

EIR a detailed explanation of how the document reflects particular items of input received through scoping.

Response M-9: The commentor provided the following comment on the Draft EIR:

008 If the City Council approves the proposed Project, that decision can be appealed to the California Coastal Commission. Similarly, if the City Council denies the proposed Project, that decision can be appealed to the California Coastal Commission. Under either such scenario, the California Coastal Commission would become the final decisionmaker on the Project.

This is not accurate because this project is not appealable to the Coastal Commission.

1.5 ORGANIZATION AND SCOPE

Sections 15122 through 15132 of the State CEQA Guidelines identify the content requirements for Draft and Final EIRs. An EIR must include a description of the environmental setting, an environmental impact analysis, mitigation measures, alternatives, growth-inducing impacts, and cumulative impacts. Section 15128 provides that “[a]n EIR shall contain a statement briefly indicating the reasons that various possible significant effects of a project were determined not to be significant and were therefore not discussed in detail in the EIR. Such a statement may be contained in an attached copy of an Initial Study.” This EIR satisfies section 15128 in part through reliance on a detailed Initial Study, which is included as Appendix A to this Draft EIR.

EIRs for certain kinds of projects, as set forth in CEQA Guidelines section 15127, must discuss significant irreversible environmental changes. These projects include those involving (i) the adoption, amendment, or enactment of a plan, policy, or ordinance of a public agency, (ii) the adoption by a Local Agency Formation Commission of a resolution making determinations, or (iii) the parallel preparation of an environmental impact statement under the federal National Environmental Policy Act. Here, the proposed Project does not fall into one of those categories, meaning that this EIR is not required to address significant irreversible environmental changes. Even so, the City has opted, on a voluntary basis, to address that topic, as it may be of interest to members of the public.

Discussion of the environmental issues addressed in the Draft EIR was established through the following: review of environmental and planning documentation developed for the proposed Project prior to the original approval of the Project based on a Mitigated Negative Declaration in

The information in the Draft EIR is correct. The proposed Project is appealable to the California Coastal Commission because it is within 300 feet of what is considered a coastal bluff.

Response M-10: The commentor provided the following comment on the Draft EIR:

1.6 COMMENTS RECEIVED ON THE NOTICE OF PREPARATION

The City of Fort Bragg received six written comment letters on the NOP for the proposed Project. A copy of the letters is provided in Appendix A of this Draft EIR. The commenting agency/citizen is provided below. **Note: there were also oral comments submitted at the scoping meeting on**

June 7, 2022, which are not reflected here. 009

- California Department of Toxic Substances Control (June 17, 2022);
- Jacob Patterson (June 14, 2022);
- Janet Kabel (May 19, 2022);
- Leslie Kashiwada (June 20, 2022);
- Renz Martin (June 18, 2022);
- Sherwood Valley Band of Pomo Indians (June 1, 2022).

010 This list appears incomplete and should be updated to include submitted comments on the NOP that are not currently listed, including additional comments submitted by some of the listed parties, including but not limited to a June 8, 2022 email comment from Jacob Patterson.

Draft Environmental Impact Report – Best Development Grocery Outlet

1.0-7

See Response M-8. Both of the commenter's letters were received and are included in Appendix A of the Draft EIR. Chapter 1.0, Introduction, of the Draft EIR was revised to include the commenter's second comment letter date.

Response M-11: The commentor provided the following comment on the Draft EIR:

Building Architecture and Signage

The proposed Project would include 51,650 sf (1.18 acres) of hardscape areas that would be covered with the proposed store, parking lot, accessways or sidewalks, and driveways. As shown in Figure 2.0-5, the retail building would be located in the northern portion of the site with parking in the south portion.

The retail grocery store would be a maximum of 28 feet tall at the top of the proposed canopy and a maximum of 23 feet tall at the top of the proposed parapet. The proposed building includes differentiated treatments along the base, mid-section, and top along the three facades facing public streets. Windows would remain clear glass for lighting a view out, and the roofline on the corner cut-off entrance is also unique to the other rooflines for additional visual interest. The building will be composed of elements and details representative of Fort Bragg's architectural heritage, as the Applicant's chosen design elements were influenced by Fort Bragg's downtown architecture. The window and door treatments give homage to the smaller shops along the main downtown street's detailing as well as the Hardie Board (wood composite) wood paneling, masonry, and providing a variety of the materials on the elevations to add visual interest. Rooflines of the building would align with buildings on adjacent properties to avoid clashes in building height. Architectural perspectives of the proposed building are shown in Figure 2.0-6.

011 This is not justified and is merely an unsupported opinion concerning how "representative" the architecture will be.

The proposed Project would include the installation of a six-foot-tall illuminated monument sign on the southeast corner of the site. The monument sign would have 15 sf of branding on each side, in addition to the unbranded base. Additionally, an 83.3-sf illuminated channel sign would be located on the sign parapet along the front elevation of the building.

All exterior lighting would be limited to a maximum height of 18 feet and utilize energy-efficient fixtures and lamps. No permanently installed lighting would blink, flash, or be of unusually high intensity or brightness. Exterior lighting would be shielded or recessed and directed downward and away from adjoining properties and public right-of-way to reduce light bleed so that no on-site light fixture directly illuminates an area off-site, in compliance with regulations set by the International Dark-Sky Association.

Landscaping

012 Currently, four ornamental trees are located in the northwestern portion of the Project site, and additional ornamental trees are located along the South Street frontage. It is possible that the existing

The sentence regarding architectural elements was revised in Chapter 2.0 of the Draft EIR. See Chapter 3.0, Revisions, of this Final EIR for the revision.

Response M-12: The commentor provided the following comment on the Draft EIR:

2.0 PROJECT DESCRIPTION

- 012 Tree removal is a concern and is inconsistent with the discussion during the prior related review. trees could be preserved as part of the proposed landscaping plan; however, it is likely that tree removal in some capacity would be required. Proposed landscaping includes trees and vegetation along the property boundaries within the proposed parking lot. Trees would be planted primarily along the north, south, and east boundaries, with a few along the west boundary, as well as one tree within each of the parking lot landscaping islands. Approximately 19,265 sf (0.44 acres) of the site would be landscaped and permeable to stormwater as the proposed Project would be designed to capture stormwater and pre-treat it on-site to remove dirt, oil, and heavy metals using bioretention basins located along the northwest and southwest boundaries. The proposed landscaping plan would comply with the Model Water Efficient Landscape Ordinance (MWEL0). The MWEL0 is also referenced by Title 24, Part 11, of the CalGreen Building Code. The purpose of MWEL0 is not only to increase water efficiency but to improve environmental conditions in the built environment. Landscaping should be valued beyond the aesthetic because landscapes replace habitat lost to development and provide many other related benefits such as improvements to public health and quality of life, climate change mitigation, energy and materials conservation, and increased property values.

CIRCULATION, TRANSPORTATION, AND PARKING

Currently, the site is accessed on the north end via a paved entrance to South Street. There is an existing dirt driveway that runs across the southern parcel from S. Franklin Street to N. Harbor Drive. The proposed Project includes the construction of a new, 30-foot-wide entrance on N. Harbor Drive and a 35-foot entrance on S. Franklin Street. The existing driveway on the north end of the site would be removed as part of the Project. Additionally, the proposed Project will include an internal system of walkways and crosswalks to provide pedestrian connectivity between the parking lot, building, and sidewalk. The pedestrian improvements would be Americans with Disabilities Act (ADA)-compliant. A sidewalk would be constructed along the South Street, S. Franklin Street, and N. Harbor Drive frontages, as required by City standards and to provide pedestrian access around the Site. Where required, existing sidewalks would be upgraded to meet City standards.

As part of the proposed Project, a parking area with 53 parking spaces would be constructed on the south side of the Grocery Outlet building including two RV spaces on the western side of the lot and one motorcycle parking space. Four electric vehicle parking stalls will be provided with the required wiring for charging facilities to be installed in the future. Additionally, six clean air vehicle priority parking spots will be provided. Further, an internal system of walkways and crosswalks would be provided, as well as two bicycle parking racks. The site plans do not show this internal system of walkways and the proposed

013 parking area layout is inconsistent with the Citywide Design Guidelines.

With respect to tree removal, the discussion in question is accurate. Tree removal may be required in some capacity. The trees being considered for removal are “ornamental” and not protected species; therefore, their removal does not present a significant impact to biological resources under CEQA. Likewise, removal of these trees will not significantly impact aesthetics as they are “not part of the natural scenic landscape” and will be replaced “with landscaping selected for the local climate, including the planting of 37 new trees.” Notwithstanding, the Draft EIR states that it may be possible that these trees can be preserved.

With respect to the walkways and crosswalks, these features are shown in the site plan (Figure 2.0-5). The site plan shows an internal system of walkways and crosswalks.

As noted on page 2.0-6, the proposed Project will be subject to Design Review. The Design Review will include a review of the proposed site plans as they relate to the Citywide Design Guidelines requirements. As discussed in the Draft EIR, the

Project is subject to the mandatory provisions of the City's Design Guidelines. The aesthetic impacts of the proposed Project have already been analyzed in the EIR. While not a CEQA issue, City staff's analysis of the Project against the mandatory guidelines is included as new Appendix E of this Final EIR. The analysis includes conditions to ensure compliance where required.

Response M-13: The commentor provided the following comment on the Draft EIR:

PROJECT DESCRIPTION

2.0

- 014 (2) Developments approved by the local government not included within paragraph (1) that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff.
- Neither of these conditions appear to apply to this project so it does not appear to be appealable to the CCC.
- Although the proposed Project is subject to water quality regulations and general permits put in place by state and federal agencies, no state or federal approvals are required in order for site construction to proceed. Construction activities for the proposed Project will be subject to the requirements of General Construction Activity Stormwater Permit (Construction General Permit Order 2009-0009-DWQ, also known as the CGP), issued by the State Water Resources Control Board. This General Permit requires operators of construction sites to implement stormwater controls and develop a Stormwater Pollution

The information in the Draft EIR is correct. The proposed Project is appealable to the California Coastal Commission because it is within 300 feet of what is considered a coastal bluff.

Response M-14: The commentor provided the following comment on the Draft EIR:

- 015 **Policy CD-1.1** Visual Resources: Permitted development shall be designed and sited to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural landforms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance scenic views in visually degraded areas.
- Yet this project is sited to block the only existing views of the ocean through the site!
- Policy CD-1.4** New development shall be sited and designed to minimize adverse impacts on scenic areas visible from scenic roads or public viewing areas to the maximum feasible extent.
- Policy CD-1.5** All new development shall be sited and designed to minimize alteration of natural landforms by:

1. Conforming to the natural topography.

A consistency analysis with the applicable General Plan Policies is included in Table 3.5-1 in Section 3.5, Land Use, of the Draft EIR. As discussed, the proposed Project is consistent with Policy CD-1.1. The Project site is not located "along the ocean" or within a "scenic coastal area" within the meaning of Policy CD 1.1, as the site is on the landward side of Highway 1, and there is intervening commercial development between the site and Highway 1. The proposed Project is replacing an existing structure with one of approximately the same size. Current views from

the middle and southern portions of the Project site are limited by the adjacent two-story motel adjacent west of the site, which is the direction in which the Pacific Ocean and landscapes immediately adjacent to the coast are located. Although the proposed structure will block an existing view of the ocean from the far northern portion of the Project site, that view is not easily discernable by pedestrians and is interrupted by two large trees and a Chevron Station and an intervening vacant legal lot between the Project site and that Chevron Station. This vacant lot could be developed under existing conditions, and a new structure could completely block the existing interrupted view of the Chevron Station and ocean. As discussed in Section I, Aesthetics and Visual Resources, of the Initial Study, the proposed development is compatible with the character of surrounding areas. The proposed Project would include redevelopment of the Project site in order to replace a 16,436-sf vacant former office building with a 16,157-sf Grocery Outlet (retail grocery store) with associated improvements on the Project site. The retail grocery store would be a maximum of 28 feet tall at the top of the proposed canopy and a maximum of 23 feet tall at the top of the proposed parapet.

