimo Valley slopes run from level (in the valley itself) to near 70 percent. Mt. Barnabe has slopes that run from 20 percent to 70 percent, and Throckmorton Ridge has slopes that range in steepness from 40 percent to 100 percent. These slope changes can make fighting fires extremely difficult.<sup>8</sup> Within the Town of Fairfax, the steepest slopes occur along the western and eastern boundaries of the town along the valley walls that run along either side of Sir Francis Drake Boulevard and level out along the valley floor.

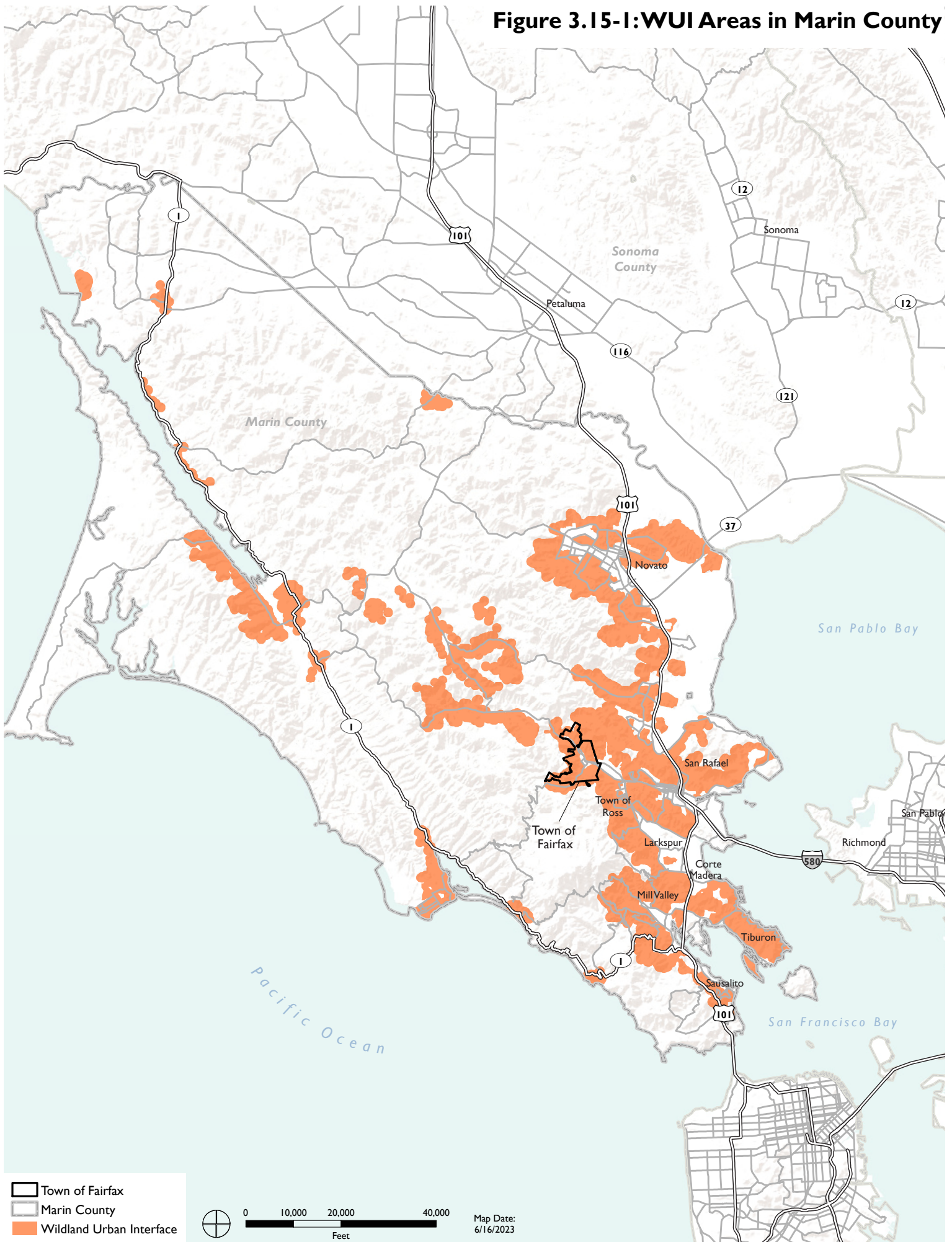
---

<sup>6</sup> CAL FIRE 2007b.

<sup>7</sup> Anthony Leroy Westerling, UC Merced. August 2018. Wildfire Simulations for California's Fourth Climate Change Assessment: Projecting Changes in Extreme Wildfire Events with a Warming Climate. Available: [https://www.energy.ca.gov/sites/default/files/2019-11/Projections\\_CCCA4-CEC-2018-014\\_ADA.pdf](https://www.energy.ca.gov/sites/default/files/2019-11/Projections_CCCA4-CEC-2018-014_ADA.pdf). Accessed : July 19, 2022.

<sup>8</sup> FIRE Safe Marin, Marin County Fire Department, Marin Community Wildfire Protection Plan, December 2020, <https://firesafemarin.org/resources/marin-community-wildfire-protection-plan/>, accessed 7/8/22.

**Figure 3.15-1: WUI Areas in Marin County**



Sources: MarinMap, 2022; Town of Fairfax, 2022; Dyett & Bhatia, 2022

## **Historical Wildfires**

The historical record shows that many large wildfires (greater than 500 acres) have occurred in Marin County since 1850. Many more frequent and smaller fires have occurred throughout the county. Fire records for Marin are incomplete, but historic newspaper articles and old fire planning studies document an active fire history going back to the early 20th century. The most recent fire in Marin County was the Woodward Fire, which was started on August 17, 2020 by lightning from a rare dry lightning weather event. The Woodward Fire was contained by October 9, 2020 at 4,929 acres. The last fire in Marin County that resulted in significant structure loss was the Vision Fire in 1995, which destroyed 48 structures in the community of Inverness. In 1929, the base of Mt. Tamalpais – specifically the community of Mill Valley – experienced a significant fire known as the Great Mill Valley Fire. Historically, the largest and most destructive fires in Marin County, including the Vision Fire, the Angel Island Fire, and the Woodward Fire, have occurred during Diablo winds conditions.<sup>9</sup>

## **WILDFIRE HAZARDS**

Primary responsibility for preventing and suppressing wildland fires in Marin County is divided between local firefighting agencies and the State of California, Department of Forestry and Fire Protection (CAL FIRE). In State Responsibility Areas (SRAs), which are defined according to land ownership, population density, and land use, CAL FIRE has a legal responsibility to provide fire protection. CAL FIRE is not responsible for densely populated areas, incorporated cities, agricultural lands, or federal lands. Local Responsibility Areas (LRAs) include incorporated cities and cultivated agriculture lands. In LRAs, fire protection is provided by local fire departments, fire protection districts, or counties, or by CAL FIRE under contract to local government. The Town of Fairfax is currently located in an area identified as a Local Responsibility Area (LRA) which is serviced by the Ross Valley Fire Department. Additionally, the Marin County Fire Department contracts with the California Department of Forestry and Fire Protection, for fire suppression on Marin Municipal Water District (MMWD) property that covers a large portion of the Planning Area south of the Town limits.

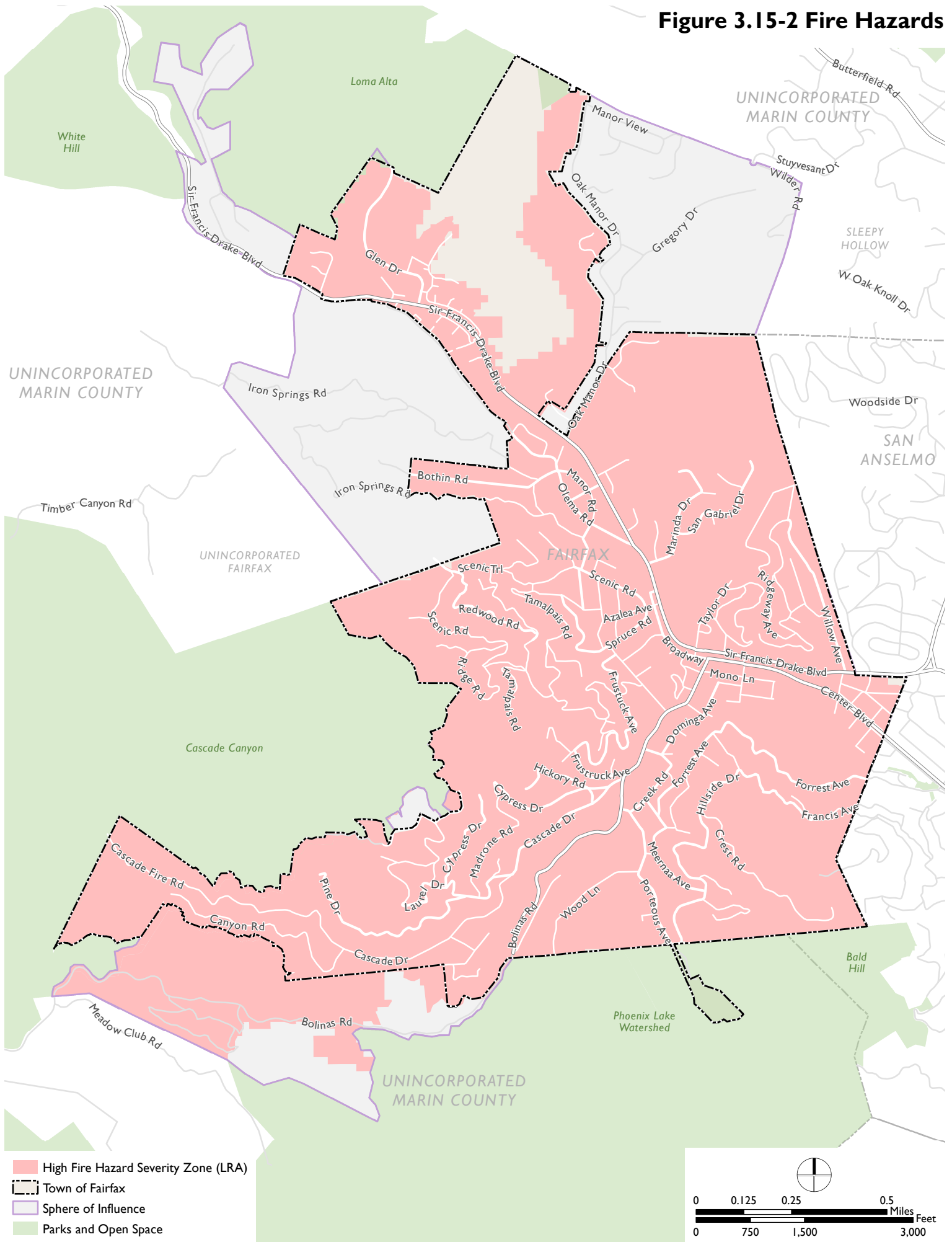
Government Code Sections 51175-89 advise CAL FIRE, to identify areas, or zones, of very high fire hazard severity potential under the Fire and Resources Assessment Program (FRAP). These zones are mapped and identified based on expected burn probabilities, potential fuels over a 30-to-50-year time period, and their correlated expected fire behavior, to better predict the possible vegetation fire exposure to buildings and developments. Under the FRAP, CAL FIRE categorizes much of the Planning Area as a High Fire Hazard Severity Zone (Figure 3.15-2). New buildings proposed in any Wildland-Urban Interface Fire Area are required to comply with California Building Code Section 701A.3.2, New Buildings Located in Any Fire Hazard Severity Zone. These regulations stipulate materials and construction methods required in areas of exterior wildfire exposure, including vegetation management practices, non-combustible and fire-retardant materials, and ignition-resistant construction.