Response M-15: The commentor provided the following comment on the Draft EIR:

3.1.3 IMPACTS AND MITIGATION MEASURES

THRESHOLDS OF SIGNIFICANCE

Consistent with Appendix G of the CEQA Guidelines, the proposed Project will have a significant impact on aesthetics if it will:

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

None of these checklist questions serve as thresholds of significance, which are completely lacking for aesthetic impacts.

IMPACTS AND MITIGATION MEASURES

Impact 3.1-1: Project implementation would not result in substantial adverse effects on a scenic vista (Less than Significant)

The Project would not have a substantial adverse effect on a scenic vista. Per Map CD-1 of the City's Community Design Element of the Coastal General Plan, the proposed Project is not located in an area designated as having "potential scenic views toward the ocean or the Noyo River".

The northernmost portion of the project site includes views TO the ocean, which is distinct from "along"
The Project site is not located "along the ocean" or within a "scenic coastal area" within the meaning of Coastal General Plan Policy CD 1.1, which provides that "[p]ermitted development shall be designed and sited to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural landforms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance scenic views in visually degraded areas." Rather, the Project site is located on the landward side of State Highway 1, and there is intervening visually obtrusive commercial development between the site and State Highway 1.

The proposed Project would replace an existing structure with one of approximately the same size. The proposed retail store would occupy a similar location to the existing structure on the northern portion of the Project site, where views looking to the west toward the Pacific Ocean are blocked by the existing Super 8 hotel, west of the Project site, which is the direction in which the Pacific Ocean and landscapes immediately adjacent to the coast are located. There are limited views of the Pacific Ocean through the Project site from S. Franklin Street along the north boundary as these views

This is false, the new building is further to the north and thereby would block the existing views to the ocean!

3.1-6 Draft Environmental Impact Report – Best Development Grocery Outlet

To determine whether an impact to a scenic vista will be substantial, the Draft EIR used consistency with General Plan provisions and policies related to scenic and/or protected views as criteria. This approach is common and acceptable. "An agency has considerable discretion to decide the manner of the discussion of potentially significant effects in an EIR." (Sierra Club v. County of Fresno (2018) 6 Cal.5th 502, 515 (County of Fresno).) The ultimate question is whether substantial evidence supports the analysis and conclusions reached in an EIR. (Ibid.) Here, it does, and the commenter presents no evidence to the contrary.

The Draft EIR explains in detail why the proposed Project does not conflict with these provisions and policies that the City has formally adopted for planning development in this developed area, and then reasonably interprets them for this purpose. In doing so, for the existing development on the Project site and in the vicinity of the Project site has been accounted for. The determination that aesthetic impacts will be less than significant is consistent with the general principle that the aesthetic impacts of a new “building in a highly developed area” normally should not be found to be significant. (See, e.g., *Bowman v. City of Berkeley* (2004) 122 Cal.App.4th 572, 592.)

The Project would include redevelopment of an infill site. This physical context is an important consideration. As noted previously in Response M-5, “[a]n ironclad definition of significant effect is not always possible because the significance of an activity may vary with the setting. For example, an activity which may not be significant in an urban area may be significant in a rural area.” (Guidelines, § 15064, subd. (b)(1).) Given the infill nature of the proposed Project, an interpretation or application of CEQA leading to a reduction in proposed building intensity would be environmentally counterproductive. As noted earlier, the proposed 16,157 sf Project, if approved, would result in a net reduction of 279 square feet of physical space compared with the existing 16,436-sf structure on the site. If this net reduction in building intensity were to be characterized as resulting a significant aesthetic effect requiring feasible mitigation in the form of a reduction in size, such an outcome would undermine the City’s efforts to facilitate infill development, with its attendant long-term environmental benefits.

Here, CEQA was construed and applied in a holistic way that considered the aesthetic impact of a modest infill project on a developed site within a larger environmental context. Accordingly, the Draft EIR reasonably found this potential impact to be less than significant.

With respect to Comments 016 and 017, a recurring theme in the commenter’s comments is that the City erred in using thresholds of significance that are derived from language found in the sample Initial Study checklist found in Appendix G to the CEQA Guidelines. The commenter cites no legal support for his criticism, however, and none exists. The City acted within its discretion, and followed a very common practice, in adopting language from Appendix G for this purpose. “CEQA grants agencies discretion to develop their own thresholds of significance.” (*Save Cuyama Valley v. County of Santa Barbara* (2013) 213 Cal.App.4th 1059, 1068 (*Save Cuyama*), citing Guidelines, § 15064, subd. (d)).)

Where an agency wants to formally adopt significance thresholds for general use, each threshold should be “an identifiable quantitative, qualitative or performance level of a particular environmental effect, noncompliance with which means the effect will normally be determined to be significant by the agency and compliance with which means the effect normally will be determined

to be less than significant.” (Guidelines, § 15064.7, subd. (a).) Hence, thresholds need not always be quantitative. Qualitative thresholds are perfectly proper and are commonly used by lead agencies for a variety of resource areas. Not every impact analysis (e.g., aesthetics) lends itself to quantitative analysis.

Additionally, the practice of using thresholds of significance derived from language in the Guidelines Appendix G is common and proper. The language is easily adaptable for such a purpose in that it poses questions about the nature, kind, and extent of potential impacts to various environmental resources. Further, the questions reflect the interface between CEQA and other environmental laws governing subjects such as air and water quality, biological resources, cultural resources, climate change, hazards and hazardous materials, local land use planning, housing, transportation, water supply planning, and the like. The questions also reflect input given to the California Natural Resources Agency (CNRA) from state agencies such as the Air Resources Board and the Department of Fish and Wildlife and from leading CEQA practitioners and technical experts.

Further, the CNRA has fashioned the language and questions found in Appendix G in order to focus CEQA lead agencies on particular aspects of particular topics. Thus, Appendix G itself instructs that “lead agencies should normally address the questions from this checklist that are relevant to a project’s environmental effects in whatever format is selected.” (Guidelines, appendix G, Evaluation of Environmental Impacts)

As stated in page 3.1-6 of Section 3.1 of the Draft EIR, the City’s Community Design Element does not define the Project site as having potential scenic views toward the ocean or the Noyo River.

With respect to the final comment, the Draft EIR states that the location of the existing and proposed structures is similar, not identical. This is true and correct.

Response M-16:

The commentor provided the following comment on the Draft EIR:

AESTHETICS AND VISUAL RESOURCES

3.1

extend through numerous parcels, including an existing Chevron gas station and the undeveloped Mill Project site to the west of State Highway 1. **These views are interrupted by two large trees, which substantially obscure pedestrians' and drivers' views of the ocean.** The 'keyhole' view is also dependent on the future development patterns of these sites. The vacant Mill Project site could be developed under existing zoning, and a new structure could completely block the existing interrupted view of the Chevron Station and ocean.

017 **These hypothetical future view-blocking developments are too speculative and don't reflect the actual baseline conditions.**

The market's public entrance would face South Franklin Street mid-block. The proposed building parapet height would be approximately 24 feet above sidewalk level on the south side and just over 25 feet at the north side due to the lower sidewalk elevation on the north side. The proposed building setback from South Street is 18 feet and 7 inches from the property line. The proposed building setback from South Franklin Street is 10 feet. The West side of the building adjacent to the motel would be setback 24 feet and 1 inch, which is in excess of the required 20 feet setback. A mature cypress tree along the West site boundary would be protected during construction and retained.

018 **There is not a Taco Bell at this location.**

There are currently vacant parcels across the street to the north and the east. There is also a vacant parcel between the Chevron/**Taco Bell** and the site. The surrounding neighborhood land uses include Highway Visitor Commercial to the west and south, General Commercial to the north and east, and Office Commercial to the Northeast. One block further to the east is Low Density Residential, and High Density Residential uses are located four blocks to the east.

016 **This is false, the trees only block views of the sky not views of the ocean from a pedestrian or vehicular vantage point.**

The Draft EIR determined that the proposed Project would not result in a substantial adverse impact on a coastal scenic vista because, first and foremost, the Project site is not located "along the ocean" or within a "scenic coastal area" within the meaning of Coastal General Plan Policy CD-1.1. Therefore, the proposed Project cannot have an impact on coast views. The Draft EIR then went beyond this conclusion and looked more into the proposed Project's consistency with Coastal General Plan Policy CD-1.1, which provides, in full:

Permitted development shall be designed and sited to protect views to and along the ocean and scenic coastal areas, to minimize the alternation of natural landforms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance views in visually degraded areas.

To further demonstrate the proposed Project's consistency with this policy, the City reasonably interpreted and applied the policy. More specifically, the City considered the facts along with the plain language in Policy CD-1.1 and reasonably determined, as mentioned above, that the Project site is "not located 'along the ocean' or within a 'scenic coastal area' within the meaning of Policy CD[-]1.1, as the site is on the landward side of Highway 1, and there is intervening commercial development between the site and Highway 1." (Draft EIR, p. 3.5-22.) Thereby, "views...along the ocean and scenic coastal areas" would not be impacted by the proposed Project. (Ibid. [quoting Policy CD-1.1].)

The City then reasonably determined that, because the proposed Project “is replacing an existing structure with one of the approximate same size,” and because other nearby structures already obstruct the ocean view from “the middle and southern portions of the project site,” these supposed views “to” the ocean would not be impacted by the proposed Project because they are already obstructed. (Draft EIR, p. 3.5-22.) The City further reasonably determined that the other “existing view of the ocean from the far northern portion of the site” would not be impacted because, for one, it “is not easily discernible by pedestrians and is interrupted by two large trees and a Chevron Station and intervening vacant lot between the Project site and Chevron Station and the ocean.” (Ibid.; see also Draft EIR, Figure 3.1-4.) This limited view is “not easily discernible,” in large part, because of the distance, development, and climate—the ocean is more than a quarter of a mile away, is continuously obstructed by layers of trees and the Chevron gas station (ibid.), and is often shrouded in marine layer (id., p. 3.2-1 – 3.2-2).

It is also a fleeting view. Currently, this view from the north of the Project site is only available to a passerby along a maximum 40-foot stretch of S. Franklin Street, through one of the existing access points. (See Draft EIR, p. 3.1-19 [Figure 3.1-4].) The remainder of any potential ocean view is nearly completely blocked by existing onsite shrubbery and development. (Ibid.) Further, a large portion of a passerby driving in a vehicle, given both the overall commercial/office development in the surrounding area and the fact that this stretch of S. Franklin connects N. Harbor Drive to South Street and to the other side of S. Franklin (both of which are commercial/office corridors), thus making that 40-foot view even more fleeting.

This specific view also is not easily discernible because, as discussed on page 3.1-7 of the Draft EIR, two large trees on the northwest border of the Project site substantially obscure pedestrians’ and drivers’ views of the ocean. The trunk of the southern-most tree directly blocks a portion of the distant ocean view from ground level. The trunk of the northern-most tree does not block as much of the distant ocean view because that supposed view is already blocked by the Chevron gas station building. These visual interferences (trees and the gas station) reduce the already fleeting view by, probably, 15 to 20 feet, making the 40-foot viewpoint along S. Franklin Street even more fleeting, at between 20 to 25 feet. This viewpoint shrinks even further when vehicles are lined up at the gas pumps and further blocking any view, which one safely assumes occurs consistently throughout the day.

The City also concluded that the vacant lot directly west, in between the Project site and the Chevron station, could be developed with a sizable commercial structure, which would then “completely block the existing interrupted view of the Chevron Station and ocean.” (Draft EIR, p. 3.1-7.) The City’s conclusion about

the development potential is reasonable and not overly speculative given the type of commercial developments immediately adjacent to this vacant parcel (gas station, motel, pizza restaurant) and given that a comparable development is allowed by-right under existing land use designation and zoning. To be sure, the City has carefully planned for this exact type of “future growth and development,” inclusive of “[c]ommercial land uses...along Franklin Street corridor[,]” in its General Plan and set its policies accordingly to “support a concentrated development pattern by encouraging infill development on vacant and underutilized sites throughout the City.” (Coastal General Plan, Element 2 - Land Use, p. 2-1 [Purpose]; see also p. 2-18 [Policy LU-1.1, “Implement the Land Use Designations Map by approving development...consistent with the land use designations”].)

Additionally, the City is entitled to deference with respect to its interpretation of its General Plan and other City enactments. “It is well settled that [an agency] is entitled to considerable deference in the interpretation of its own General Plan.” (Gray v. County of Madera (2008) 167 Cal.App.4th 1099, 1129-1130; see also Friends of Davis v. City of Davis (2000) 83 Cal.App.4th 1004, 1015 [“an agency’s view of the meaning and scope of its own ordinance is entitled to great weight”].) “A reviewing court accords ‘great deference’ to an agency’s determination that a project is consistent with its own general plan, recognizing that ‘the body which adopted the general plan policies in its legislative capacity has unique competence to interpret those policies when applying them in its adjudicatory capacity.’” (San Diego Citizenry Group v. County of San Diego (2013) 219 Cal.App.4th 1, 26; see also Pfeiffer v. City of Sunnyvale City Council (2011) 200 Cal.App.4th 1552, 1563.)

More to the point, the courts have recognized that modest degradations of the visual environment can reasonably be found to be less than significant. (See, e.g., North Coast, supra, 216 Cal.App.4th at pp. 627–628 [the fact that a large new water tank on a hillside would be visible to the public did not render the visual impact significant]; Clover Valley Foundation v. City of Rocklin (2011) 197 Cal.App.4th 200, 243-244 [visual impact was less than significant despite acknowledgement in the EIR that “the visual character of the site would undergo a ‘high level’ of change”].)

Importantly, much of the City’s analysis in this context goes to the meaning of the City’s own policies and thus has nothing to do with CEQA. CEQA principles such as “baseline” have no place in a city’s interpretation of its own general plan, which is subject to broader principles of construction that recognize the need for reviewing courts to give deference to agencies’ interpretations of their own enactments. Where general plan interpretation is concerned, the primary guiding principle is one of reasonableness. (See, e.g., No Oil, supra, 196 Cal.App.3d at p. 243.) Here, the City is assessing the consistency of the proposed Project with

Policy CD-1.1. As part of that assessment, the City has reasonably taken into account the planned development, allowed by right, of the undeveloped lot west of the Project site. There is nothing arbitrary or irrational about this approach to interpreting and applying Policy CD-1.1.

The City appropriately interpreted Policy CD-1.1, based on the policy's plain language and the specific facts associated with the proposed Project, and "in light of the [General Plan's] purposes," and ultimately concluded that the proposed Project does not conflict with this policy. (Endangered Habitats League, *supra*, 131 Cal.App.4th at p. 782.) Only if "no reasonable person could have reached the same conclusion on the evidence before it" do "an agency's factual findings of consistency" lose deference. (*Ibid.*) The City's interpretation is thoughtful and reasonable, evidenced by the fact that several reasonable and qualified City staffers and consultants reached the same conclusion.

The sentence in Section 3.1 regarding the vacant Mill Project Site is phrased in such a way that implies the site *could* be developed under existing zoning. This discussion does not speculate about development, it merely states that the current land use and zoning *could* result in development of the site. Additionally, as discussed on page 3.1-5 of Section 3.1, of the Draft EIR, in 2019, the Planning Commission considered revisions to the Citywide Design Guidelines at three public meetings related to reuse of the former Mill Site. As such, the City has discussed the potential development of the Mill Site in the recent past, and future development of the site *could* occur. Although no plans to develop the Mill Site currently exist, a new structure could completely block the existing interrupted view of the Chevron Station and ocean if the Mill Site is developed in the future. It is noted that, regardless, the conclusion does not hinge on this fact alone.

Regardless of the above, for clarification purposes, the sentences regarding Taco Bell and the two large trees in question were revised in Section 3.1 of the Draft EIR. Additionally, clarifying text regarding the Mill Site was also added. See Chapter 3.0, Revisions, of this Final EIR for the revisions.

Response M-17: The commentor provided the following comment on the Draft EIR:

Consistent with the General Plan, the immediate neighborhood is zoned for commercial uses and may be developed at a similar height over time. The proposed building is slightly shorter in height than the existing building. As noted above, the proposed building parapet height would be approximately 24 feet above sidewalk level on the south side and just over 25 feet at the north side due to the lower sidewalk elevation on the north side. The buildings in the Project area are one to two stories in height. **Similar size buildings could be developed across South Street and South Franklin Street on the currently vacant lots in the future that would balance the building massing along the streets.** This would have the effect of giving stronger visual definition to the street and the intersection. Additionally, planting street trees at regular intervals on both sides of the streets is a cost-effective visual intervention. Street trees that are spaced regularly on both sides of the street increasingly contribute to the sense of visual enclosure and affect the aspect ratio and visual definition as they mature. **Irrelevant: no street trees are proposed as part of this project!**

019
This is not accurate and those vacant lots are too small to accommodate a similar sized building.

020
The proposed Grocery Outlet building would provide architectural interest at street level and would not present blank facades to any public way. The market has architectural design elements that wrap around the building on four sides. There would be strong visual connection between private and public space because of the placement of large windows, whether true or faux, landscaping design, trellis at the entry and building entrance facing the street with good pedestrian access from the sidewalk. Generally, windows, false windows, and balconies on facades facing the public way help create the perception that someone could appear to look out on the street and support a perceived sense of “eyes on the street” increasing a feeling of security in the neighborhood.

The proposed project and neighborhood context were studied with the goal of representing typical daytime visual experiences of neighbors, community members and visitors to the area. Nine camera locations were photographed, considered, and narrowed down to four views from which to create the visual simulations. Visual simulations of the proposed grocery store are shown in Figures 3.1-1 through 3.1-4.

View A: View A was photographed from in front of the Harbor Lite Lodge looking North. The building would be set back from North Harbor Drive, further than the existing structure. The parking lot would be visually prominent. A continuous hedge is shown on the site plan, which would function as a parking lot screen. Pylon signage, typical for Grocery Outlet, is absent in the design to respect local preferences. The building entry would be easy to identify because of the hip roof, the trellis, and the angled nature to the street. Building articulation on the south and east façades helps to establish human scale appropriate for Fort Bragg. **How? These conclusions are not explained.** 021

View B: View B was photographed from in front of the County Social Services site as shown on the key map on the exhibit. Façade articulation establishes a human scale and visual interest at

3.1-8 Draft Environmental Impact Report – Best Development Grocery Outlet

With respect to Comment 019 regarding the vacant lots, the Draft EIR discusses these vacant lots on South Street (north of the Project site) and S. Franklin Street (east of the Project site) in the context of the area’s zoning for commercial uses. While both vacant lots are smaller in size than the Project site and differently shaped, they could still be developed by-right with commercial structures that are similar in size as the proposed Project. For example, these vacant lots could be developed with buildings that have more than one level (such as the Seabird Lodge, located adjacent to the vacant lot on South Street), resulting in square footage comparable to that of the proposed structure. See Draft EIR, p. 3.1-8 (“buildings in the Project area are one to two stories in height”). A building need

not be the same exact dimensions as another to be considered the same overall size.

Notwithstanding, even if these lots are developable only with buildings smaller than the proposed structure, such a possibility does not undermine or alter the Draft EIR's conclusion that the proposed Project will "fit the surrounding neighborhood environment", as stated on page 3.1-7 of the Draft EIR. As is stated in the Project Description chapter, "[t]he Project site is located immediately adjacent to commercial developments to the north, south, and west, and approximately 500 feet north of the Noyo River. Current businesses adjacent to the western site boundary include Super 8, Mountain Mike's Pizza, and a Chevron station. The Seabird Lodge is across South Street to the north of the Project site, and the Harbor Lite Lodge is located across North Harbor Drive to the south of the Project site." (Id. At pp. 2.0-1 – 2.0-2.)

Regardless, the sentence regarding development of the vacant parcels to the north and east was revised in Section 3.1 of the Draft EIR. See Chapter 3.0, Revisions, of this Final EIR for the revisions.

Street trees are proposed as part of this Project. The proposed landscaping is summarized on pages 2.0-3 and 2.0-4 of Chapter 2.0, Project Description of the Draft EIR. The proposed Project will include "trees and vegetation along the property boundaries within the proposed parking lot" with trees "planted primarily along the north, south, and east boundaries, with a few along the west boundary." (Draft EIR, p. 2.0-4.) Trees planted along the north boundary will run parallel with South Street and trees planted along the east boundary will run parallel with S. Franklin Street. These trees will indeed be planted near the street and will enhance the aesthetic value of the Project site and its surrounding area. Therefore, it is relevant to discuss these trees in this context.

It is widely accepted in the planning industry that building articulations along building facades establish human scale. The City's Citywide Design Guidelines reference avoidance of boxy and monotonous facades which lack human scale dimensions and have large expanses of flat blank wall planes visible to the public.

Response M-18: The commentor provided the following comment on the Draft EIR:

View D: View D was photographed from across the street from the existing driveway on South Franklin Street. This view was chosen to show the visibility of the horizon over the ocean when viewed across the existing onsite parking area and the Chevron site looking West. The simulation was done at a 5.5 feet eye height. The horizon over the ocean is just visible between the existing building and the cypress tree just above the distant fence line. Thus the existing views to and

CONCLUSIONS

022 of the ocean are not obstructed by the existing trees in any way!

Clear design effort was made to minimize the visual impact of the proposed grocery store building in the current setting through the use of exterior materials variation, large windows on three sides, significant use of architectural detail and building envelope articulation, and the absence of large scale signage. Site organization would place the most active sides of the market furthest from the residential areas.

The proposed Project would be subject to the policies and goals of the Fort Bragg General Plan, Citywide Design Guidelines, as well as the City's Standards for all Development and Land Uses outlined in Chapter 17.30 of the Municipal Code. The Citywide Design Guidelines complement the standards contained in the City of Fort Bragg Inland Land Use and Development Code, and the Coastal Land Use and Development Code by providing good examples of appropriate design solutions, and by providing design interpretations of the various regulations. Chapter 17.30, Standards for all Development and Land Uses, of the City's Coastal Land Use and Development Code expands upon the zoning district development standards of Article 2 by addressing additional details of site planning, project design, and the operation of land uses. The intent of these standards is to ensure that proposed development is compatible with existing and future development on neighboring properties, and produces an environment of stable and desirable character, consistent with the General Plan, Local Coastal Program, and any applicable specific plan.

While the proposed Project would permanently convert the developed site from a vacant building to a new grocery store building, the Project site is designated for and consistent with the use established by the General Plan for the site. Overall, this is considered a less than significant impact.

How is this conclusion justified? There is no threshold of significance included and no actual analysis of the potential significance of these impacts. This is mere unsupported assertion. Without applicable thresholds of significance and relevant analysis, this impact area remains potentially significant.

Draft Environmental Impact Report – Best Development Grocery Outlet

3.1-9

With respect to the View D discussion in question, the Draft EIR acknowledges that the proposed structure will block an existing view of the ocean from the far northern portion of the Project site. As discussed on page 3.5-22 of Section 3.5, Land Use, of the Draft EIR, "The Project is replacing an existing structure with one of approximately the same size. Current views from the middle and southern portions of the Project site are limited by the adjacent two-story motel adjacent west of the site, which is the direction in which the Pacific Ocean and landscapes immediately adjacent to the coast are located. Although the proposed structure will block an existing view of the ocean from the far northern portion of the Project site, that view is not easily discernable by pedestrians and is interrupted by two large trees and a Chevron Station and an intervening vacant legal lot between the Project site and that Chevron Station. This vacant lot could be developed under existing conditions, and a new structure could completely block the existing interrupted view of the Chevron Station and ocean. As discussed in

Section I, Aesthetics and Visual Resources, of the Initial Study, the proposed development is compatible with the character of surrounding areas. The proposed Project would include redevelopment of the Project site in order to replace a 16,436-sf vacant former office building with a 16,157-sf Grocery Outlet (retail grocery store) with associated improvements on the Project site. The retail grocery store would be a maximum of 28 feet tall at the top of the proposed canopy and a maximum of 23 feet tall at the top of the proposed parapet.”