---

<sup>9</sup> Ibid.



**Figure 3.15-2 Fire Hazards**





## **REGULATORY SETTING**

### **Federal**

#### *The Disaster Mitigation Act of 2000*

The Disaster Mitigation Act of 2000 requires a state-level mitigation plan as a condition of disaster assistance. There are two different levels of state disaster plans: “Standard” and “Enhanced.” States that develop an approved Enhanced State Plan can increase the amount of funding available through the Hazard Mitigation Grant Program. The Act also established new requirements for local mitigation plans.

#### *National Fire Plan*

The National Fire Plan was developed in August 2000, following a historic wildfire season. Its intent is to establish plans for active response to severe wildfires and their impacts on communities while ensuring sufficient firefighting capacity. The plan addresses firefighting, rehabilitation, hazardous fuels reduction, community assistance, and accountability.

### **State**

#### *California Office of Emergency Services (OES)*

Under the California Emergency Services Act, the State developed an emergency response plan to coordinate emergency services provided by all governmental agencies. The plan is administered by the California Office of Emergency Services (OES). OES coordinates the responses of other agencies, including EPA, the Federal Emergency Management Agency (FEMA), the California Highway Patrol (CHP), regional water quality control boards, air quality management districts, and county disaster response offices. Local emergency response teams, including fire, police, and sheriff's departments, provide most of the services to protect public health.

OES prepares the State of California Multi-Hazard Mitigation Plan (SHMP). The SHMP identifies hazard risks and includes a vulnerability analysis and a hazard mitigation strategy. The SHMP is federally required under the Disaster Mitigation Act of 2000 for the State to receive Federal funding. The Disaster Mitigation Act of 2000 requires a state mitigation plan as a condition of disaster assistance.

#### *California Public Resources Code – State Responsibility Area*

The California Public Resources Code (PRC) requires the designation of State Responsibility Areas (SRAs), which are identified based on cover, beneficial water uses, probable erosion damage, and fire risks and hazards. The financial responsibility of preventing and suppressing fires in an SRA is primarily the responsibility of the state. Fire protection in areas outside SRAs are the responsibilities of local or federal jurisdictions and are referred to as local responsibility areas and federal responsibility areas, respectively.

#### *California Public Resources Code Sections 4201–4204*

This portion of the PRC, most recently amended by AB 9 in 2021, requires the State Fire Marshal to classify Fire Hazard Severity Zones within SRAs. Lands within SRAs are classified in accordance with the severity of fire hazard present to identify measures to be used to retard the rate of spreading and reduce the potential intensity of uncontrolled fires that threaten to destroy resources, life, or property.

#### *Very High Fire Hazard Severity Zones (VHFHSZ)*

Government Code Section 51178 requires CAL FIRE to identify very high Fire Hazard Severity Zones in the state. Very high Fire Hazard Severity Zones shall be based on fuel loading, slope, fire weather, and other relevant factors including areas where Santa Ana, Mono, and Diablo winds have been identified by CAL FIRE as a major cause of wildfire spread. Government Code Section 51179 requires a local agency to designate, by ordinance, very high Fire Hazard Severity Zones in its jurisdiction. As shown on Figure 3.15-2, there are no Very High Fire Hazard Severity Zones in the Planning Area. CAL FIRE has designated the majority of the Planning Area as a High Fire Hazard Severity Zone.

#### *California Board of Forestry*

The Board of Forestry maintains fire safe road regulations, as part of Title 14 of the California Code of Regulations (CCR). This includes requirements for road width, surface treatments, grade, radius, turnarounds, turnouts, structures, driveways, and gate entrances. These regulations are intended to ensure safe access for emergency wildland fire equipment and civilian evacuation.

#### *California Fire and Building Codes (2019)*

The California Fire Code is Chapter 9 of CCR Title 24. It establishes the minimum requirements consistent with nationally recognized good practices to safeguard public health, safety, and general welfare from the hazards of fire, explosion, or dangerous conditions in new and existing buildings, structure, and premises, and to provide safety and assistance to firefighters and emergency responders during emergency operations. It is the primary means for authorizing and enforcing procedures and mechanisms to ensure the safe handling and storage of any substance that may pose a threat to public health and safety. The California Fire Code regulates the use, handling, and storage requirements for hazardous materials at fixed facilities. The California Fire Code and the California Building Code (CBC) use a hazard classification system to determine what protective measures are required to protect fire and life safety. These measures may include construction standards, separations from property lines and specialized equipment. To ensure that these safety measures are met, the California Fire Code employs a permit system based on hazard classification. The provisions of this Code apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal, and demolition of every building or structure or any appurtenances connected or attached to such building structures throughout California.

More specifically, the Fire Code is included in Title 24 of the CCR. Title 24, part 9, Chapter 7 addresses fire-resistances-rated construction; CBC (Part 2), Chapter 7A addresses materials and

construction methods for exterior wildfire exposure; Fire Code Chapter 8 addresses fire related Interior finishes; Fire Code Chapter 9 addresses fire protection systems; and Fire Code Chapter 10 addresses fire related means of egress, including fire apparatus access road width requirements. Fire Code Section 4906 also contains existing regulations for vegetation and fuel management to maintain clearances around structures. These requirements establish minimum standards to protect buildings located in Fire Hazard Severity Zones (FHSZs) within SRAs and Wildland-Urban Interface (WUI) Fire Areas. This code includes provisions for ignition-resistant construction standards for new buildings.

#### *Wildland-Urban Interface Building Standards*

On September 20, 2007, the Building Standards Commission approved the Office of the State Fire Marshal's emergency regulations amending the CCR Title 24, Part 2, known as the 2007 CBC. These codes include provisions for ignition-resistant construction standards in the WUI.

- Interface zones are areas with dense housing adjacent to vegetation that can burn and meeting the following criteria:
- Housing density class 2 (one house per 20 acres to one house per 5 acres), 3 (more than one house per 5 acres to one house per acre), or 4 (more than one house per acre)
- In moderate, high, or very high Fire Hazard Severity Zone
- Not dominated by wildland vegetation (i.e., lifeform not herbaceous, hardwood, conifer, or shrub)
- Spatially contiguous groups of 30-meter cells<sup>10</sup> that are 10 acres and larger

Intermix zones are housing development interspersed in an area dominated by wildland vegetation and must meet the following criteria:

- Not interface
- Housing density class 2
- Housing density class 3 or 4, dominated by wildland vegetation
- In moderate, high, or very high Fire Hazard Severity Zone
- Improved parcels only
- Spatially contiguous groups of 30-meter cells 25 acres and larger

Influence zones have wildfire-susceptible vegetation up to 1.5 miles from an interface zone or intermix zone.<sup>11</sup>

#### *The California Fire Plan*

The Strategic Fire Plan for California is the State's road map for reducing the risk of wildfire. The most recent version of the Plan was finalized in August 2018 and directs each CAL FIRE Unit to revise and update its locally-specific Fire Management Plan. These plans assess the fire situation within each of the 21 CAL FIRE units and six contract counties. These plans address wildfire

---

<sup>10</sup> Note that "30-meter cells" refers to raster data, and indicates data is presented as 30-meter by 30-meter squares.

<sup>11</sup> CAL FIRE 2019b.

protection areas, initial attack success, assets and infrastructure at risk, pre-fire management strategies, and accountability within their geographical boundaries.

#### *State Emergency Plan*

The foundation of California's emergency planning and response is a statewide mutual aid system which is designed to ensure that adequate resources, facilities, and other support is provided to jurisdictions whenever their own resources prove to be inadequate to cope with a given situation.

The California Disaster and Civil Defense Master Mutual Aid Agreement (California Government Code Sections 8555–8561) requires signatories to the agreement to prepare operational plans to use within their jurisdiction, and outside their area. These plans include fire and non-fire emergencies related to natural, technological, and war contingencies. The State of California, all State agencies, all political subdivisions, and all fire districts signed this agreement in 1950.

The “California Emergency Services Act,” in Section 8568 of the California Government Code, states that “the State Emergency Plan shall be in effect in each political subdivision of the state, and the governing body of each political subdivision shall take such action as may be necessary to carry out the provisions thereof.” The Act provides the basic authorities for conducting emergency operations following the proclamations of emergencies by the Governor or appropriate local authority, such as a City Manager or County Administrator. The provisions of the act are further reflected and expanded on by appropriate local emergency ordinances. The Act further describes the function and operations of government at all levels during extraordinary emergencies, including war.

All local emergency plans are extensions of the State of California Emergency Plan. The State Emergency Plan conforms to the requirements of California's Standardized Emergency Management System (SEMS), which is the system required by Government Code 8607(a) for managing emergencies involving multiple jurisdictions and agencies. The SEMS incorporates the functions and principles of the Incident Command System (ICS), the Master Mutual Aid Agreement, existing mutual aid systems, the operational area concept, and multi-agency or inter-agency coordination. Local governments must use SEMS to be eligible for funding of their response-related personnel costs under state disaster assistance programs. The SEMS consists of five organizational levels that are activated as necessary, including: field response, local government, operational area, regional, and state. OES divides the state into several mutual aid regions. The Town of Fairfax is located in Mutual Aid Region II, which includes Del Norte, Humboldt, Mendocino, Sonoma, Lake, Napa, Marin, Solano, Contra Costa, San Francisco, San Mateo, Alameda, Santa Clara, Santa Cruz, San Benito, and Monterey Counties.

#### *Government Code Sections 65302 and 65302.5, Senate Bill 1241 (Kehoe) of 2012*

Senate Bill (SB) 1241 requires cities and counties to address fire risk in SRAs and Very High FHSZs in the safety element of their general plans. The bill also amended CEQA to direct amendments to the CEQA Guidelines Appendix G environmental checklist to include questions related to fire hazard impacts for projects located in or near lands classified as SRAs and Very High FHSZs. In adopting these Guidelines amendments, the Governor's Office of Planning and Research

recognized that generally, low-density, leapfrog development may create higher wildfire risks than high-density, infill development.<sup>12</sup>

#### *California Public Utilities Commission General Order 166*

General Order 166 Standard 1.E requires that investor-owned utilities (IOU) develop a Fire Prevention Plan which describes measures that the electric utility will implement to mitigate the threat of power-line fires generally. Additionally, this standard requires that IOUs outline a plan to mitigate power line fires when wind conditions exceed the structural design standards of the line during a Red Flag Warning in a high fire threat area. Fire Prevention Plans created by IOUs are required to identify specific parts of the utility's service territory where the conditions described above may occur simultaneously. Standard 11 requires that utilities report annually to the California Public Utilities Commission (CPUC) regarding compliance with General Order 166. In compliance with Standard 1.E of this General Order, Pacific Gas and Electric Company (PG&E) adopted a 2022 Wildfire Mitigation Plan Update dated February 25, 2022. PG&E developed a High Fire Risk Area (HFRA) map that designates steeper areas of Ross as Tier 2 and Tier 3 High Fire Threat Districts (HFTD). Tier 2 and Tier 3 HFTDs are intended to identify areas where stricter fire-safety regulations are to be applied from wildfires associated with overhead utility power lines and overhead utility power-line facilities.