The conclusion for Impact 3.1-1 is justified by the discussion on pages 3.1-6 through 3.1-9, and inclusion of the visual simulations discussed in this impact discussion.

Response M-19: The commentor provided the following comment on the Draft EIR:

As previously mentioned, the southern portion of the Project site is approximately one-third bare soil but is otherwise vegetated with annual grasses and forbs, with scattered shrubs. The northern portion is almost completely paved or developed with an existing structure; however, the northern property boundary has ornamental landscaping. The existing vegetation would be removed for the development of the new building, parking lot, and the Project site’s landscaping. The existing vegetation was likely planted as ornamental landscaping around the existing parking lot, and is not part of a natural scenic landscape. The replacement of the existing vegetation with landscaping selected for the local climate, including the planting of 37 new trees, would not be anticipated to damage any existing scenic resources on Project site, such as existing trees or rock outcroppings. **A less than significant impact would occur.** **024** How? This has the same issues as the prior impact area that also lacked applicable thresholds or any supporting analysis.

Impact 3.1-3: Project implementation would not conflict with an applicable zoning or other regulation governing scenic quality within an urbanized area. (Less than Significant)

The CEQA definition for an “Urbanized area” means a central city or a group of contiguous cities with a population of 50,000 or more, together with adjacent densely populated areas having a population density of at least 1,000 persons per square mile. In addition, to be considered an Urbanized area according to CEQA, projects must also be within the boundary of a map prepared by the U.S. Bureau of the Census which designates the area as urbanized area. The Census Bureau identifies two types of urban areas: (1) Urbanized Areas (UAs) of 50,000 or more people; and (2) Urban Clusters (UCs) of at least 2,500 and less than 50,000 people. According to the U.S. Bureau of the Census, the City of Fort Bragg, which includes the Project site, is mapped and designated as an Urbanized Cluster. Therefore, the Project site is located in an urbanized area.

025 The proposed Project would replace an existing structure with one of approximately the same size. While development of the proposed Project would change and alter the existing visual character of the Project site, **these changes would not degrade the visual quality of the site or the surrounding**

Why not? This assertion is not supported by any analysis. Ocean views will be blocked degrading the existing aesthetics.

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The first portion of the comment pertains to Impact 3.1-2: Project implementation would not substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway. As stated on the onset of the analysis of this impact analysis, the “Project would be located on city streets and not along a highway.” (Draft EIR, p. 3.1-10.) Therefore, by definition, the proposed Project could not “substantially damage scenic resources...within a state scenic highway.” The Draft EIR goes on

to explain the Project site's distance from Highway 1 and the many structures and business that separate it from the highway, as well as the fact that neither "[n]either of the two highways near the Project site, State Highway 1 and State Highway 20, are [designated] state scenic highways." (Ibid.) As previously stated "[a]n agency has considerable discretion to decide the manner of the discussion of potentially significant effects in an EIR." (County of Fresno, *supra*, 6 Cal.5th at p. 515.) The language of Impact 3.1-2 presents a straightforward and commonplace threshold of significance (see Section I.C, *supra*) related to state scenic highways, and the Draft EIR thoroughly discusses and analyzes the potential impact, going above and beyond what is required by the threshold itself.

The second portion of the comment pertains to Impact 3.1-3. The statement in questions is supported by the discussion in Impacts 3.1-1 and 3.1-3. See also Response M-20.

Response M-20: The commentor provided the following comment on the Draft EIR:

AESTHETICS AND VISUAL RESOURCES

3.1

areas. The proposed building incorporates a mix of materials, architectural features, varied roof lines, building recesses and articulation which provide visual interest and maintain the City's urban character.

Various temporary visual impacts could occur as a result of construction activities as the Project develops, including grading, equipment and material storage, and staging. Though temporary, some of these impacts could last for several weeks or months during any single construction phase. The loss of existing landscaping and trees would also be a temporary impact until new landscaping matures. Because impacts would be temporary and viewer sensitivity in the majority of cases would be slight to moderate, significant impacts would not occur.

026 This conclusion is not justified. This project conflicts with policies regarding retaining existing trees, which is significant.

As previously mentioned, the proposed Project is not located in an area designated as having "potential scenic views toward the ocean or the Noyo River". The proposed retail store would occupy a location similar to that of the existing structure on the northern portion of the Project site, where views looking to the west toward the Pacific Ocean are blocked by the existing hotel, west of the Project site. Views to the Project site are currently dominated by the existing former office building and associated parking lot, which has been vacant since 2010. The southern portion of the Project site is partially bare, with vegetation consisting of grasses and forbs, with scattered shrubs. Existing views to the Project site are not characterized as scenic; therefore, the proposed Project is not anticipated to substantially degrade the existing visual character or quality of the public views of the Project site and its surroundings, as the height of the proposed retail store would be consistent with the Project site's existing development and would comply with all required development standards, including maximum building height. Although the Project site is located on urban and built-up land per the California Department of Conservation, the Project is not located in an "urbanized area," as defined by either Public Resources Code section 21071 or CEQA Guidelines section 15387.

027 The proposed Project would be consistent with the Fort Bragg Coastal General Plan, and would adhere to the requirements of the City's site plan and architectural approval process. Therefore, this is considered a *less than significant* impact.

This unsupported opinion is not justified because the project as proposed directly conflicts with several CGP policies.

The Project is consistent with the relevant General Plan policies adopted to avoid or mitigate an environmental effect. See Table 3.5-1 in Section 3.5, Land Use, of the Draft EIR. The commenter has not cited a specific General Plan policy or policies about retaining trees. However, Policy OS-5.2 states the following: "To the maximum extent feasible and balanced with permitted use, require that site planning, construction, and maintenance of development preserve existing healthy trees and native vegetation on the site." The proposed Project is consistent with this policy.

Response M-21: The commentor provided the following comment on the Draft EIR:

The proposed Project would be required to comply with the Citywide Design Guidelines and Section 17.38.060(H) of the Code governs sign lighting in order to minimize light and glare on surrounding rights-of-way and properties.

028 Overall, implementation of the proposed Project would have a *less than significant* impact relative to this topic. There is no basis for this asserted conclusion nor are there applicable thresholds of significance that are necessary to evaluate this impact area. The DEIR must be revised.

3.1-12 Draft Environmental Impact Report – Best Development Grocery Outlet

The discussion in question pertains to Impact 3.1-4, which pertains to light or glare. The conclusion is substantiated by the text in this impact discussion. The analysis is adequate and does not warrant revisions. Among other points, as discussed in Impact 3.1-4, to minimize potential impacts associated with light and glare on surrounding development, the proposed Project includes exterior lighting that would utilize energy-efficient fixtures and lamps, shielded or recessed, and directed downward in compliance with regulations set by the International Dark-Sky Association. Outdoor lighting would be installed in conformance with all City codes and ordinances, applicable safety and illumination requirements, and California Title 24 requirements. As noted previously in the Regulatory Setting, the classification for Title 24 lighting regulations is based on population figures of the 2010 Census. Areas can be designated as LZ1 (dark), LZ2 (rural), or LZ3 (urban). The Project site is located in zone LZ3. Additionally, the proposed Project would be subject to the 2022 Citywide Design Guidelines, which contain standards for lighting. The proposed Project would also be required to comply with Section 17.38.060(H) of the City Municipal Code governing sign lighting in order to minimize light and glare on surrounding rights-of-way and properties. Further, according to the Site Lighting Layout and associated illuminance analysis, proposed lighting would not penetrate into residential communities or adjacent properties. Through the design review and approval process, lighting proposed for the Project site will be reviewed to ensure spillover lighting onto adjacent properties will be minimized.

Response M-22: The commentor provided the following comment on the Draft EIR:

3.2 AIR QUALITY

specific questions related to air quality set forth in Appendix G, the proposed Project will have a significant impact on the environment associated with air quality if it will:

029

- Conflict with or obstruct implementation of the applicable air quality plan;
- Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is in non-attainment under an applicable federal or state ambient air quality standard;
- Expose sensitive receptors to substantial pollutant concentrations;
- Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people.

These are not the applicable thresholds from the MCAQMD, just the checklist questions.

As explained at length previously (see Response M-15, for example), thresholds based on questions included in the CEQA Guidelines (Appendix G) are acceptable for use in EIRs.

As discussed in Section 3.2, Air Quality, of the Draft EIR, the MCAQMD recommends that agencies use their adopted CEQA thresholds for projects in Mendocino County. The MCAQMD provides construction and operational-related criteria pollutant thresholds for projects in Mendocino County. The MCAQMD developed these Project-level thresholds based on the emissions that would exceed a CAAQS or contribute substantially to an existing or Projected violation of a CAAQS. Ambient levels of these criteria pollutants are likely to decrease in the future, based on current and future implementation of federal and/or state regulatory requirements, such as improvements to the statewide vehicle fleet over time (including the long-term replacement of internal combustion engine vehicles with electric vehicles in coming decades). The relevant thresholds for project-related construction and operation-related emissions, are as provided in Table 3.2-6 and Table 3.2-7, respectively. These MCAQMD thresholds were used to evaluate the operational-related Project-generated emissions. The operational emissions would not exceed any of the applicable MCAQMD criteria pollutant thresholds.

Response M-23: The commentor provided the following comment on the Draft EIR:

Field Survey (Wildland Resource Managers, 2019)

As part of the *Biological Review* completed for the Project (Wildland Resource Managers, August 2019), the Project site was visited by Wildland Resource Managers staff on August 9, 2019 for the purpose of assessing the site for biological features and any unique habitat features and/or the presence of any special-status plant or animal species.

During this survey, vegetative species present were identified along with an estimate of percentage cover of the site. Presence of animal species in the form of visual observation or other evidence were noted. An evening bat survey was run from 7:00 PM until dark by observing aerial activity around the Project site. However, this survey was severely hampered by a tremendous thunderstorm with heavy rain that rolled through the area at dusk making visual observations nearly impossible. Why was another survey not completed when thunderstorms didn't limit observability?

Wetland Survey and Testing (Wildland Resource Managers, 2021)

A *Wetland Report* (Wildland Resource Managers, March 2021) was completed for the Project site because the on-site soil is mapped as hydric. As part of the *Wetland Report*, the Project site was visited on the afternoon of March 15, 2021 by Wildland Resource Managers' principal biologist for the purpose of determining if wetlands, of any type, are present at the site. On that date, the weather was clear with a strong north wind blowing. Initial inspection of the parcel noted that there was no evidence of any wetland features but rather the site's vegetation consisted of annual grasses and forbs, lacking shrubs and or trees (see photo sections in the appendix of Appendix D of this Draft EIR).

To be certain that no wetland indicators were present, a systematic survey of the parcel was made following the Army Corp of Engineers (USACE) wetland determination data collection methodology and the definition of wetland boundaries contained in Section 13577 (b) of Title 14 of the California Code of Regulations (see the appendix of Appendix D). To do this, four test locations were selected to represent the general character of the parcel. One test location was placed within each quadrant of the parcel (northeast, northwest, southwest and southeast). At each location, data was collected within a one-meter square sample plot. At each plot the dominant vegetation was identified, soil structure and type were determined, and evidence of hydrology was examined. Soil structure was determined by excavating an 18 inch or greater deep hole and noting the soil profile description and

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Several other site surveys were in fact completed between 2019 and 2022. See pages 3.3-1 and 3.3-2 for discussions of the site surveys and conditions during those surveys. The more recent, 2022, survey completed by De Novo Planning Group was not hampered by weather.