### **Regional**

#### *Marin Community Wildfire Protection Plan (CWPP)*

The Marin County Community Wildfire Protection Plan (CWPP) provides a science-based assessment of wildfire hazards and threats to homes in the wildland urban interface (WUI) of Marin County, California. The Marin CWPP was published in 2016 and updated in 2020. This Marin CWPP was developed through a collaborative process involving Fire Safe Marin, Marin County fire agencies, county officials, county, state, and federal land management agencies, and community members. The purpose of the CWPP is to provide fire agencies, land managers, and other stakeholders in Marin County with guidance and strategies to reduce fire hazard and the risk of catastrophic wildfires in the WUI, while promoting the protection and enhancement of the county's economic assets and ecological resources.

#### *Marin County Multi-Jurisdiction Local Hazard Mitigation Plan (LHMP)*

The 2018 Marin County Multi-Jurisdiction Local Hazard Mitigation Plan (LHMP) defines measures to reduce risks from natural disasters in the Marin County Operational Area, which consists of the entire county, including unincorporated areas, incorporated cities, and special purpose districts. The plan complies with federal and state hazard mitigation planning requirements to establish eligibility for funding under Federal Emergency Management Agency (FEMA) grant programs for all planning partners.

---

<sup>12</sup> "Leapfrog development" describes the construction of new development at a distance from existing developed areas, with undeveloped land between the existing and new development.

#### *Marin County Emergency Operations Plan (EOP)*

The 2014 County's Emergency Operations Plan is a guidebook for the Marin County Operational Area (OA) to utilize during phases of an all-hazards emergency management process which include preparedness, response, recovery, and mitigation. The EOP is intended to facilitate coordination between agencies and jurisdictions within Marin County while ensuring the protection of life, property, and the environment during disasters. In accordance with California's Standardized Emergency Management System (SEMS), this Plan provides the framework for a coordinated effort between partners and provides stability and coordination during a disaster.

#### *Marin Wildfire Prevention Authority (MWWA) Evacuation Ingress/Egress Risk Assessment*

The Marin Wildfire Prevention Authority (MWWA) is the public agency that coordinates the county-wide response to prepare and adapt to wildfire. Their Evacuation Risk Assessment project includes the construction of a set of risk factors and dynamic models of wildfire spread, taking into account the communications processes and transportation networks to simulate the wildfire evacuation process in Marin County. Based on these risk factors and models, the proposal includes the development of an evacuation planning software application to simulate the effect of different risks as they would impact each road and roadway within the jurisdictions served by the MWWA member agencies.

This tool will help MWWA agencies prioritize areas of highest concern and help identify possible risk mitigation. The product will provide multiple layers of decision-making processes for MWWA members' use. For strategic and policy level decisions, the initial development of the tool will allow users to see a geographic representation of the highest risk routes, and the factors that are driving the risk (fire risk conditions, roads and roadways conditions, traffic conditions, etc.). For practitioners and technical staff, a second phase of the tool's development will allow users to enter the parameters of a proposed mitigation project and assess its impact on risk.

#### *Ross Valley Fire Department Residential Property Resale Inspection*

The Ross Valley Fire Department enforces its vegetation management regulations through a "Resale Inspection" program. Resale Inspections occur whenever a property is (re)sold in the town of Ross and other communities in the Ross Valley. Fire inspectors visit properties listed for sale to conduct vegetation hazard inspections prior to sale. Current vegetation management standards and codes are included with property sale disclosures, and the vegetation hazard and mitigation requirements become part of the listed "disclosures" during the sale of the property. Mitigation actions and cost are shared by the seller and buyer and must be completed as outlined in the related fire and municipal codes.

### **Local**

#### *Town of Fairfax General Plan 20010-2030 (General Plan)*

The Town of Fairfax General Plan 20010-2030 (General Plan) includes the following goals and policies associated with wildfire:

**Goal S-3:** Minimize risk due to fire hazards.

**Policy S-3.1.1:** Development and land use decisions will be made using the best available fire hazard information.

**Policy S-3.1.2:** Develop and implement fuel, vegetation management and defensible space activities, consistent with Open Space and Conservation Element goals.

**Policy S-3.1.3:** Maximize access and egress for emergency response vehicles. Also see Conservation Element, Goal C-4.

**Policy S-3.1.4:** The Town of Fairfax will collaborate with external agencies and the community to provide adequate water supply and fire flow.

**Goal S-4:** Community preparedness.

**Policy S-4.4.1:** The Town shall develop and maintain a comprehensive warning and evacuation system to reduce life loss and injury.

**Policy S-4.4.2:** The Town shall build community capacity to prepare for, respond to and recover from fire events.

**Goal LU-4:** Minimize potential for wildfires and impacts from other natural catastrophes.

**Policy LU-4.1.1:** New and renewed development shall include a wildland fire protection component, consistent with the Safety Element and the fire management programs of the Ross Valley and Marin County Fire Departments and Fire Safe Marin.

**GOAL C-4:** Ensure access by emergency service vehicles and public evacuation. See also the Safety Element.

**Policy C-4.1:** Coordinate with both the Ross Valley Fire Department and the Marin Municipal Water District to ensure safe conditions on roads. Identify evacuation routes for all areas of Town.

**Policy C-4.2:** Coordinate with the Ross Valley Fire Department to identify standards, needs and opportunities for emergency vehicle turn-outs and turn-arounds on town streets.

*Town of Fairfax Municipal Code (Town Code)*

The California Building Code (Chapter 15.04 of the Town Code) and Fire Code (Chapter 8.04 of the Town Code) contain fire safety standards that development must adhere to in the town. Chapter 8.06 of the Town Code also adopts the International Wildland-Urban Interface Code to regulate and govern the mitigation of hazard to life and property from the intrusion of fire from wildland exposure.

## Impact Analysis

---

### SIGNIFICANCE CRITERIA

For the purposes of this EIR, a significant impact would occur if the Proposed Project would:

- Criterion 1:** Substantially impair an adopted emergency response plan or emergency evacuation plan;
- Criterion 2:** Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire;
- Criterion 3:** Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment; or
- Criterion 4:** Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes.

### ASSUMPTIONS AND METHODOLOGY

Impacts related to wildfire hazards and risks were evaluated using a review of FHSZ mapping for the Planning Area and research prepared in compliance with federal, State, and local laws, regulations and professional standards pertaining to wildfire. CEQA does not generally require an agency to consider the effects of existing environmental conditions on a project's future users or residents. Consequently, impacts under the thresholds identified below would only be considered significant if the Proposed Project risks exacerbating those existing environmental conditions.

### IMPACTS

**Impact 3.15-1 Implementation of the Proposed Project would not substantially impair an adopted emergency response plan or emergency evacuation plan. (*Less than Significant*)**

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

The RVFD has published detailed emergency evacuation maps from Fire Safe Marin, also shown in Figure 3.15-3 below, and information on preparedness. Such maps highlight temporary refuge areas, lower risk areas, WUI elevated risk areas, safe routes, and evacuation routes in order to inform residents about emergency evacuation procedures. Maps also detail neighborhood zones to



inform citywide evacuation routes. RVFD also disseminates helpful evacuation tips to residents, such as on what to wear, where to go, and what to avoid doing in the event of an emergency.

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

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

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

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

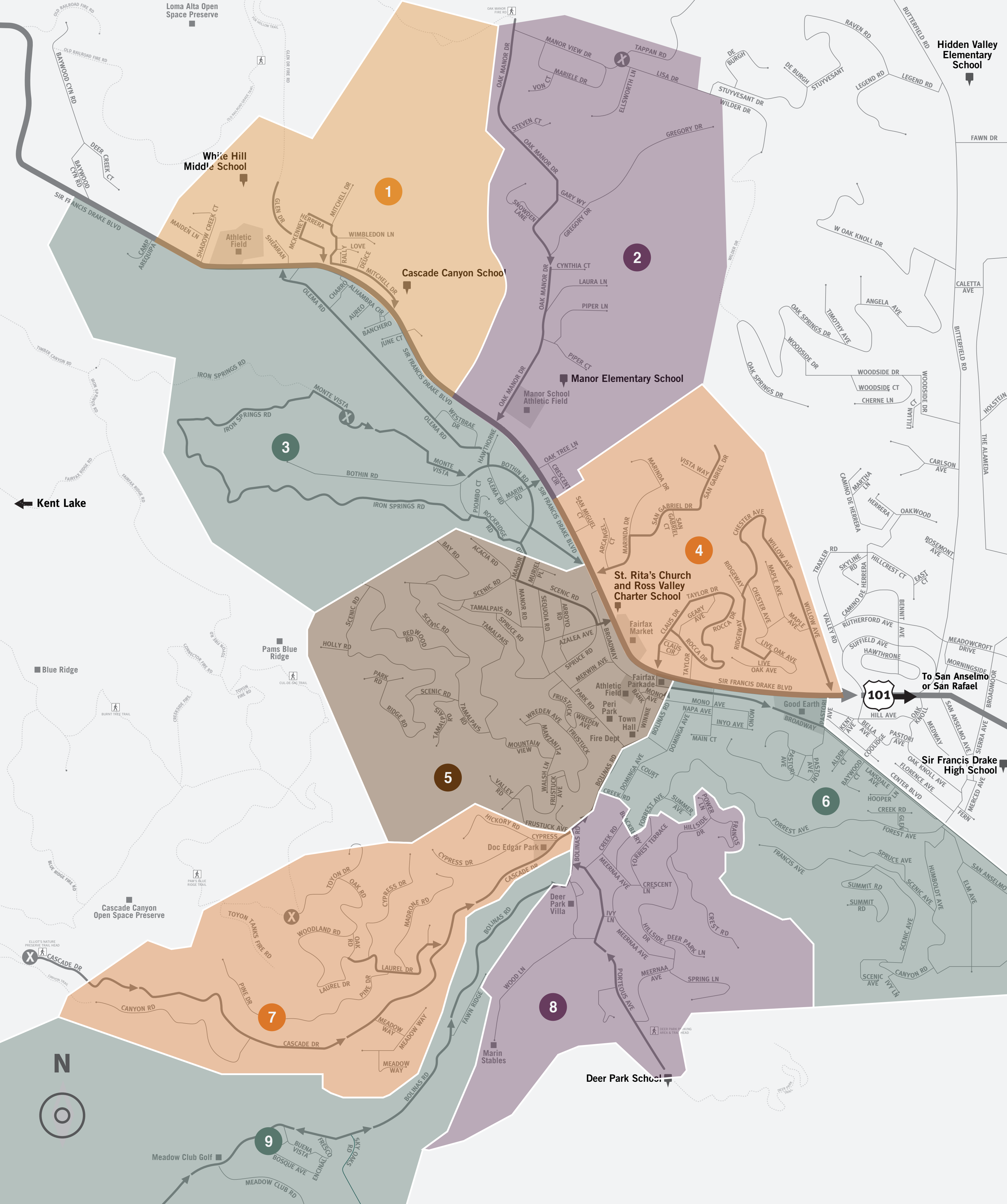
#### *Mitigation Measures*

None required.



# Your neighborhood zones

Note where you and your family members live, work and go to school. Then mark down these locations on this map.



## Town of Fairfax

SCAN THIS QR CODE TO DOWNLOAD THIS AREA MAP

SCAN THE QR CODES BELOW TO DOWNLOAD INDIVIDUAL ZONE INFORMATION

1



ZONE AREA

1

Fairfax Glen



ZONE AREA

6

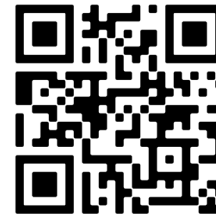
Forrest



ZONE AREA

2

Oak Manor



ZONE AREA

7

Fairfax Cascade



ZONE AREA

3

Bothin



ZONE AREA

8

Deer Park



ZONE AREA

4

Ridgeway



ZONE AREA

9

Bolas



ZONE AREA

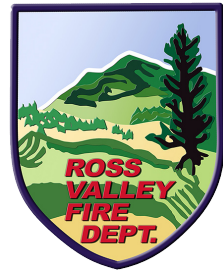
5

Tamalpais

6



www.firesafemarin.org



ROSS VALLEY FIRE DEPT

www.rossvalleyfire.org

TOWN OF FAIRFAX

www.townoffairfax.org



DESIGN AND FIRECLEAR MAP PROVIDED BY CLAUDINE JAENICHEN  
DESIGN NETWORK FOR EMERGENCY MANAGEMENT

**Impact 3.15-2 Implementation of the Proposed Project would not exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire. (*Less than Significant*)**

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

As noted in the Attorney General's report, *Best Practices for Analyzing and Mitigating Wildfire Impacts of Development Projects Under the California Environmental Quality Act*, fire spread and structure loss is more likely to occur in low- to intermediate-density developments. Given that the majority of proposed development includes infill development on underutilized commercial sites and ADUs, this higher density development will help reduce the project's impact on ignition risk, the likelihood of fire spread, and the extent of wildfire risk exposure. However, the remainder of sites identified for development would be comprised of clustered low impact residential development and single-family housing on larger lots outside of the Town Center area. Given that the project proposes low density and hillside development and the extent of which HFHSZs exist in and around Fairfax, buildout of the Proposed Project could increase the risk of loss and damage due to wildfire, resulting in potentially significant impacts.

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

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



would reduce the risk of loss, injury, or death from wildfire for new developments encouraged by the Proposed Project.

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

#### *Mitigation Measures*

None required.

**Impact 3.15-3    Implementation of the Proposed Project would not require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment. (*Less than Significant*)**

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

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

#### *Mitigation Measures*

None required.

**Impact 3.15-4    Implementation of the Proposed Project would not expose people or structures to significant risks, including downslope or**

**downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes. (*Less than Significant*)**

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

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

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

*Mitigation Measures*

None required.

## **3.16 Effects Found Not to be Significant**

This chapter is based on input for the Fairfax General Plan Housing Element Update Environmental Impact Report (EIR) Notice of Preparation (NOP) dated April 3, 2023 and contained in Appendix B of this Draft EIR. The NOP was circulated for public review between April 3, 2023 and May 2, 2023. The NOP identified certain impacts for which there is no likelihood of a significant impact due to the location and characteristics of the Planning Area. This chapter provides a brief description of these effects found not to be significant, based, in part, on the NOP evaluation, NOP comments, and/or more detailed analysis conducted as part of the EIR preparation process. Agriculture and Forestry Resources and Mineral Resources are the only issue areas not addressed in detail in the setting and impacts sections. There were no NOP comments related to the topics covered in this section.

### **Agricultural and Forestry Resources**

---

A significant impact would occur if implementation of the Proposed Project would result in one or more of the following:

- Criterion 1:** Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use;
- Criterion 2:** Conflict with existing zoning for agricultural use, or a Williamson Act contract;
- Criterion 3:** Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g));
- Criterion 4:** Result in the loss of forest land or conversion of forest land to non-forest use;  
or
- Criterion 5:** Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use.

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

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

## Mineral Resources

---

A significant impact would occur if implementation of the Proposed Project would result in one or more of the following:

**Criterion 1: Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state; or**

---

<sup>1</sup> California Department of Conservation. 2022. California Important Farmland Finder. Available: <https://maps.conservation.ca.gov/DLRP/CIFF/>. Accessed: July 23, 2023.

<sup>2</sup> Marin County. 2023. Williamson Act Parcels. Available: <https://gisopendata.marincounty.gov/datasets/williamson-act-parcels/explore?location=37.991209%2C-121.747800%2C9.34>. Accessed: July 23, 2023.

**Criterion 2: Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan.**

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



## 4 Alternatives Analysis

The Fairfax General Plan Housing Element Update (Proposed Project) is described and analyzed in Chapter 3, Sections 3.1 through 3.16, of this Environmental Impact Report (EIR), with an emphasis on potentially significant impacts and recommended mitigation measures to avoid the impacts. The California Environmental Quality Act (CEQA) Guidelines require a description and comparative analysis of a range of alternatives to the Proposed Project that could feasibly attain the objectives of the Proposed Project while avoiding or substantially lessening potential impacts. The CEQA Guidelines also require that the environmentally superior alternative be designated. If the alternative with the least environmental impact is the No Project Alternative, then the EIR must also designate the next most environmentally superior alternative.

The following discussion is intended to inform the public and decision-makers about feasible alternatives that would avoid or substantially lessen the significant effects of the Proposed Project. It also compares such alternatives to the Proposed Project. Section 15126.6 of the CEQA Guidelines states that:

*An EIR shall describe a range of reasonable alternatives to the project, or the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation.*

CEQA Section 15126.6(f) states that the alternatives in an EIR should be governed by a “rule of reason.” It requires the EIR to set forth the alternatives necessary to permit a reasoned choice that would avoid or substantially lessen any significant effects and feasibly attain most of the project objectives. Project objectives are described in Chapter 2 of this EIR. The Proposed Project would result in significant and unavoidable impacts related greenhouse gas (GHG) emissions (impacts 3.7-1 and 3.7-2) and transportation (Impact 3.13-2). CEQA Guidelines Section 15126.6(e) requires consideration of a No Project Alternative in every EIR. In the case of the Proposed Project, the No Project Alternative is a scenario in which the Proposed Project is not adopted. The following discussion includes an evaluation of the No Project Alternative and the Mixed Use Development Center Alternative. A Reduced Development Alternative was also considered; however, for reasons discussed in Section 4.2, below, this Alternative was determined to be infeasible and therefore are not analyzed in detail.

## **PURPOSE**

All California cities and counties are required to have a Housing Element included in their General Plan which establishes housing objectives, policies, and programs in response to community housing conditions and needs. This Housing Element has been prepared to respond to current and near-term future housing needs in the Town of Fairfax and provide a framework for the community's longer-term approach to addressing its housing needs.

The Housing Element contains goals, updated information and strategic directions (policies and implementing actions) that the Town is committed to undertaking. Housing affordability in Marin County and in the Bay Area as a whole is a critical issue. Over the past thirty years, housing costs have ballooned, driven by rising construction costs and land values, and homeownership in Fairfax and throughout Marin County has become an ever more distant dream for many people. Home values in the Town increased by 43.6 percent between 2009 and 2020, while rental prices increased by 13 percent between 2009 and 2019. The double-edged sword of steep home prices is apparent as subsequent generations are priced out of the local housing market. Given the prevailing rent and home sales prices in the Town, home ownership is exclusive to all income groups earning moderate-income and below.

This Housing Element touches many aspects of community life. It builds upon the goals, policies and implementing programs contained in the Town's 2015-2023 Housing Element and other Town policies and practices to address housing needs in the community. The overall focus of the Housing Element is to address local housing needs in compliance with State law while also seeking to retain Fairfax's village-like quality, with distinct neighborhoods, and large areas of surrounding visible open space.

## **PROJECT OBJECTIVES**

The following are some of the specific purposes of the Housing Element update:

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

## **4.1 Alternatives Analyzed in This EIR**

---

### **NO PROJECT ALTERNATIVE**

State CEQA Guidelines Section 15126.6(e) requires an EIR to analyze the specific alternative of “No Project”. The purpose of describing and analyzing the No Project alternative is to allow decision makers to compare the impacts of approving a proposed project with the impact of not approving the proposed project. The No Project Alternative shall discuss the existing conditions at the time the EIR notice of preparation is published, as well as what would be reasonably expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services.

Additionally, State CEQA Guidelines Section 15126.6(e)(3)(a) states that when the project is the revision of an existing land use or regulatory plan, the “No Project” alternative will be the continuation of the existing plan. Typically, this is a situation where new projects would be proposed under the existing plan. Thus, the impacts of the proposed project would be compared to the impacts that would occur under the existing plan.

Under the No Project Alternative, the Town would not update the existing 2015 to 2023 Housing Element. The existing Housing Element would continue to direct the Town’s decisions related to housing development and the RHNA assignment of 61 units in the current Housing Element would remain the Town’s goal for new housing units. In addition, the Town is responsible for addressing the remaining RHNA from the previous planning period (2007–2014) totaling 80 units. The 2015 to 2023 Housing Element goals, policies, and implementing programs would continue to guide Town decisions regarding housing within the Planning Area. Under these conditions it would be reasonable to assume that applications for new housing developments consistent with the 2015 to 2023 Housing Element would continue to be submitted and approved.

Although the No Project Alternative does not meet any of the Housing Elements Update project objectives and is not considered a feasible project alternative, it is presented below as required by the State CEQA Guidelines.

### **MIXED USE DEVELOPMENT ALTERNATIVE**

To reduce significant impacts related to VMT and GHG emissions, this alternative seeks to foster an integrated mixed-use development on the Marin Town and Country Club (MTCC) site. According to data from the US Census, over 3,100 residents of Fairfax commute to jobs in other communities each day, while only 1,200 residents of other communities commute to jobs in Fairfax and only 239 both live and work in Fairfax. Therefore, intent of this alternative is to create new jobs and housing within easy walking distance of Downtown Fairfax and the main transit route through the community along Sir Francis Drake Boulevard in order to rebalance commute patterns and increase opportunities for people to live and work in Fairfax and to travel within the community without the need for a vehicle. This alternative would involve the development of a master plan for the MTCC site in coordination with the property owner to integrate up to 200 additional new housing units and 50,000 square feet of office and studio space for local businesses, artists, and craftsmen. It is assumed that at least 20 percent of the new homes would be affordable to moderate-income households, consistent with the Town's draft inclusionary ordinance.

Studies have shown that promoting more compact housing development in mixed land use areas is more strongly correlated to increases in non-vehicular modes of travel and reduction of VMT. As such, this alternative would address the significant impacts of the Proposed Project related to VMT and GHG emissions. This alternative would implement the project objectives and further increase housing density in the Town Center. As such, there would be an additional 200 housing units developed under this Alternative compared to the Proposed Project, for a total of 808 units.

## **4.2 Alternatives Considered but Not Evaluated in Detail in this EIR**

---

One alternative to the Proposed Project that could avoid or substantially reduce the significant impacts of the Proposed Project was considered, a Reduced Development Alternative. However, as described below, this Alternative was determined to be infeasible and therefore are not analyzed further.

### **REDUCED DEVELOPMENT ALTERNATIVE**

A reduced amount of housing development was considered since it would likely have reduced impacts related to cumulative VMT, cumulative GHG emissions, and emergency evacuation capacity. Given that the automobile is the prevailing mode of transportation in the Town of Fairfax, any housing development would likely require residents to use a private automobile. Thus, reduction in the number of housing units compared to the Proposed Project would likely result in fewer automobiles on the street and subsequent reduced VMT impacts and associated GHG emissions.

However, this Alternative would not meet the basic Housing Element Update project objectives. Under State law, each city and county in California must plan to accommodate its share of the regional housing need - called the Regional Housing Needs Allocation (RHNA) - for the coming 8-year planning period. Therefore, the number of housing units associated with the Proposed Project is required by State law. Consequently, this alternative would also be infeasible and is not analyzed further.