Response M-24: The commentor provided the following comment on the Draft EIR:

Vegetation

031

The majority of the vegetation is limited to the southern-most parcel. Even here, vegetation is sparse and limited to approximately two-thirds of the property as the middle of the area is bare soil. Plant species identified in the southern parcel are listed in Table 3.3-1. All the plant species are associated with non-hydric soil conditions. The north parcel is well over 98 percent covered by a paved parking lot and portions of the vacant building. There is a row of planted shrubbery along the north side of the parking area that includes butterfly bushes, California rose, Himalayan blackberry, pampas grass, and four ornamental trees. Rhododendrons are also found on the east side of the existing building.

TABLE 3.3-1: PLANT SPECIES IDENTIFIED ON THE SOUTH PARCEL

COMMON NAME	SCIENTIFIC NAME	HYDROPHYTE?
Hairgrass	<i>Aira caryophylla</i>	No – Fac-Upland
sweet vernal grass	<i>Anthoxanthum odoratum</i>	No -Fac-Upland
capeweed	<i>Arctotheca calendula</i>	No -Upland
slender oats	<i>Avena barbata</i>	No - Upland
Quaking grass	<i>Briza minor</i>	No - Facultative
Ripgut brome	<i>Bromus diandrus</i>	No -Upland
Brome grass	<i>Bromus madritensis rubens</i>	No – Fac-Upland
Pampas grass	<i>Cortaderia selloana</i>	No – Fac-Upland
Cypress	<i>Cupressaceae spp.</i>	No -Upland
Wild rye	<i>Elymus glaucus</i>	No -Upland
California poppy	<i>Eschscholzia californica</i>	No -Upland

This is false. There are documented plants (in photos submitted as part of prior public comments during the prior entitlement review showing plants indicative of hydric soil conditions).

3.3-4

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The statement in question is not accurate as written and warrants revisions. The appropriate revisions are provided in Section 3.0, Revisions. For clarification, an upland plant (UPL) is defined as a plant that occurs almost always in non-wetlands (probability > 99%). These plants, however, may occur in wetlands at times for various reasons (probability <1%), nevertheless given this low probability they are considered an upland associate. A facultative upland plant (FacU) is defined as a plant that usually occurs in non-wetlands (probability 67-99%). These plants, however, occasionally are found in wetlands (probability 1%-33%), nevertheless given the low probability they are considered an upland associate. A facultative plant (Fac) is defined as a plant that is equally likely to occur in wetlands or non-wetlands (probability 34%-66%). There are two facultative plants that were found on the project site: quaking grass (*Briza minor*) and English plantain (*Plantago lanceolata*), which can be associated with upland or wetland habitat. See Section 3.0 for revisions to the text.

Response M-25: The commentor provided the following comment on the Draft EIR:

- 032

periwinkle	<i>Vinca major</i>	No -Upland
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SOURCE: DE NOVO PLANNING GROUP, 2022.
- Coast plantain, *Plantago elongata*, is also present and documented on the site, indicating hydric soils.
- Hydrology, Soils, and Wetland Features**
- During the March 29 and April 20, 2022 field surveys, a visual observation for any surface evidence of aquatic resources was performed. There are no visible streams, wet swales, wetland, or other aquatic feature on the Project site. Photographs of temporary wetland conditions on the site have been submitted in public comments, which appear to have been ignored...
- The NRCS Web Soil Survey (2022) identifies the Project site as "Urban land." This soil map unit is made up of mostly urban developed land, but can have several minor components (3%) within the map unit including: Biaggi, Shinglemill, Gibney, Tregoning, Tropaquepts, Heeser, Cabrillo, and Harecreek. Three of these soil units (Shinglemill, Tregoning, and Tropaquepts) have a hydric soil rating within the landforms of marine terraces and depressions. The other soil units do not have a hydric rating. Given that there was a potential for soil inclusions of the minor components with a hydric rating, six soil test pits were dug and soils were tested for hydric characteristics. The soil test included the use of an Alpha-alpha-Dipyridyl solution to confirm the presence of ferrous (Fe++) iron in soils. Ferrous iron is an indicator of reducing conditions and the possibility of aquic conditions. Ferrous was not present in the soils tested in the six test pits, and there was no other soil characteristics that would suggest that there are aquic conditions present on the Project site. All six test pits had sandy loam. It is also noted that the *Fort Bragg Wetland Report* (Wildland Resource Managers, March 2022) provides the same conclusions that there are no aquatic resources present on the Project site. That study included four test pits.
- Additionally, an inventory of plant species present was made to determine if there was a prevalence of hydrophytes present. All plants identified were upland, facultative upland, or facultative plants. These are not classified as hydrophytes according to the National Wetland Plant List.
- 034 Not all observed plants fall into this category, particularly the native coast plantain.

The commentor's reference to a "temporary wetland" reflects a misunderstanding of the legal definition of wetlands. Wetlands are defined as "those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions" [33 C.F.R. §328.3(b)]. What this means is that there is no such thing as a "temporary" wetland. The presence of water alone does not make an area a wetland. An area can be temporarily, or periodically wet for a variety of reasons, however, the frequency of inundation determines whether an area can be legally classified as a wetland or an upland.

One of the keys to understanding wetlands, is to understand plant biology. Upland plants require an aerobic environment within the root zone, meaning there needs to be an abundance of oxygen for the plant to survive. The inverse is true about wetland plants, which require an anerobic environment within the root zone, meaning they thrive in an environment that lacks oxygen in the root zone. When land is inundated with water, there is a lack of oxygen in the root zone, which will ultimately cause upland plants to die, and wetland plants to thrive. In dry aerobic conditions in the root zone on the other hand, wetland plants cannot out compete upland plants, and therefore cease to exist in that location.

There are also categories of plants that can survive in either wetland, or upland. These intermediate plants are referred to as facultative plants. Facultative plants can be more associated with Uplands, Wetlands, or equally likely to occur in an Upland or Wetland. Below is a description of three subcategories of facultative species:

1. Facultative wetland plants (FACW) usually occur in wetlands (estimated probability 67-99%), but occasionally are found in non-wetlands.
2. Facultative plants (FAC) are equally likely to occur in wetlands or non-wetlands (estimated probability 34-66%).
3. Facultative upland plants (FACU) usually occur in non-wetlands (estimated probability 67-99%), but occasionally are found in wetlands (estimated probability (1-33%).

The reference to *Plantago elongata* being present and documented on site has been explored. There are no recorded occurrences of this species during field surveys by two different biologists that have surveyed the site multiple times. It is also noteworthy, that a different species of *Plantago* was recorded (*Plantago lanceolata*) by both surveys. A key differentiation between the two *Plantago* species, is that one is a perennial plant, and the other is an annual plant. It is possible that the reference to *P. elongata* is an error in keying out the plant, which should be done utilizing the Jepson Manual by a qualified botanist. The commenter has not provided any detailed information regarding the person that surveyed the site, their qualifications, methodology of the survey, survey timing, permission to enter the property, etc., which makes it difficult to address in much detail.

P. elongata is a Facultative wetland plant, and *P. lanceolata* is a Facultative upland plant. Both plants can be found in wetlands, and in non-wetlands, with *P. elongata* having a higher probability of occurring in wetlands compared to *P. lanceolata*. It is noteworthy, that the existence of one wetland plant, Facultative wetland plant, or Facultative plant does not make by itself make a site a wetland. Just within the category of wetland vegetation, the site must pass a prevalence test and dominance test. These are two tests that looks at the density of plants. High prevalence and dominance of wetland plants would indicate that hydrophytic vegetation is present. However, the presence of hydrophytic vegetation alone is also not an absolute indicator of the presence of wetlands, just the presence of hydrophytic vegetation. You must also consider the presence of hydrology (water), and the presence of hydric soil. At least two of the three characteristics need to be present in order to make a determination that a site is a wetland.

A hydric soil is defined as "a soil that formed under conditions of saturation, flooding, or ponding long enough during the growing season to develop anaerobic conditions in the upper part". During the period of inundation, various chemical changes occur which includes Redox reactions. The easiest test of hydric characteristics is the presence or absence of ferrous (Fe++) iron in soils (test for reducing conditions and the possibility of aquatic conditions). There are numerous other conditions that represent hydric soil conditions such as: histosols, histic epipedon, muck layers, depleted below dark surface, gleyed matrix, etc. The March 29, 2022 survey included visual observations for hydric soil

indicators in six test pits, and hydric characteristics were not present. Additionally, an Alpha-alpha-Dipyridyl chemical solution was used on test pit soils to confirm the presence or absence of ferrous (Fe++) iron in soils (test for reducing conditions). This chemical test did not indicate that hydric soils were present in the test pits (De Novo Planning Group, 2022).

It is noted that there are a few depressions in the barren/dirt roadway that traverses the southern portion of the Project site. These depressions will collect and pond water during and after storm events. One of the depressions is at the dirt access off of N. Harbor Drive. The pavement drops down about 6-8 inches from the pavement elevation. The soil is compacted because of the weight of the vehicles that travel in the area. A combination of the depression, and the compacted soil will cause this area to hold water for a longer period of time than other areas on the Project site. The other area is a rutted/pot holed area in the dirt road just north of the access point. Neither of these areas meet the legal definition of a wetland even though they will hold water after a storm event for longer than other areas on the Project site. The dirt road is not a wetland. Below are a series of photos that were taken during the March 29, 2022 field survey. These photos were taken during the wet spring season when presence of water, even in vernal pools, and seasonal wetlands, would have been present. The photos show upland habitat only.











Response M-26: The commentor provided the following comment on the Draft EIR:

035
Wildlife Evidence Crows are not present in Fort Bragg; the observed birds were ravens.

Sightings and other evidence of wildlife at the Project site was very limited. Gopher mounds were evident in the southern parcel, and two crows were seen perched on the abandoned building and then flew south off-site within a minute after the surveyor's arrival. No other wildlife was seen during the surveys. There were no scat, guano, nests, burrows, whitewash, or trails of any kind found on the site.

No sensitive species were detected on the site during the field visits.

The City of Fort Bragg is within the geographic distribution of both the American crow¹ and its relative the common raven. Neither species is considered rare, protected, or a special status. There are a variety of differences between these species, namely the raven is larger. Regardless, the sentence in question has been revised in Section 3.3. See Chapter 3.0, Revisions, of this Final EIR.

¹ See: http://naturemappingfoundation.org/natmap/maps/ca/birds/CA_american_crow.html

Response M-27: The commentor provided the following comment on the Draft EIR:

3.3.3 IMPACTS AND MITIGATION MEASURES

THRESHOLDS OF SIGNIFICANCE

Consistent with CEQA Guidelines section 15065, subdivision (a)(1), and Appendix G of the CEQA Guidelines, the proposed Project will have a significant impact on biological resources if it will:

- 036
- Substantially reduce the habitat of a fish or wildlife species;
 - Cause a fish or wildlife population to drop below self-sustaining levels;
 - Threaten to eliminate a plant or animal community; or
 - Substantially reduce the number or restrict the range of an endangered, rare or threatened species;
 - 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;
 - 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;
 - Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means;
 - 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;
 - Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance;
 - 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 of these are actually thresholds of significance.

As explained at length previously (see Response M-15, for example), thresholds based on questions included in the CEQA Guidelines (Appendix G) are acceptable for use in EIRs. Furthermore, Guidelines section 15065, subdivision (a)(1), imposes certain mandatory qualitative thresholds for biological resources, namely, that a “lead agency shall find that a project may have a significant effect on the environment” if the proposed project would “substantially reduce the habitat of a fish or wildlife species; cause a fish or wildlife population to drop below self-sustaining levels; threaten to eliminate a plant or animal community; [or] substantially reduce the number or restrict the range of an endangered, rare or threatened species.”

These “mandatory findings of significance” (all qualitative), along with thresholds derived from questions from the “Biological Resources” section of Appendix G, are all reflected in the Draft EIR’s thresholds of significance for biological resources, and are assessed through a variety of means, including determining whether or not special-status species or habitat are known to exist on the Project site. (Draft EIR, p. 3.3-27.) Thus, a finding that no special-status species, habitat, or wetlands as defined by Section 404 of the Clean Water Act are known to exist onsite, or that feasible (and commonly employed) mitigation measures will

significantly reduce the impact to any of these resources that may occur onsite, would result in a finding that a potential impact to those resources is less than significant. (Ibid.; see Comments 040, 047 [Draft EIR, pp. 3.3-27, 3.3-30].

Response M-28: The commentor provided the following comment on the Draft EIR:

Some of these species are migratory, but also reside year-round in California. Additionally, all raptors (owls, hawks, eagles, falcons), including species and their nests, are protected from take pursuant to the Fish and Game Code of California Section 3503.5, and the federal Migratory Bird Treaty Act (FMBTA), among other federal and State regulations. Raptors that are known to occur in the region include red-tailed hawk (*Buteo jamaicensis*), red-shouldered hawk (*Buteo lineatus*), and great blue heron (*Ardea herodias*) among others.

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According to the CDFW California Wildlife Habitat Relationships System, the habitat for great blue herons is shallow estuaries and fresh and saline emergent wetlands, as well as perches and roosts in secluded tall trees and offshore kelp beds. This species usually nests in colonies in tops of secluded large snags or live trees. Nearly 75 percent of their diet is fish. Although less common, the species can be found in croplands and pastures. Additionally, herons have been observed eating gophers and other rodents on lawns and other open spaces; however, this does not qualify these spaces as an aquatic resource, or specifically blue heron habitat, rather, this is a highly mobile bird that can thrive in upland and wetland in the presence of food resources.

This conclusion is not justified. Habitat is defined as including foraging and hunting areas and herons have been observed on the project site hunting for gophers.

The Project site is located in the middle of a commercial district, one block east of a State Highway. The area where trees exist on site are frequented by human populations and is not suitable nesting habitat. During the most recent surveys which occurred during the nesting season, there was no evidence of bird nesting on-site. It is noted that the past site surveys performed also did not see evidence of nesting on-site.

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The commenter's asserts that the conclusion that the existence of a heron eating gophers and other rodents on lawns does not qualify the space as an aquatic resource is not justified. This reflects a lack of understanding of biology on the part of the commenter. First, "gophers and rodents", which are the prey that the heron was eating are not "aquatic" mammals. These species are upland mammals. This is a scientific fact. Additionally, "lawns" are not wetlands. Lawns are an irrigated patch of perennial, and sometimes annual grasses, that are rolled out in an area as "sod" for landscaping purposes. An assertion that a "lawn" is a wetland would not be supported by scientific fact. It is a fact that heron obtains 25% of their diet in an upland habitat. Any observation by a citizen of a heron eating a gopher or other rodent on a lawn is consistent with this fact. The conclusions provided are scientifically justified.

Response M-29: The commentor provided the following comment on the Draft EIR:

- As shown in Table 3.3-3, habitat for the aforementioned special-status bird species is not available on-site. These special-status birds have not been documented on the Project site. No special-status birds were observed within the Project site during field surveys and none are expected to be affected by the proposed Project based on the lack of appropriate habitat. Great blue herons have been identified on the properties to the north and northwest of the Project site, **but not the Project site itself.** **This is false. Herons were observed and documented on the project site at the northwest corner under the existing trees by the boundary with the adjacent parcel.** Although not high quality, potential nesting habitat is potentially present in the larger trees located within the Project site and in the vicinity. Although on-site vegetation is limited, there is also the potential for other birds that do not nest in this region and represent migrants or winter visitants to forage on the Project site. Additionally, common raptors may nest in or adjacent to the Project site.
- New sources of noise and light during the construction and operational phases of the project could adversely affect nesters if they located adjacent to the Project site in any given year. Additionally, **the proposed Project would eliminate the disturbed grass areas on the southern portion of the Project site, which serve as potential low-quality foraging habitat for birds throughout the year.** Mitigation Measure 3.3-1 requires preconstruction surveys for active nests should any nests be found on-site or within 500 feet of Project disturbance. **Implementation of the proposed Project, with the Mitigation Measure 3.3-1, would ensure that potential impacts to special status birds are reduced to a less than significant level.** **There is no threshold of significance or analysis to support this.**
- MITIGATION MEASURE(S) **Nothing in Measure 3.3-1 addresses the reduction in foraging/hunting habitat present on the project site.**
- Mitigation Measure 3.3-1:** The Project proponent shall implement the following measure to avoid or minimize impacts on protected bird species that may occur on the site:
- Preconstruction surveys for active nests of special-status birds shall be conducted by a qualified biologist in all areas of suitable habitat within 500 feet of Project disturbance. Surveys shall be conducted within 14 days before commencement of any construction activities that occur during the nesting season (February 15 to August 31) in a given area.
 - If any active nests, or behaviors indicating that active nests are present, are observed, appropriately protective buffers around the nest sites shall be determined by a qualified biologist to avoid nest failure resulting from Project activities. The size of the buffer shall depend on the species, nest location, nest stage, and specific construction activities to be performed while the nest is active. The buffers may be adjusted if a qualified biologist determines it would not be likely to adversely affect the nest. If buffers are adjusted, monitoring will be conducted to confirm that Project activity is not resulting in detectable adverse effects on nesting birds or their young. No Project activity shall commence within the buffer areas until a qualified biologist has determined that the young have fledged or the nest site is otherwise no longer in use.

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3.3-27

The comment regarding the heron is addressed under Response M-28.

The commenter agrees that the Project site offers some “low-quality foraging habitat for birds throughout the year” on its “southern portion”; however, the commenter believes this statement “conflicts with other statements” without indicating which other statements are in conflict. This response presumes that the commenter refers to information that the Draft EIR provides on habitat for the Great Blue Heron. (See Comments 037 and 039 [Draft EIR, pp. 3.3-26, 3.3-27].) On this issue, the Draft EIR states that, while the species have been identified

on properties nearby the Project site, the has not been identified on the Project site. (Draft EIR, p. 3.3-27.) Also, the Draft EIR states that sites where the Great Blue Heron may forage (e.g., be observed “eating gophers and other rodents”) do not necessarily qualify as “an aquatic resource, or specifically blue heron habitat” because the heron is “a highly mobile bird that can thrive in upland...in the presence of food resources.” (Id., p. 3.3-26.)

These statements do not conflict. “[L]ow-quality foraging habitat for birds” is not the same as “blue heron habitat” or an “aquatic resource.” Common great blue heron habitat includes “shallow estuaries and fresh and saline emergent wetlands, as well as perches and roosts in secluded tall trees and offshore kelp beds” (id., p. 3.3-26). This definition does not describe the Project site, which is highly developed and disturbed and is an urban infill development site, situated in the middle of other urban development. (See Draft EIR, pp. 3.1-2 [“Project site is located on...urban and built-up land, surrounded by parcels utilized for commercial businesses, residences, and two vacant lots,” 3.1-10 [“City of Fort Bragg, which includes the Project site, is mapped and designated as an Urbanized Cluster [by “the U.S. Bureau of the Census”], 3.1-1 [“the Project site is located on urban and built-up land per the California Department of Conservation”], 3.1-23 [Project site within “LZ3 (urban)” area for Title 24 lighting standards], 2.0-13 [Figure 2.0-3], 3.1-13 – 3.1-19 [Figures 3.1-1 - 3.1-4]; California Oak, *supra*, 188 Cal.App.4th at p. 281 [upholding EIR conclusion of less-than-significant impact to sensitive species because project site is within “urbanized areas” with “little or no remaining natural vegetation and limited wildlife habitat values...[n]o sensitive natural communities, special-status species, wetlands or important wildlife movement corridors” and “[g]iven the absence of any sensitive biological or wetland resources” onsite].)

Further, no aquatic resources occur onsite, as demonstrated by various sources: the “NRCS Web Soil Survey (2022),” which “identifies the Project site as ‘Urban land’”; the “Fort Bragg Wetland Report (Wildland Resource Managers, March 2022),” which “provides the same conclusions that there are no aquatic resources present on the Project site;” and the qualified biologists who conducted multiple field surveys for the site. (Draft EIR, p. 3.3-5; see also Section IV.D, *infra*.) In any event, the commenter provides no evidence that great blue heron regularly occurs onsite or that the site qualifies as great blue heron aquatic habitat.

The loss of this “low-quality foraging habitat for birds” as a result of Project development is not, in and of itself, a significant impact because of the large amount of similar foraging land that exists in the Project area and bioregion. (See Draft EIR, p. 3.3-27; Comment 041.) Notably, the great blue heron’s diet consists primarily (75 percent) of fish (id., p. 3.3-26), making dry land inland foraging a secondary source of food.

Some additional context should be helpful. The Great Blue Heron is not listed as threatened or endangered under state or federal law. (Draft EIR, p. 3.3-13 [Table 3.3.3: Special Status Wildlife and Fish Species Which May Occur in Project Area].) Thus, the relevant significance threshold is whether the proposed Project would “[h]ave a substantial adverse effect, either directly or through habitat modifications,” on the species. (Draft EIR, p. 3.3-23, italics added.) This specific threshold is consistent with the general definition of “significant effect on the environment” found in CEQA Guidelines section 15382, namely, “a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the proposed Project, including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.” (Italics added.)

Response M-30: The commentor provided the following comment on the Draft EIR:

Regardless of the absence of bats, or evidence of bats, on the Project site during the survey, there remains a possibility that bats could establish a roost in the abandoned building in the future. Mitigation Measure 3.3-2 would require a preconstruction bat survey. **With mitigation, this impact** 042

would be less than significant. But how is this accomplished? This unsupported assertion is not explained nor is the effectiveness of the mitigation measure evaluated as is required.

MITIGATION MEASURE(S)

Mitigation Measure 3.3-2: *The Project proponent shall implement the following measure to avoid or minimize impacts on special-status bat species that may occur on the site:*

- *A bat survey shall be conducted by a qualified biologist prior to demolition of the existing on-site building. The surveys shall be conducted from dusk until dark. If the weather during the bat survey makes visual observations difficult or impossible, another survey shall occur when the weather is appropriate for visual observations. If no bats or maternity roosts are found in the existing building, no further mitigation is required.*

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The Draft EIR explains that special-status bats (the hoary bat) “have not been documented on the Project site” and that, despite the possibility that the existing structure may provide some bat habitat, “no evidence of bat roosting on the Project site was present” during two site surveys using specialized survey techniques for bats. (Draft EIR, p. 3.3-28.) However, because there exists some “possibility that bats could establish a roost in the abandoned building in the future” prior to demolition, Mitigation Measure 3.3-2 requires a pre-construction survey by a “qualified biologist...from dusk until dark” to determine if any roosts exist and, if they do, either perform appropriate “evictions and exclusion techniques” or, in the case of maternity roosts, establish buffers and avoid roost destruction until the end of the “pupping season.” (Id., pp. 3.3-28 - 3.3-29.) Measures that include pre-construction surveys, avoidance, and/or evictions are common and upheld by courts as “substantial evidence that the negative impacts [to] special-status species’ will be sufficiently reduced.” (Save Panoche, supra, 217 Cal.App.4th at p. 524; see also, e.g., Defend the Bay v. City of Irvine (2004)

119 Cal.App.4th 1261, 1274-1278; Bay Area Clean Environment, Inc. v. Santa Clara County (2016) 2 Cal.App.5th 1197.)

As with great blue heron, the bats at issue are not formally listed as endangered or threatened. (Draft EIR, p. 3.3-14 [Table 3.3.3]). Thus, the operative significance threshold is whether the proposed Project would “[h]ave a substantial adverse effect, either directly or through habitat modifications,” on the species. (Draft EIR, p. 3.3-23, italics added.)