## **4.3 Impact Analysis of Alternatives**

---

### **NO PROJECT ALTERNATIVE**

#### **Aesthetics**

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

While the overall amount and location of development would differ from the Proposed Project, the design standards and guidelines that the Proposed Project would adhere to can be assumed to be

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

## **Air Quality**

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

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

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

## **Biological Resources**

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

## **Cultural and Tribal Cultural Resources**

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

## **Energy**

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

## **Geology and Soils**

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

## **Greenhouse Gas Emissions**

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

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

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

### **Hazards and Hazardous Materials**

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

### **Hydrology and Water Quality**

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

### **Land Use, Population, and Housing**

Under the No Project Alternative, development in the Planning Area would proceed as envisioned under the Town's 2015 to 2023 Housing Element. The previously adopted Housing Element's goals include creating transit-oriented housing in the Town Center area and creating additional opportunities for the development of second units. Like the Proposed Project, this Alternative would support mixed-use, infill, and higher density development around the Town Center area. The No Project Alternative's vision for the Planning Area is consistent with the regional goals for

transit-oriented development identified in Plan Bay Area 2050, the integrated land use/transportation plan for the nine-county San Francisco Bay Area region. Further, all future residential development occurring within the town under the No Project Alternative would be required to be evaluated in accordance with local regulations, including the General Plan and Town Code.

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

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

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

## **Noise**

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

## **Public Services and Recreation**

Buildout of the No Project Alternative would accommodate fewer residents and housing units compared to the Proposed Project. Therefore, this Alternative would generate slightly reduced demand for fire, police, school, and library services compared to the Proposed Project. Impacts



would be less than significant, as under the Proposed Project. Implementation of the No Project Alternative would not result in the construction of new neighborhood parks; however, the General Plan and Town Code have various goals and policies to ensure adequate park and recreational space is provided throughout the town. The Town Code requires developers to pay in-lieu fees or dedicate parkland which would help ensure that population growth associated with the Proposed Project would not result in substantial physical deterioration of existing parks and recreation facilities. Therefore, impacts related to parks may be slightly reduced compared to the Proposed Project given the lower population under this Alternative and would be less than significant.

## **Transportation**

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

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

## **Utilities and Service Systems**

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

## **Wildfire**

In comparison with the Proposed Project, the No Project Alternative has a reduced development footprint within the Planning Area, only needing sites to accommodate the Town's previous RHNA assignment of 61 units. As with the Proposed Project, the development under this Alternative

would be required to adhere to State and local plans and regulations, including the Town's Safety Element policies. Compliance with these policies will ensure that development in the Planning Area is resilient to the risk of a wildfire under the Alternative. As with the Proposed Project, impacts from wildfire are considered less than significant for the No Project Alternative. However, impacts would be further reduced under this Alternative since a smaller population under buildout would be less susceptible to wildfire risks and improve evacuation times.

## **MIXED USE DEVELOPMENT ALTERNATIVE**

### **Aesthetics**

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

### **Air Quality**

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

Similar to the Proposed Project, it is assumed that individual developments would implement similarly applicable mitigation measures presented in Chapter 3.2 of the EIR as necessary to reduce air quality impacts under the Alternative. Future development projects would be required to implement the BAAQMD's Basic Construction Measures to control fugitive dust emissions generated during construction activities. In addition, future projects that cannot meet construction screening criteria must prepare a detailed construction air quality impact assessment to incorporate measures to reduce construction emission impacts to levels below the BAAQMD's construction thresholds of significance for criteria air pollutants and TACs. As such, construction TAC impacts would be less than significant, though slightly greater than the Proposed Project under this Alternative.

During operations, emissions under the Mixed Use Development Alternative from area and building energy sources would be similar to those of the Proposed Project but slightly greater because the number of housing units and office and studio space would be increased. Because of this, the Mixed Use Development Alternative could generate greater vehicle trips compared with

the Proposed Project, but not necessarily on a per capita basis. Even so, as with the Proposed Project, it is unlikely that the net operational emissions would exceed the BAAQMD's significance thresholds for any of the pollutants under the Alternative. Operational air quality impacts under the Mixed Use Development Alternative would be slightly greater than the Proposed Project and would very likely also result in a less than significant impact.

### **Biological Resources**

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

### **Cultural and Tribal Cultural Resources**

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

### **Energy**

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

## **Geology and Soils**

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

## **Greenhouse Gas Emissions**

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

Operation of land uses supported by the Alternative would generate direct and indirect GHG emissions similar to that of the Proposed Project. However, given that there is a greater density of development in the transit-oriented Town Center under this Alternative, GHG emissions per capita and transportation-related emissions would decrease. Even so, the Fairfax CAP GHG outlines local mitigation measures to reduce greenhouse gas emissions to achieve net zero emissions in the community by 2030, which is not consistent with the amount of development envisioned under the Mixed Use Development Alternative. As such, this operational impact would remain significant and unavoidable under the Mixed Use Development Alternative.

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

## **Hazards and Hazardous Materials**

Impacts related to hazards and hazardous materials under the Mixed Use Development Alternative would be similar to those of the Proposed Project because construction would have similar risks,

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

### **Hydrology and Water Quality**

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

### **Land Use, Population, and Housing**

Under the Mixed Use Development Alternative, development in the Planning Area would proceed as envisioned under the Proposed Project with an additional 200 new housing units and 50,000 square feet of office and studio space. Like the Proposed Project, this Alternative would support mixed-use, infill, and higher density development around the Town Center area. The Mixed Use Development Alternative's vision for the Planning Area is consistent with the regional goals for transit-oriented development identified in Plan Bay Area 2050, the integrated land use/transportation plan for the nine-county San Francisco Bay Area region. Further, all future residential development occurring within the town under the Mixed Use Development Alternative would be required to be evaluated in accordance with local regulations, including the General Plan and Town Code.

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

The implementation of both the Proposed Project and Mixed Use Development Alternative would facilitate construction of new housing to meet the Town of Fairfax RHNA obligations and facilitate the provision of housing to meet the projected need at all income levels. As such, the resulting increase in population and housing units would not be considered substantial unplanned growth as it would be consistent with regional planning projections, and it would occur incrementally.

Further, both the Proposed Project and Mixed Use Development Alternative involve development within the town limits. Therefore, the Proposed Project and Alternative would result in a less than significant impact associated with population growth, either directly or indirectly.

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

### **Noise**

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

### **Public Services and Recreation**

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

### **Transportation**

The Mixed Use Development Alternative would result in slightly reduced impacts on transportation compared to the Proposed Project. This Alternative would accommodate an additional 200 new housing units and 50,000 square feet of office and studio space on the MTCC site compared to the Proposed Project; as such, development would be more concentrated the Fairfax Town Center area. Since the Alternative would have higher development densities than the

Proposed Project, it is estimated that it would result in slightly lower VMT efficiency metrics (i.e., VMT per capita) compared to the Proposed Project. Further, the goals and policies that would reduce VMT in the General Plan and other planning documents would be implemented under the Mixed Use Development Alternative. However, because the effectiveness of an individual project's VMT impact to a less than significant level cannot be determined in this analysis, the Mixed Use Development Alternative may not achieve the overall VMT threshold reduction level to result in a less-than-significant impact. Thus, similar to the Proposed Project, the impact on VMT would remain significant and unavoidable under the Mixed Use Development Alternative.

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

### **Utilities and Service Systems**

As discussed in Section 3.14, Utilities and Service Systems, there would be sufficient water supply, wastewater treatment capacity, and solid waste disposal capacity to serve development under the Proposed Project in 2031. While the Mixed Use Development Alternative would involve more development than the Proposed Project, it is anticipated that there would also be sufficient water supply, wastewater treatment capacity, and solid waste disposal capacity for development pursuant to this Alternative. Further, subsequent developments would still be required to comply with applicable State and local regulations as well as related General Plan policies, such as Policy CON-4.1.1 which requires water conservation policies and programs to cut water demand. Therefore, overall, this Alternative would result in a less than significant impact with respect to utilities and services systems and would have a slightly increased impact as compared to the Proposed Project, given the greater amount of development involved.

### **Wildfire**

In comparison with the Proposed Project, the Mixed Use Development Alternative has an increased development footprint within the Planning Area, with additional housing and office space located at the MTCC site. As with the Proposed Project, the development under this Alternative would be required to adhere to State and local plans and regulations, including the Town's Safety Element policies. Compliance with these policies will ensure that development in the Planning Area is resilient to the risk of a wildfire under the Alternative. As with the Proposed Project, impacts from wildfire are considered less than significant for the Mixed Use Development Alternative. However, impacts would be slightly increased under this Alternative since a larger population under buildout would be more susceptible to wildfire risks and may further impair evacuation times.

## **4.4 Environmentally Superior Alternative**

---

The CEQA Guidelines Section 15126.6 requires the identification of an environmentally superior alternative among the alternatives analyzed in an EIR. If the No Project Alternative is identified as

the environmentally superior alternative, the guidelines require another environmentally superior alternative to be identified.

Table 4-1 summarizes the alternatives' overall environmental impacts for each topic presented in Section 4.3. For the Proposed Project, three impacts were expected to be significant and unavoidable, seven impacts were expected to be less than significant with mitigation, and 53 impacts were expected to be less than significant.

For the No Project Alternative, two impacts were expected to be significant and unavoidable, eight impacts were expected to be less than significant with mitigation, and 53 impacts were expected to be less than significant. In addition, impacts would be nominally reduced for aesthetics, air quality, biological resources, energy, geology and soils, GHG emissions, hydrology and water quality, noise, public services, and recreation, utilities and service systems, and wildfire.

For the Mixed Use Development Alternative, similar to the Proposed Project, three impacts were expected to be significant and unavoidable, seven impacts were expected to be less than significant with mitigation, and 53 impacts were expected to be less than significant. In addition, impacts would be nominally reduced for GHG emissions and VMT as compared to the Proposed Project. However, impacts would be nominally increased for air quality, energy, noise, utilities and service systems, and wildfire risk and evacuation.

The No Project Alternative reduces the greatest number of environmental impacts. Since the CEQA guidelines require another environmentally superior alternative other than the No Project Alternative to be identified, the Mixed Use Development Alternative would be the environmentally superior alternative. This is because it nominally reduces the Proposed Project's significant and unavoidable impacts pertaining to GHG emissions and VMT. However, the MTCC site currently does not have zoning that permits residential development. In order to make the site available for housing, the Town of Fairfax would be required to develop a ballot initiative to rezone the site. As such, it is uncertain that the site could be rezoned and housing could be developed within the eight-year planning period. Therefore, the Mixed Use Development Alternative is considered infeasible.