Response M-31: The commentor provided the following comment on the Draft EIR:

BIOLOGICAL RESOURCES

3.3

- *If a special-status bat maternity roost is located, appropriate buffers around the roost sites shall be determined by a qualified biologist and implemented to avoid destruction or abandonment of the roost resulting from habitat removal or other project activities. The size of the buffer shall depend on the species, roost location, and specific construction activities to be performed in the vicinity. No project activity shall commence within the buffer areas until the end of the pupping season (August 1) or until a qualified biologist conforms the maternity roost is no longer active.*
- *If a non-maternal roost is located, eviction and exclusion techniques shall be conducted as recommended by the qualified biologist. Methods may include opening the roosting area to change the air flow and lighting, installing one-way doors, or other appropriate methods that allow the bats to exit and find a new roost. After eviction is believed to be completed, acoustic monitoring, and an evening emergence survey shall be performed by the qualified biologist to ensure eviction is complete. For tree removal, a two-step tree removal process involving removal of all branches that do not provide roosting habitat on the first day, and then the next day cutting down the remaining portion of the tree.*

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The DEIR has not evaluated HOW this mitigation measure would reduce the impacts to less-than-significant.

Impact 3.3-4: The proposed Project would not adversely affect federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means (Less than Significant)

The nearest bodies of water are the Noyo River, which is located approximately 450 feet south of the site, and the Pacific Ocean, which is located approximately 1,000 feet west of the site. During the March 29 and April 20, 2022 field surveys, a visual observation for any surface evidence of aquatic resources was performed. There are no visible streams, wet swales, wetland, or other aquatic feature on the Project site.

The NRCS Web Soil Survey (2022) maps the Project site as "Urban Land." It was found that there are three minor soil components (3%) with a hydric soil rating that can occur within this map unit. Given that there was a potential for soil inclusions of the minor components with a hydric rating, six soil test pits were dug and soils were tested for hydric characteristics. The soil test included the use of an Alpha-alpha-Dipyridyl solution to confirm the presence of ferrous (Fe++) iron in soils. Ferrous iron is an indicator of reducing conditions and the possibility of aquic conditions. Ferrous was not present in the soils tested in the six test pits, and there was no other soil characteristics that would suggest that there are aquic conditions present on the Project site. All six test pits had sandy loam. It is also noted that the *Fort Bragg Wetland Report* (Wildland Resource Managers, March 2022) provides the same conclusions that there are no aquatic resources present on the Project site. That study included four test pits. **But none of the test locations are in the site locations that has the greatest**

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likelihood of hydric soil, as noted by Leslie Kashiwada in her comments. Additionally, an inventory of plant species present was made to determine if there was a prevalence of hydrophytes. **All** plants identified were upland, facultative upland, or facultative plants. These are not classified as hydrophytes according to the National Wetland Plant List.

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But there is documented evidence of coast plain on the site in the area most likely to include seasonal wetlands and hydric soil conditions, which was not tested. The study results are thus unreliable.

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3.3-29

Mitigation Measure 3.3-2 requires a preconstruction bat survey prior to demolition of the on-site building. If no bats or maternity roosts are found in the existing building, no further mitigation is required. If a special-status bat

maternity roost is located, appropriate buffers around the roost sites shall be determined by a qualified biologist and implemented to avoid destruction or abandonment of the roost resulting from habitat removal or other project activities. If a non-maternal roost is located, eviction and exclusion techniques shall be conducted as recommended by the qualified biologist. This multistep mitigation measure would ensure that impacts to special-status bat species are less than significant.

The Draft EIR bases its conclusion on impacts to wetlands in part on the Fort Bragg Wetland Report prepared for the site by Wildland Resource Managers, included as Appendix D to the Draft EIR, as well as the Grocery Outlet Fort Bragg, California Property Biological Review, also prepared by Wildland Resources Managers, included as Appendix C to the Draft EIR. Expert biologists employed by this consultant surveyed the land using U.S. Army Corps of Engineers (USACE) methodology and California Code of Regulations definitions, including performing soil sampling at four locations onsite and assessing the site for plant and animal “wetland species.” (Draft EIR, pp. 3.3-29 – 3.3-30, Appendix D [pp. 2-4].) No indicators of wetlands of any type were found to occur onsite. (Id., p. 3.3-29.)

In addition, as the Draft EIR explains, these earlier studies were confirmed by later work conducted by the Draft EIR authors themselves. “Field surveys and habitat evaluations for the entire Project site were performed on March 29, 2022 and April 20, 2022 (De Novo Planning Group, 2022). The purpose of these most recent surveys by De Novo was to assess the habitat, evaluate potential for special status species, test for aquatic resources/wetlands, and to verify/validate conditions and assessments reported in past studies and regulatory databases. These 2022 field surveys occurred within the floristic period for the region. The details of what was observed in these 2022 surveys by De Novo serve as the basis for the analysis in this section. The past studies corroborate De Novo’s findings, and is a validation that the site conditions have not significantly changed since 2019.” (Draft EIR, p. 3.3-24, italics added.). The Wetland Datasheets from the De Novo surveys have been incorporated into these Final EIR at the request of previous comments.

These scientific, fact-based assessments made by two sets of expert biologists provide ample substantial evidence to support the Draft EIR’s conclusions with respect to potential impacts on wetlands, which is exactly what CEQA requires. (See, e.g., Pub. Resources Code, § 21082.2 [significance conclusion must be based on “substantial evidence”; “[s]ubstantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts”]; see also Guidelines, § 15384; *City of Long Beach v. Los Angeles Unified School Dist.* (2009) 176 Cal.App.4th 889, 917 [court upholding EIR consultant’s analysis]; *Association of Irrigated Residents v. County of Madera* (2003) 107 Cal.App.4th 1383, 1396-1398 (*Association of Irrigated Residents*) [same].)

Response M-32: The commentor provided the following comment on the Draft EIR:

3.3 BIOLOGICAL RESOURCES

The hydrology of the Project site is such that storm water that falls on the site either seeps into the soil or sheet flows to roadside culverts and subsequent storm drains. Though the mapped soil type can have minor components with a hydric soil rating, there is no evidence of hydric soils based on specific soil testing. Additionally, there are no Obligate Wetland, or Facultative Wetland plants on the Project site. **This assertion is inconsistent with documented wetland conditions observed following a rain storm where water collected in pools, including where wetlands are most likely.** Overall, the proposed Project would have a **less than significant** impact relative to this topic.

047 How is this assertion justified? There is no applicable threshold of significance or supporting analysis. **Impact 3.3-5: The proposed Project would not result in substantial adverse effects on riparian habitat or a 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 (Less than Significant)**

No riparian habitat is mapped on-site or within the vicinity according to the USGS and National Wetland Inventory. Additionally, there was no evidence of riparian habitat on the Project site during recent field surveys. Review of past studies also shows that there is no evidence of riparian habitat on the Project site.

This comment is addressed under M-25.

Response M-33: The commentor provided the following comment on the Draft EIR:

CONSERVATION, OPEN SPACE, ENERGY, AND PARKS POLICIES

OS-5.2 To the maximum extent feasible and balanced with permitted use, require that site planning, construction, and maintenance of development **preserve existing healthy trees** and native vegetation **on the site.**

048 The conclusion that this project is consistent with OS-5.2 is not supported. In particular and as noted in prior comments submitted for the earlier version of the project, the proposed bioswale in the northwest of the project site is likely to damage the root structures of the existing ehalty cypress.

Consistent: As noted previously, the Project site is located within a built-up, urban environment. Currently, four ornamental trees are located in the northwestern portion of the Project site, and additional ornamental trees are located along the South Street frontage. It is possible that the existing trees could be preserved as part of the proposed landscaping plan; however, **it is also possible that tree removal in some capacity would be required.** Removal of trees may also be necessary in order to have a viable Project design. The proposed landscaping materials have been selected for the local climate. Proposed landscaping includes trees and vegetation along the property boundaries within the proposed parking lot and bioretention basins located along the northwest and southwest boundaries. Trees would be planted along the north, south, and east boundaries, with a few along the west boundary, as well as one tree within each of the parking lot landscaping islands. **These hypothetical possibilities do not provide any basis for the determination of consistency with OS-5.2. Tgus, the conclusion is not supported.**

049 OS-5.3 Require site planning and construction to maintain adequate open space to permit effective wildlife corridors for animal movement between open spaces.

Consistent: As noted previously, the Project site is located within a built-up, urban environment. The northern portion of the Project site contains existing development and the southern portion of the site is vacant with a dirt driveway. A 16,436-sf vacant former office

General Plan Policy OS-5.2 begins by stating that preservation of existing healthy trees and native vegetation shall be *balanced with feasibility and permitted use* [emphasis added]. The proposed Project is consistent with this policy as supported by the paragraph shown. As stated in the text, removal of some trees may be necessary in order to have a viable Project design.

Response M-34: The commentor provided the following comment on the Draft EIR:

OS-5.4 Condition development projects, requiring discretionary approval to prohibit the planting of any species of broom, pampas grass, gorse, or other species of invasive non-native plants deemed undesirable by the City.

Consistent: As noted previously, four ornamental trees are located in the northern portion of the site along South Street, and additional ornamental trees are located along the South Street frontage. It is possible that the existing trees could be preserved as part of the proposed landscaping plan; however, it is also possible that tree removal in some capacity would be required. Removal of trees may also be necessary in order to have a viable Project design. The proposed landscaping materials have been selected for the local climate. Proposed landscaping includes trees and vegetation along the property boundaries within the proposed parking lot and bioretention basins located along the northwest and southwest boundaries. Trees would be planted along the north, south, and east boundaries, with a few along the west boundary, as well as one tree within each of the parking lot landscaping islands. Species of broom, pampas grass, gorse, or other species of invasive non-native plants

050 deemed undesirable by the City would not be utilized in the proposed landscaping.

How is this prohibition incorporated into the project?

OS-15.2 Protect and Restore Open Space: During the development review process, protect and restore open space areas such as wildlife habitats, view corridors, coastal areas, and watercourses as open and natural.

Consistent: The southern portion of the site is vacant with a dirt driveway, but does not qualify as one of the types of open space addressed by this policy. It does not qualify as a view corridors or a coastal area, and no watercourses are located on-site. Although limited habitat potential is found in the southern portion of the site, the mitigation measures included in this section would ensure that impacts to special-status bird and bat species would be less than significant.

052 How? This assertion is not explained in any way.

CONCLUSION

The Project would not conflict with any local policies or ordinances related to the protection of biological resources. Overall, the proposed Project would have a **less than significant** impact relative

053 to this topic.

This is not accurate. The project conflicts with local policies including the above listed policies concerning tree preservation and retention of existing open space, among others. There is no relevant analysis or applicable threshold of significance to conclude a less-than-significant impact.

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As stated in the Draft EIR, General Plan Policy OS-5.4 requires the City to “[c]ondition development projects, requiring discretionary approval to prohibit the planting of any species of broom, pampas grass, gorse, or other species of invasive nonnative plants deemed undesirable by the City.” (Draft EIR, p. 3.3-22.) Thus, “[t]he proposed Project is conditioned so that landscaping would not include invasive nonnative plants.” (Id., p. 3.5-16.) The Applicant will be legally bound to comply with Project Conditions of Approval, and the City will be bound

051 This is mistakes OS-15.2, which does not limit "open space areas" to the listed examples. This project includes existing open space that will not be retained or restored.

to enforce them. As a result, these species would not and could not be used in Project landscaping.

Response M-35: The commentor provided the following comment on the Draft EIR:

EFFECTS OF GLOBAL CLIMATE CHANGE

The effects of increasing global temperature are far-reaching and extremely difficult to quantify. The scientific community continues to study the effects of global climate change. In general, increases in the ambient global temperature as a result of increased GHGs are anticipated to result in rising sea levels, which could threaten coastal areas through accelerated coastal erosion, threats to levees and inland water systems and disruption to coastal wetlands and habitat.