**Table 4-1: Summary of Impacts for Alternatives**

<i>Impact</i>	<i>Level of Significance</i>		
	<i>Proposed Project</i>	<i>No Project Alternative</i>	<i>Mixed Use Development Alternative</i>
<b>3.1 Aesthetics</b>			
3.1-1 Scenic Vistas	LTS	LTS, -	LTS, =
3.1-2 Scenic Highways	NI	NI, =	NI, =
3.1-3 Visual Character	LTS	LTS, -	LTS, =
3.1-4 Light and Glare	LTS	LTS, -	LTS, =
<b>3.2 Air Quality</b>			
3.2-1 Air Quality Plan	LTS	LTS, =	LTS, =
3.2-2 Air Quality Standard	LTSM	LTSM, -	LTSM, +
3.2-3 Sensitive Receptors	LTSM	LTSM, -	LTSM, +
3.2-4 Odors	LTS	LTS, =	LTS, =
<b>3.3 Biological Resources</b>			
3.3-1 Special-Status Species	LTSM	LTSM, -	LTSM, =
3.3-2 Sensitive Habitat	LTS	LTS, -	LTS, =
3.3-3 Wetlands	LTS	LTS, -	LTS, =
3.3-4 Wildlife Corridors	LTS	LTS, -	LTS, =
3.3-5 Policies and Ordinances	LTS	LTS, =	LTS, =
3.3-6 HCPs	NI	NI, =	NI, =
<b>3.4 Cultural and Tribal Cultural Resources</b>			
3.4-1 Historic Resources	LTSM	LTSM, =	LTSM, =
3.4-2 Archaeological Resources	LTSM	LTSM, =	LTSM, =
3.4-3 Human Remains	LTSM	LTSM, =	LTSM, =
3.4-4 Tribal Cultural Resources	LTSM	LTSM, =	LTSM, =
<b>3.5 Energy</b>			
3.5-1 Wasteful Energy Consumption	LTS	LTS, -	LTS, +
3.5-2 Energy Efficiency Standards	LTS	LTS, =	LTS, =
<b>3.6 Geology and Soils</b>			
3.6-1 Seismic Hazards	LTS	LTS, -	LTS, =
3.6-2 Soil Erosion	LTS	LTS, -	LTS, =
3.6-3 Unstable Soils	LTS	LTS, -	LTS, =
3.6-4 Expansive Soils	LTS	LTS, =	LTS, =
3.6-5 Septic Systems	LTS	LTS, =	LTS, =
3.6-6 Paleontological Resources	LTS	LTS, =	LTS, =
<b>3.7 GHG Emissions</b>			

**Table 4-1: Summary of Impacts for Alternatives**

<i>Impact</i>	<i>Level of Significance</i>		
	<i>Proposed Project</i>	<i>No Project Alternative</i>	<i>Mixed Use Development Alternative</i>
3.7-1 Generate GHG Emissions	SUM	LTSM, -	SUM, -
3.7-2 Conflict with an Applicable Plan, Policy, or Regulation	SUM	SUM, -	SUM, -
<b>3.8 Hazards and Hazardous Materials</b>			
3.8-1 Transport, Use, or Disposal	LTS	LTS, =	LTS, =
3.8-2 Accidental Upset	LTS	LTS, =	LTS, =
3.8-3 Quarter Mile of Schools	LTS	LTS, =	LTS, =
3.8-4 Cortese List	LTS	LTS, =	LTS, =
3.8-5 Airport Hazards	NI	NI, =	NI, =
3.8-6 Emergency Response	LTS	LTS, -	LTS, =
3.8-7 Wildland Fires	LTS	LTS, -	LTS, =
<b>3.9 Hydrology and Water Quality</b>			
3.9-1 Water Quality Standards	LTS	LTS, -	LTS, =
3.9-2 Groundwater	LTS	LTS, -	LTS, =
3.9-3 Drainage	LTS	LTS, -	LTS, =
3.9-4 Flooding	LTS	LTS, -	LTS, =
3.9-5 Water Quality Control Plan	LTS	LTS, -	LTS, =
<b>3.10 Land Use, Population, and Housing</b>			
3.10-1 Division of a Community	NI	NI, =	NI, =
3.10-2 Conflict with Land Use Plan	NI	NI, =	NI, =
3.10-3 Growth Inducement	LTS	LTS, =	LTS, =
3.10-4 Displacement	LTS	LTS, =	LTS, =
<b>3.11 Noise</b>			
3.11-1 Noise Standards	LTS	LTS, -	LTS, +
3.11-2 Vibration	LTS	LTS, -	LTS, +
3.11-3 Airports	NI	NI, =	NI, =
<b>3.12 Public Services and Recreation</b>			
3.12-1 Fire, Police, Schools, Parks, and Public Facilities	LTS	LTS, -	LTS, =
3.12-2 Degradation of Parks	LTS	LTS, -	LTS, =
3.12-3 Construction or Expansion of Recreational Facilities	LTS	LTS, =	LTS, =
<b>3.13 Transportation</b>			
3.13-1 Circulation System Plan	LTS	LTS, =	LTS, =

**Table 4-1: Summary of Impacts for Alternatives**

<i>Impact</i>	<i>Level of Significance</i>		
	<i>Proposed Project</i>	<i>No Project Alternative</i>	<i>Mixed Use Development Alternative</i>
3.13-2 VMT	SU	SU, =	SU, -
3.13-3 Traffic Hazards	LTS	LTS, =	LTS, =
3.13-4 Emergency Access	LTS	LTS, =	LTS, =
<b>3.14 Utilities and Service Systems</b>			
3.14-1 Facilities	LTS	LTS, -	LTS, +
3.14-2 Water Supply	LTS	LTS, -	LTS, +
3.14-3 Wastewater Capacity	LTS	LTS, -	LTS, +
3.14-4 Landfill Capacity	LTS	LTS, -	LTS, +
3.14-5 Solid Waste Regulations	LTS	LTS, =	LTS, =
<b>3.15 Wildfire</b>			
3.15-1 Emergency Response/Evacuation	LTS	LTS, -	LTS, +
3.15-2 Wildfire Risks	LTS	LTS, -	LTS, +
3.15-3 Infrastructure	LTS	LTS, =	LTS, =
3.15-4 Flooding or Landslides	LTS	LTS, =	LTS, =
Notes:			
LTS = Less than Significant			
LTSM = Less than Significant with Mitigation			
NI = No Impact			
SU = Significant and Unavoidable			
SUM = Significant and Unavoidable with Mitigation			
+/-/= = impact of the alternative is greater than, less than, or similar to the impact of the Proposed Project			

## 5 CEQA Required Conclusions

This section presents a summary of the impacts of the Proposed Project in several subject areas specifically required by CEQA, including growth-inducing impacts, cumulative impacts, significant and unavoidable impacts, and significant irreversible environmental changes. These findings are based, in part, on the analysis provided in Chapter 3: Environmental Settings and Impacts.

### 5.1 Growth-Inducing Impacts

---

CEQA Guidelines require that an EIR “discuss the ways in which the proposed project could foster economic or population growth, or the construction of additional housing, either directly or indirectly” (CEQA Guidelines Section 15126.2(e)). This analysis must also consider the removal of obstacles to population growth, such as improvements in the regional transportation system.

Growth-inducing impacts, such as those associated with job increases that might affect housing and retail demand in surrounding jurisdictions over an extended time period, are difficult to assess with precision, since future economic and population trends may be influenced by unforeseeable events such as business development cycles and natural disasters. Moreover, long-term changes in economic and population growth are often regional in scope; they are not influenced solely by changes or policies related to a single city or development project, particularly in a highly urbanized region such as the San Francisco Bay Area. Business trends are influenced by economic conditions throughout the state and country, as well as around the world.

Another consideration is that the creation of growth-inducing potential does not automatically lead to growth. Growth occurs through capital investment in new economic opportunities by the private or public sector. These investment patterns reflect, in turn, the desires of investors to mobilize and allocate their resources to development in particular localities and regions. These factors, combined with the regulatory authority of local governments, mediate the growth-inducing potential or pressure created by a Proposed Project. Despite these limitations on the analysis, it is still possible to qualitatively assess the general potential growth-inducing impacts of the Proposed Project.

#### **PROJECTED GROWTH**

The Proposed Project is intended to result in the development of up to 598 housing units, primarily comprised of infill housing within the already development downtown and on existing single family residential lots. Thus, the Project would not involve extending infrastructure, utilities, or public services outside of the established urban service area; on the contrary, it would concentrate new development within the existing service area for utilities and public services. Further, development

would happen incrementally over the course of eight years, from 2023-2031, which would minimize project growth impacts.

## **Population**

As shown in Table 5-1, the current population within the Town of Fairfax is estimated to be 7,578. With the Proposed Project, the Planning Area would accommodate a total population of approximately 8,749 people, representing a 15.5 percent increase from the existing population. This represents an average annual growth rate of about 2.0 percent over eight years in the Planning Area, along with an increase in the number of housing units from 3,350 to 3,948.

**Table 5-1: Planning Area Population, Housing, and Job Growth Projections, 2020–2031**

	<i>Existing (2019)</i>	<i>Projected Net New (2031)</i>	<i>Total Projected with Proposed Project (2031)</i>
<b>Population</b>	7,578 <sup>1</sup>	1,171	8,749
<b>Housing Units</b>	3,350 <sup>2</sup>	598	3,948
<b>Jobs</b>	1,806 <sup>3</sup>	n/a	1,806

Sources:

1. U.S. Census Bureau, American Community Survey 5-Year Data (2015-2019), Table B01001
2. U.S. Census Bureau, American Community Survey 5-Year Data (2015-2019), Table B11016
3. U.S. Census Bureau, Longitudinal Employer-Household Dynamics, Origin-Destination Employment Statistics, 2019

Although the population within the Planning Area is projected to increase substantially, the Proposed Project is consistent with the overarching regional growth goals identified in Plan Bay Area, the integrated land use/transportation plan for the nine-county San Francisco Bay Area region. To reduce greenhouse gas emissions, Plan Bay Area 2050 promotes compact mixed-use infill development within walkable/bikeable neighborhoods that are close to public transit, jobs, schools, shopping, parks, recreation, and other amenities. To ensure consistency, the Proposed Project generally involves infill development on underutilized commercial sites and ADUs, with the remainder of sites comprised of low impact clustered residential development and single-family housing.

The Proposed Project is also consistent with the Town of Fairfax General Plan's goals of encouraging sustainable building practices and preserving natural systems. By guiding the majority of the Town's growth and development within the Planning Area, infill and clustered development would be prioritized, and public space areas would be preserved and enhanced; by nature, the Project would therefore reduce potential for uncontrolled growth and associated impacts.

### ***Increase in Regional Housing Demand***

In the urbanized context of the Bay Area, housing and employment demand are somewhat fluid across municipalities. As the employment base in the Bay Area continues to increase, more people may be drawn to live in Fairfax even if they work in other nearby cities, or vice versa. As a result, housing demand may continue to increase in Fairfax and Marin County. ABAG's Regional Housing

Needs Assessment (RHNA) attempts to balance regional housing demand across Bay Area cities, and all municipalities are required to provide a “fair share” of housing. According to the Final 2023–2031 RHNA, ABAG has determined that Fairfax’s fair share of regional housing need for the 2023 to 2031 period would be 490 units. To ensure that housing is available to meet the needs of future residents under the Proposed Project, the Town is currently updating its Housing Element to assess its supply of housing and provide policies and programs to ensure that the community continues to meet its fair share of regional housing needs.

### *Jobs/Housing Ratio*

A desirable jobs-to-housing ratio is often defined as a ratio greater than 1.0 but less than 2.0. Because most households have more than one wage earner, ratios below 1.0 suggest that residents are required to commute to jobs outside of their area of residence, and ratios greater than 2.0 suggest that employers are not able to house their workers within the jurisdiction, requiring workers to commute into the area. Theoretically, a balanced jobs-to-housing ratio would reduce the need for people to commute in or out of the area for work. In reality, the match of education, skills, and interests is not always accommodated within the boundaries of one community, and regional interdependencies almost always result in at least some inter-city commuting.

Based on the estimated buildout of up to 598 housing units under the Proposed Project, the jobs-to-housing balance in the Planning Area in 2031 would be about 1.03, as shown in Table 5.1-2: Jobs-to-Housing Unit Ratio. Given that the Proposed Project is associated with housing development within the town limits and does not propose additional jobs, the Proposed Project would not be expected to induce substantial new unplanned residential growth in areas surrounding the Planning Area.

**Table 5-2: Jobs-to-Housing Unit Ratio (2019 and 2031)**

	<i>Existing (2019)</i>	<i>Total Projected with Proposed Project (2031)</i>
<b>Housing Units</b>	3,633 <sup>1</sup>	4,231
<b>Jobs</b>	4,338 <sup>2</sup>	4,338
<b>Jobs-to-Housing Unit Ratio</b>	1.19	1.03

Sources:

1. U.S. Census Bureau, American Community Survey 5-Year Data (2015-2019), Table B11016
2. U.S. Census Bureau, American Community Survey 5-Year Data (2015-2019), Table C24030

### **Public Facilities and Services**

Public services for the Planning Area, including police, fire protection, schools, and parks and recreation, are currently provided by the Fairfax Police Department (FPD), Ross Valley Fire Department (RVFD), the Ross Valley School District (RVSD), Marin County Parks, and the Fairfax Department of Public Works, respectively. Development under the Proposed Project would be required to comply with all applicable codes for fire safety and emergency access.

As stated in Section 3.12, Public Services and Recreation, of this EIR, student potential for new development under the Proposed Project was calculated using the applicable student generation rate of 0.2 per dwelling unit and applied to project buildout of 598 units. Thus, implementation of the Proposed Project could result in an additional 120 students attending the Ross Valley School District over the planning period.

New students of various ages would be enrolled incrementally over the 8-year planning period. The district anticipates that they would have sufficient space at Manor School to service Fairfax students for transitional kindergarten (TK) through Grade 5. However, since White Hill Middle School also services San Anselmo students along with Fairfax students, growth planned in the Town of San Anselmo and County of Marin housing elements would further increase enrollment at White Hill Middle School. Therefore, the RVSD anticipates that there will be a need for new/expanded facilities at White Hill Middle School. However, construction of new school facilities would be subject to separate project-level CEQA review at the time the design is proposed in order to identify and mitigate project-specific impacts as appropriate, and this impact would be less than significant.

Further, development under the Proposed Project would also be required to comply with SB 50, which mandates statutory school facilities fees for residential developments. Compliance with SB 50 would financially offset impacts on Ross Valley School District capacity and would provide funding for potential future school facility development needs associated with the Proposed Project-related population increase.

As future buildout occurs under the Proposed Project, the Town will evaluate operations and deployment of services to efficiently use resources, ensure sufficient staffing to serve all new development and associated population growth in the Planning Area, and monitor the need for new facilities or additional equipment needed to provide adequate public services to future and existing residents.

## **DIRECT AND INDIRECT GROWTH**

As described above, the Proposed Project facilitates growth in the Planning Area, and this direct growth is analyzed throughout this EIR. Impacts from direct growth on infrastructure such as public services and utilities, the transportation system, and natural resources are identified, based on the buildout of the Proposed Project. Some of the identified effects of growth are significant and unavoidable. In general, future development under the Proposed Project would be subject to additional site-specific environmental review under CEQA, with tiering and streamlining opportunities as provided for under State law.

Indirect growth can result from the construction of infrastructure, such as the extension of utilities or the construction of new roadways connecting urban centers to green field areas. In such cases, this extension of infrastructure to serve one property can facilitate the subsequent development of other intervening properties, effectively inducing additional growth indirectly. Such infrastructure in the Proposed Project could include road and utility connections to sites designated for low impact clustered residential development. However, given the Town is almost entirely built out and proposed development would occur within the town limits, the potential for this type of indirect growth does not exist. Further, the Proposed Project primarily consists of infill development on underutilized commercial sites and ADUs. This could encourage more teachers, restaurant and

service workers, firefighters, police officers, and others employed in Fairfax and Marin County to live within the Planning Area rather than commute long distances, consistent with overarching regional and State objectives for sustainable development and reduction of GHG emissions and VMT.

## **5.2 Cumulative Impacts**

---

CEQA requires that an EIR examine cumulative impacts. As discussed in CEQA Guidelines Section 15130(a)(1), a cumulative impact “consists of an impact which is created as a result of the combination of the project evaluated in the EIR together with other projects causing related impacts.” Furthermore, the analysis of cumulative impacts need not provide the level of detail required of the analysis of impacts from the project itself, but shall “reflect the severity of the impacts and their likelihood of occurrence.” (CEQA Guidelines Section 15130(b)).

In order to assess cumulative impacts, an EIR must analyze either a list of past, present, and probable future projects or a summary of projections contained in an adopted general plan or related planning document. The cumulative impact analysis in this Draft EIR relies on the projections approach because the Project has a long-term perspective. Unless so stated, the potential for cumulative contributions is projected to the Proposed Project horizon year of 2031. The geographic context for cumulative impacts is generally the Planning Area and immediately surrounding lands but can be a much larger area for resource categories such as greenhouse gas emissions and transportation.

Several analyses presented in Chapter 3: Environmental Settings and Impacts represent cumulative analyses of issues through the Proposed Project horizon year of 2031 because they combine the anticipated effects of the Proposed Project with anticipated effects of regional growth and development. By their nature, the transportation, noise, greenhouse gas emissions, and climate change analyses presented in Chapter 3 represent a cumulative analysis, because the effects specific to the Proposed Project cannot reasonably be differentiated from the broader effects of regional growth and development. Thus, analyses for these topics reflect not just growth in the Planning Area, but growth elsewhere in the region as well. The cumulative conclusions are summarized there, and where applicable, significant unavoidable impacts are listed in Section 5.3, Significant and Unavoidable Impacts. Other cumulative impacts are identified below.

### **AESTHETICS**

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

The scenic resources in the Planning Area and immediate vicinity are the views of the valleys, canyons, and forested hills with largely undeveloped ridgelines in the Ross Valley. A significant cumulative impact would result if development facilitated in the Planning Area in combination with other development in the vicinity blocked these views. Development in the Planning Area would occur within the town limits and would be regulated by the Town of Fairfax General Plan. The Town’s Open Space Committee is tasked with evaluating and prioritizing parcels in the Visually Significant Areas inventory based on established criteria and becoming involved in the



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

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

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

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

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

## **AIR QUALITY**

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

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

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

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

Further, to ensure projects achieve consistency with the BAAQMD's construction screening criteria or, if consistency with the construction screening criteria cannot be demonstrated, the Town is incorporating **Mitigation Measure AQ-1 and AQ-2** into future project development projects. MM AQ-1 requires future project development projects to implement the BAAQMD's Basic Construction Measures to control fugitive dust emissions generated during construction activities. MM AQ-2 requires future projects that cannot meet construction screening criteria to prepare a detailed construction air quality impact assessment to: 1) estimate potential project construction emissions; 2) compare potential project construction emissions against BAAQMD project-level construction thresholds of significance; and 3) incorporate measures to reduce construction emission impacts to levels below the BAAQMD's construction thresholds of significance for criteria air pollutants and TACs. As such, this impact would be less than significant with mitigation.

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

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

## **BIOLOGICAL RESOURCES**

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

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

Thus, future development within the Planning Area has the potential to have significant impacts on biological resources. In particular, there are several special-status species known to occur throughout the Planning Area that could be impacted by housing development. Impacts would be further reduced through Mitigation Measure BIO-1, which would require site assessments by a qualified professional for development applications that may adversely affect sensitive biological resources. Mitigation Measure BIO-2 would require implementation of a worker environmental awareness training program to train construction staff on the needs of protecting sensitive biological resources and the ramifications for not complying with applicable laws. Mitigation Measure BIO-3 would require the installation of temporary flagging or barrier fencing to protect sensitive biological resources adjacent to the work area. Further, Mitigation Measures BIO-4 through BIO-6 outline additional construction requirements to ensure the protection of special-status plant species, the obscure bumble bee, and the foothill yellow-legged frog.

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

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

## **CULTURAL AND TRIBAL CULTURAL RESOURCES**

The cumulative geographic context for cultural, historic, and tribal cultural resources is the Town of Fairfax. If the Proposed Project, in combination with other past, present, and reasonably foreseeable projects in Fairfax, would result in the loss of or adverse changes to multiple historic or cultural resources a significant cumulative impact could result. However, as described in Section

3.4 of this Draft EIR, the Town of Fairfax General Plan and the Town Code provide a framework for the preservation of cultural and historic resources. At the time development or redevelopment projects are proposed, any project-level CEQA document would need to identify potential impacts on known or potential historic sites and structures. Such project-level review in combination with the Mitigation Measure CUL-1, which requires that all proposed development within the Planning Area undergo additional investigation to determine the project-level impact on the built environment's historical resources, would ensure that the Proposed Project's incremental contribution to this impact would not be cumulatively considerable.

There are known prehistoric and historic archaeological resources in and around the Town of Fairfax. The Planning Area has a high potential for encountering deposits associated with known resources or as-yet undocumented resources. Anticipated development projects under the Proposed Project may involve grading, excavation, or other ground-disturbing activities, which could have a cumulative impact on unknown archaeological resources. Mitigation Measure CUL-3 would ensure that developers in the Planning Area receive cultural resources awareness training and half work if cultural resources are encountered. Further, any adverse effects to archaeological resources shall be mitigated as specified by PRC Section 21083.2. Thus, compliance with mitigation measures and General Plan policies, as well as applicable local, State, and federal laws, would ensure that the Proposed Project's contribution to this impact would not be cumulatively considerable.

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

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

## **ENERGY**

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

In addition, development under the Proposed Project would be subject to increasingly robust regulations to meet the State's renewable energy mandates and would be required to comply with Title 24 standards and CALGreen requirements. As discussed in Impact 3.5-2, the Proposed Project would thus support and reflect the increasingly stringent State and local goals and regulations that seek to increase energy efficiency, reduce energy consumption, and prioritize renewable energy –

reinforcing that the Proposed Project would not result in cumulatively considerable impact with respect to wasteful, inefficient, or unnecessary consumption of energy resources.

## **GEOLOGY, SOILS, AND SEISMICITY**

The cumulative geographic context for geology and soils consists of sites within the Planning Area and nearby properties in the immediate vicinity. Although regional geographies can be similar, in general, geology and soils impacts do not typically combine such that a larger geographic context would be involved. Depending on subsurface conditions, slopes, and other factors, each cumulative project would require different levels of grading, cut-and-fill, and excavation. In addition, each cumulative project would be required to comply with the General Plan, Town Code, Proposed Project, and California Building Standards Code requirements. The standards presented in these documents require that a site-specific geotechnical investigation be prepared which would include design recommendations to reduce each cumulative project's impacts. Similar seismic safety standards would apply to the cumulative projects. For these reasons, project building under the Proposed Project, in combination with other past, present, and reasonably foreseeable future projects, would not result in a significant cumulative impact on geology and soils. Therefore, no significant cumulative impact exists in the geographic context for geology, soils, and seismicity.

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

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

## **GREENHOUSE GAS EMISSIONS**

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

## **HAZARDS AND HAZARDOUS MATERIALS**

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

## **HYDROLOGY AND WATER QUALITY**

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

The Ross Valley watershed is predominantly built out along the valley floor. Potential growth in the watershed would likely not degrade water quality as the Proposed Project primarily consists of infill development on underutilized commercial sites and ADUs. Town General Plan policies would also ensure that development protects and restores riparian habitat and ensure natural channel processes in the watershed. All new development is required to handle stormwater in a manner that

ensures that flood flows will not increase or be redirected to other areas. Similar to the Proposed Project, all future development in the geographic context for hydrology and water quality would be required to Marin County General Plan policies and local municipal codes related to protecting water resources. Therefore, the contribution of the Proposed Project to the cumulative impact on hydrology and water quality would not be cumulatively considerable.

## **LAND USE POPULATION AND HOUSING**

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

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

## **NOISE**

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

The Proposed Project would result in both short-term and long-term changes to the existing noise environment in the Planning Area. Construction activities, including traffic, demolition, and reconstruction, would generate ambient and groundborne noise. However, there are a variety of policies, codes, and regulations in place to prevent substantially adverse impacts, particularly to sensitive land uses. The Town of Fairfax General Plan policies and Chapter 8.20 of the Town Code establish noise/land use compatibility standards as well as exterior and interior noise standards. In addition, policies require mitigation of construction and traffic noise impacts in town. All new

construction would also be required to comply with noise restrictions which regulate the time and intensity of construction in the Fairfax Town Code as well as requirements from the California Building Code and CalGreen Code.

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

## **PUBLIC SERVICES AND RECREATION**

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

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

In Fairfax, fire protection services are provided by the Ross Valley Fire Department (RVFD). The increased local projected population would likely result in a subsequent increase in fire and emergency medical service calls to the service area compared to existing conditions. In order to maintain standards of response coverage benchmarks, Fire Station 19 and 21 will experience an increase in minimum staffing from two firefighters to three firefighters due to the closure of Station 18 on July 1, 2025. Stations 20 and 21 are currently in the beginning stages of a remodel to help accommodate the projected increased staffing in July 2025. In consultation between the Town and the RVFD Interim Fire Chief<sup>2</sup>, the department does not anticipate a need to construct or expand their station facilities as a result of the projected increase in population in the service area. Therefore, this impact would be less than significant.

Public schools are provided by school districts to areas within their jurisdictions. While districts may have cross jurisdictional boundaries, school services are still provided at the local, rather than regional, level. Project applicants for development under the Proposed Plan would be required to

---

<sup>1</sup> R. Tabaranza, personal communication, July 3, 2023.

<sup>2</sup> D. Mahoney, personal communication, July 5, 2023.



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

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

Therefore, the contribution of the Proposed Project to the cumulative impact on public services and recreation would not be cumulatively considerable.

## **TRANSPORTATION**

The geographic context for cumulative impacts related to transportation is the roadway network within the Planning Area and the regional roadway network with connections to the Planning Area. Buildout of the Proposed Project would result in increased development in the Planning Area and would generate additional vehicle trips on the local and regional roadway network. The Town of Fairfax General Plan includes policies that seek to improve mode share and reduce the impact of new traffic on alternative transportation modes. Development under the Proposed Project would be consistent with such policies and regulations by increasing housing opportunities in already developed areas which is an integral part of VMT reduction and encouraging transportation alternatives, such as walking and biking. However, as outlined in Section 3.13, there are no feasible

mitigation measures available to reduce VMT to a less-than-significant level. Given the lack of available VMT reduction measures, the Town will not achieve the overall VMT threshold reduction level. Impacts would be cumulatively considerable.

## **UTILITIES AND SERVICE SYSTEMS**

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

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

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

Because the Town of Fairfax provides stormwater and flood management within its borders, and owns and operates the stormwater drainage system, these systems are largely isolated from the rest of the region. Thus, the impacts on stormwater facilities are not cumulative in nature, and are less than cumulatively considerable.

Fairfax contracts with Marin Sanitary Service (MSS) for waste and recycling collection and handling. MSS transports the Town's non-recyclable waste to Redwood Landfill which has a maximum permit capacity of 19,100,000 cubic yards with a remaining capacity of 26 million cubic yards. The maximum permitted intake at the landfill is approximately 2,300 tons per day. The

Proposed Project would generate approximately 0.01 percent of the permitted daily capacity of the landfill. Therefore, the Proposed Project's contribution to this potentially significant cumulative impact would not be cumulatively considerable.

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

## **WILDFIRE**

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

Further, while the projected population in the Planning Area would increase the number of people potentially exposed to impacts from wildfire, the Proposed Project would not induce substantial unplanned population growth in the Planning Area. New development would be subject to the California Fire Code, which includes safety measures to minimize the threat of fire. A Fire Protection Plan would be required for construction and development in areas designated as Wildland-Urban Interface (WUI), and/or Moderate, High, or Very High Fire Hazard Severity Zone per the Town Code's Fire Code (Chapter 8.04). Construction would also be required to meet CBC requirements, including CCR Title 24, Part 2, which includes specific requirements related to exterior wildfire exposure. The Board of Forestry, via CCR Title 14, sets forth the minimum development standards for emergency access, fuel modification, setback, signage, and water supply, which help prevent loss of structures or life by reducing wildfire hazards.

Therefore, compliance with local and state regulations and plans pertaining to wildfire would help reduce impacts regionally; the Proposed Project's contribution to wildfire risks is not considered cumulatively considerable.

## **5.3 Significant and Unavoidable Impacts**

---

Significant unavoidable impacts are those that cannot be mitigated to a level that is less than significant. According to CEQA Guidelines 15126.2(b), an EIR must discuss any significant environmental impacts that cannot be avoided under full implementation of the proposed program, including those that can be mitigated, but not to a less-than-significant level. The analysis in Chapter 3 determined that the Proposed Project would result in significant impacts related to transportation and greenhouse gas emissions, and that, even with implementation of mitigation measures, would remain significant and unavoidable. These impacts are summarized below:

### **TRANSPORTATION**

Goals and policies in the Proposed Project are designed to reduce VMT in the Planning Area by identifying sites for infill development on underutilized commercial sites and ADUs, which encourages housing opportunities in commercial districts and adequate residential access to pedestrian infrastructure, neighborhood services, and recreation facilities to further reduce VMT. However, the VMT forecasts indicate that the proposed residential uses would result in a Home-Based VMT per capita that is 10.4 percent below the baseline 2019 Town VMT per capita. The cumulative effect of adding up to 598 housing units on Daily Home-Based VMT for residential uses in the Town of Fairfax is considered a significant impact prior to mitigation because it is not 15 percent or below the baseline 2019 townwide level, which is the applicable significance threshold as recommended by the OPR Technical Advisory. As outlined in Section 3.13, there are no feasible mitigation measures available to reduce VMT to a less-than-significant level. As such, the VMT impact would be significant and unavoidable.

### **GREENHOUSE GAS EMISSIONS**

As discussed above, the Proposed Project would not achieve the 15 percent VMT per capita reduction target under buildout conditions. Based on information in Chapter 3.13, Transportation, implementation of VMT reduction strategies would not be adequate to reduce the impact to a less-than-significant level. Therefore, the Proposed Project's mobile-source GHG emissions would conflict with SB 743. Because a reduction in GHG emissions from passenger vehicles is one of the objectives of SB 743 and one of the overarching strategies of the 2022 Scoping Plan, operation of the Proposed Project would conflict with the statewide GHG target for 2030 mandated by SB 32. There are no other feasible mitigation measures available because the Proposed Project emphasizes development designed to reduce VMT and contains goals and policies aimed at minimizing VMT. Therefore, the impact would remain significant and unavoidable.

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

impact and inconsistency with the CAP would remain significant and unavoidable even after implementation of this mitigation measure.

## **5.4 Significant Irreversible Environmental Changes**

---

CEQA Guidelines require an EIR to consider whether “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” (CEQA Guidelines Section 15126.2(d)). “Nonrenewable resources” refers to the physical features of the natural environment, such as land or waterways, and resources that are renewable only over long time spans, such as soil productivity. A resource commitment is considered irretrievable when the use or consumption of the resource is neither renewable nor recoverable for use by future generations. Irreversible changes and irretrievable commitments of non-renewable resources anticipated by the Proposed Project include the following issues. The Proposed Project would involve two types of resources: (1) general industrial resources including fuels and construction materials; and (2) project-specific resources such as land, biotic, and cultural resources at the building sites.

### **COMMITMENT/CONSUMPTION OF NON-RENEWABLE RESOURCES**

Implementation of the Proposed Project could result in the long-term commitment of various resources to urban development. While the Proposed Project itself would not directly entitle or result in any new development, it is reasonably foreseeable that the Proposed Project, which acts as a blueprint for growth and development in the Planning Area over the next eight years, could result in significant irreversible impacts related to the commitment of non-renewable and/or slowly renewable natural and energy resources, such as:

- **Air Quality:** Increases in vehicle trips resulting from buildout of the Proposed Project would potentially contribute to long-term degradation of air quality and atmospheric conditions in the region. Technological improvements in automobiles, including the growth of the electric vehicle market share, may lower the rate of air quality degradation in the coming decades. Nonetheless, vehicle trips resulting from implementation of the Proposed Project could result in the irreversible consumption of nonrenewable energy resources, primarily in the form of fossil fuels, natural gas, and gasoline for non-electric automobiles and long-term degradation of air quality.
- **Water Consumption:** To the extent that the Proposed Project would accommodate new population, it would increase the demand for water and place a greater burden on water supply. While additional residents and workers would use more water, the Town is expected to have adequate water to meet demand in normal and wet years through 2040. Despite the change in demand resulting from the Proposed Project being marginal, the increase would represent an irreversible environmental change, as use of this resource would increase.
- **Energy Sources:** Residential developments use electricity, natural gas, and petroleum products for lighting, heating, and other indoor and outdoor power demands, while

automobiles use both oil and gas. New development anticipated by the Proposed Project would result in increased energy use for the operation of new buildings and for transportation. This new development would therefore result in an overall increased use of both renewable and nonrenewable energy resources. To the extent that new development uses more nonrenewable energy sources, this would represent an irreversible environmental change.

## **CONSTRUCTION-RELATED COMMITMENTS**

Irreversible environmental changes could also occur during the course of constructing development projects anticipated by the Proposed Project. New construction would result in the consumption of building materials (such as lumber, sand and gravel), natural gas, and electricity, water, and petroleum products to process, transport and build with these materials. Though it is possible for construction equipment to be fueled by renewable sources over the course of the Proposed Project buildout, the timing and availability of these energy sources is unknown. Construction equipment running on fossil fuels would be needed for excavation and the shipping of building materials. Due to the non-renewable or slowly renewable nature of these resources, this represents an irretrievable commitment of resources.

However, development allowed under the Proposed Project would not necessarily result in the inefficient or wasteful use of resources. Compliance with all applicable building codes would ensure that natural resources are conserved to the maximum extent feasible. It is possible that new technologies or systems will emerge, or become more cost-effective or user-friendly, to further reduce the reliance upon non-renewable natural resources. Nonetheless, future activities related to implementation of the Proposed Project could result in the irretrievable commitment of nonrenewable energy resources, primarily in the form of fossil fuels (including fuel oil), natural gas, and gasoline for automobiles and construction equipment.

## 6 List of Preparers

A list of contributing Town staff and consultant team members, their titles, and affiliations, is provided below.

### Fairfax

---

- Heather Abrams, Town Manager
- Jeffrey Beiswenger, Planning and Building Services Director
- Janet Coleson, Town Attorney
- Sarah Owsowitz, Of Counsel

### Consultants

---

#### Dyett and Bhatia

- Andrew Hill, Principal
- Clare Kucera, Associate
- Bryn McKillop, Planner
- Jason Castaneda, GIS Specialist
- Claire Villegas, Project Assistant
- Alyssa Plese, Project Assistant

#### Charles Salter Associates

- Jeremy Decker, PE, Vice President

#### Fehr & Peers

- Bob Grandy, Principal
- Jess Sandoval, GIS Specialist



**DYETT & BHATIA**  
Urban and Regional Planners