If the temperature of the ocean warms, it is anticipated that the winter snow season would be shortened. Snowpack in the Sierra Nevada provides both water supply (runoff) and storage (within the snowpack before melting), which is a major source of water supply for the State. The snowpack portion of the supply could potentially decline by 50% to 75% by the end of the 21st century (National Resources Defense Council, 2014). This phenomenon could lead to significant challenges securing an adequate water supply for a growing state population. Further, the increased ocean temperature could result in increased moisture flux into the State; however, since this would likely increasingly come in the form of rain rather than snow in the high elevations, increased precipitation could lead to increased potential and severity of flood events, placing more pressure on California's levee/flood control system. **This paragraph is irrelevant to Fort Bragg and this project and should be removed.**

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Our local water supply is not fed by Sierra snow melt.

Sea level has risen approximately seven inches during the last century and it is predicted to rise an additional 22 to 35 inches by 2100, depending on the future GHG emissions levels (California Environmental Protection Agency, 2010). If this occurs, resultant effects could include increased coastal flooding, saltwater intrusion and disruption of wetlands. As the existing climate throughout California changes over time, mass migration of species, or failure of species to migrate in time to adapt to the perturbations in climate, could also result. Under the emissions scenarios of the Climate Scenarios report (California Environmental Protection Agency, 2010), the impacts of global warming in California are anticipated to include, but are not limited to, the following.

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Sea level rise is effectively ignored in this DEIR even though it is acknowledged as predicted. The primary impacts on this project will be to the adequacy of the water supply and infrastructure.

3.4-2

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This comment is noted. Based on this comment, page 3.4-2 has been revised to remove the paragraph discussing Sierra snow melt. See Chapter 3.0, Revisions, of this Final EIR for the revision. Separately, with regard to sea level rise, this is an issue that is relevant on a timescale that goes beyond the year 2050 horizon of California GHG-reduction laws, such as AB 32 and SB 32. In addition, the proposed Project as a whole would represent a miniscule increase in the risk of sea level rise overall, given that climate change is a global concern. Therefore, further discussion of sea level rise in this DEIR is not warranted. No further response to this comment is warranted.

Response M-36: The commentor provided the following comment on the Draft EIR:

Water Resources

A vast network of man-made reservoirs and aqueducts capture and transport water throughout the State from northern California rivers and the Colorado River. The current distribution system relies on Sierra Nevada snow pack to supply water during the dry spring and summer months. Rising temperatures, potentially compounded by decreases in precipitation, could severely reduce spring snow pack, increasing the risk of summer water shortages.

056

Again, this is irrelevant and inapplicable to this project and should be deleted.

The State's water supplies are also at risk from rising sea levels. An influx of saltwater would degrade California's estuaries, wetlands, and groundwater aquifers. Saltwater intrusion caused by rising sea levels is a major threat to the quality and reliability of water within the southern edge of the Sacramento/San Joaquin River Delta, a major State fresh water supply. Global warming is also projected to seriously affect agricultural areas, with California farmers projected to lose as much as 25% of the water supply they need; decrease the potential for hydropower production within the State (although the effects on hydropower are uncertain); and seriously harm winter tourism. Under the lower warming range, the snow dependent winter recreational season at lower elevations could be reduced by as much as one month. If temperatures reach the higher warming range and precipitation declines, there might be many years with insufficient snow for skiing, snowboarding, and other snow dependent recreational activities.

058

Additionally, encroaching seas and waves could result in negative impacts along California's coast not only through increased flooding, but also by eroding beaches and cliffs, and by raising coastal groundwater levels. Rising seas threaten California's coast in seven categories: public infrastructure, private property, vulnerable communities, natural resources, drinking and agricultural water supplies, toxic contamination, and economic disruption. Between \$8 billion and \$10 billion of existing property in California is likely to be underwater by 2050, with an additional \$6 billion to \$10 billion at risk during high tides.

059

So? How do the preceding statements impact this project rather than the state generally?

Draft Environmental Impact Report – Best Development Grocery Outlet

3.4-3

057 Modify to be relevant to local conditions. This should reference intrusion and impacts to the City's water intake on the Noyo River and how that should be incorporated into the City's water model. The project will not be served by non-local sources.

This comment is noted. Based on this comment, page 3.4-3 has been revised to remove the discussion regarding the water transportation infrastructure in California, the water quality and reliability within the Sacramento/San Joaquin River Delta, within agricultural areas, and for tourism, and state-wide coastal impacts. Separately, additional information has been added to describe the specific water supplies that are at risk in the local area (i.e., the Noyo River), and how the City is responding. See Chapter 3.0, Revisions, of this Final EIR for the revisions. No further response to this comment is warranted.

Response M-37: The commentor provided the following comment on the Draft EIR:

3.4 GREENHOUSE GASES, CLIMATE CHANGE AND ENERGY

Agriculture

Increased GHG emissions are expected to cause widespread changes to the agriculture industry reducing the quantity and quality of agricultural products statewide. Although higher carbon dioxide levels can stimulate plant production and increase plant water-use efficiency, California's farmers will face greater water demand for crops and a less reliable water supply as temperatures rise.

Plant growth tends to be slow at low temperatures, increasing with rising temperatures up to a threshold. However, faster growth can result in less-than-optimal development for many crops, so rising temperatures are likely to worsen the quantity and quality of yield for a number of California's agricultural products. Plant products likely to be most affected include wine grapes, fruits, and nuts.

Crop growth and development will be affected, as will the intensity and frequency of pest and disease outbreaks. Rising temperatures will likely aggravate ozone pollution, which makes plants more susceptible to disease and pests and interferes with plant growth.

In addition, continued global warming will likely shift the ranges of existing invasive plants and weeds and alter competition patterns with native plants. Range expansion is expected in many species while range contractions are less likely in rapidly evolving species with significant populations already established. Should range contractions occur, it is likely that new or different weed species will fill the emerging gaps. Continued global warming is also likely to alter the abundance and types of many pests, lengthen pests' breeding season, and increase pathogen growth rates.

Forests and Landscapes

Global warming is expected to alter the distribution and character of natural vegetation thereby resulting in a possible increased risk of large wildfires. If temperatures rise into the medium warming range, the risk of large wildfires in California could increase by as much as 55%, which is almost twice the increase expected if temperatures stay in the lower warming range. However, since wildfire risk is determined by a combination of factors, including precipitation, winds, temperature, and landscape and vegetation conditions, future risks will not be uniform throughout the State. For example, if precipitation increases as temperatures rise, wildfires in southern California are expected to increase by approximately 30% toward the end of the century. In contrast, precipitation decreases could increase wildfires in northern California by up to 90%.

Moreover, continued global warming will alter natural ecosystems and biological diversity within the State. For example, alpine and sub-alpine ecosystems are expected to decline by as much as 60% to 80% by the end of the century as a result of increasing temperatures. The productivity of the State's forests is also expected to decrease as a result of global warming.

060

Delete as irrelevant to this project or DEIR, there are no agriculture or forested areas on the project site.

This comment is noted. Based on this comment, the discussion on 'Agriculture' and 'Forests and Landscapes' has been deleted, within Chapter 3.4 of the DEIR. See Chapter 3.0, Revisions, of this Final EIR for the revisions. No further response to this comment is warranted.

Response M-38: The commentor provided the following comment on the Draft EIR:

CEQA Direction

In 2008, the Office of Planning and Research (OPR), issued Guidance regarding assessing significance of GHGs in California Environmental Quality Act (CEQA) documents; that Guidance stated that the adoption of appropriate significance thresholds was a matter of discretion for the lead agency. The OPR Guidance states:

“[T]he global nature of climate change warrants investigation of a statewide threshold of significance for GHG emissions. To this end, OPR has asked the CARB technical staff to recommend a method for setting thresholds which will encourage consistency and uniformity in the CEQA analysis of GHG emissions throughout the state. Until such time as state guidance is available on thresholds of significance for GHG emissions, we recommend the following approach to your CEQA analysis.”

Determine Significance

- When assessing a project’s GHG emissions, lead agencies must describe the existing environmental conditions or setting, without the project, which normally constitutes the baseline physical conditions for determining whether a project’s impacts are significant.
- As with any environmental impact, lead agencies must determine what constitutes a significant impact. In the absence of regulatory standards for GHG emissions or other scientific data to clearly define what constitutes a “significant impact,” individual lead agencies may undertake a project-by-project analysis, consistent with available guidance and current CEQA practice. **True but not reflected in the DEIR!**
- The potential effects of a project may be individually limited but cumulatively considerable. Lead agencies should not dismiss a proposed project’s direct and/or indirect climate change impacts without careful consideration, supported by substantial evidence. Documentation of available information and analysis should be provided for any project that

061

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3.4-17

This comment is noted. However, the lead agency has determined that a significant impact for GHG impacts would be whether the proposed Project is consistent with the GHG reduction measures contained in the CARB’s 2017 Scoping Plan Update and the MCOG’s 2017 RTP, as described on pages 3.4-23 through 3.4-25 the Draft EIR. This is consistent with the text highlighted by the commentor in this comment. No further response to this comment is warranted.

Response M-39: The commentor provided the following comment on the Draft EIR:

The approach taken herein consists of qualitatively evaluating the proposed project's consistency with California's GHG reduction targets, which are achieved at a local and regional level through implementation of the GHG reduction measures included within the CARB's 2017 Scoping Plan Update (which has been updated to reflect the State's GHG reduction targets in SB 32) and Mendocino Council of Government's (MCOG's) 2017 Regional Transportation Plan & Active Transportation Plan (RTP), which represents the latest RTP adopted by MCOG. **Thus, if the proposed project is consistent with each of the relevant GHG reduction measures contained within these plan documents, the proposed project would comply with the State's GHG reduction targets (including SB 32) and would be doing its "fair share" to meet those targets.** Therefore, in light of the *Newhall Ranch* and *Golden Door* decisions, the proposed Project is evaluated for consistency with the GHG reduction measures contained in the CARB's 2017 Scoping Plan Update and the MCOG's 2017 RTP.

062

Conclusion

Based on the discussion above, the following threshold is applied to this analysis:

Finally, an actual threshold of significance!

- The proposed Project is evaluated for its consistency with the GHG reduction measures contained in the CARB's 2017 Scoping Plan Update and the MCOG's 2017 RTP.

If the project demonstrates that it is consistent with these plan documents, the proposed Project would not be anticipated to generate GHG emissions that would have a significant impact on the environment, or conflict with any plan, policy, or regulation adopted for the purpose of reducing GHG emissions.

063

OK, but where is this necessary analysis of the project's consistency with these plan documents?

This comment is noted. As the commentor points out, the significance threshold for GHG impacts is provided on page 3.4-25 of the Draft EIR. The lead agency has determined that a significant impact for GHG impacts would be whether the proposed Project is consistent with the GHG reduction measures contained in the CARB's 2017 Scoping Plan Update and the MCOG's 2017 RTP. Separately, the analysis of the proposed Project's consistency with these plan documents is provided in Table 3.4-3 (analyzing the proposed Project's consistency with the 2017 Scoping Plan) on pages 3.4-33 and 3.4-34, and in Table 3.4-4 (analyzing the proposed Project's consistency with the MCOG 2017 RTP), on pages 3.4-35 and 3.4-36 of the Draft EIR.

It should be noted that, as of late 2022 and after the Draft EIR was released for the 30-day review period, a newer version of the Scoping Plan has been adopted (i.e., the "2022 Scoping Plan for Achieving Carbon Neutrality") than what was analyzed in the Draft EIR. Nevertheless, under CEQA, the date of public release of the Notice of Preparation (NOP) for the project sets the baseline for what needs to be analyzed. Since the NOP was released prior to the adoption of the 2022 version of the Scoping Plan, no revisions to the CEQA analysis are required. However, for the sake of thoroughness, a brief analysis of the Project's consistency with the 2022 version of the Scoping Plan is provided below. As

indicated in the following table, the Project would not conflict with any of the provisions of the 2022 version of the Scoping Plan.

PROJECT CONSISTENCY WITH THE 2022 SCOPING PLAN

<i>SECTOR/SOURCE</i>	<i>CATEGORY/DESCRIPTION</i>	<i>CONSISTENCY ANALYSIS</i>
<i>AREA</i>		
SCAQMD Rule 445 (Wood Burning Devices)	Restricts the installation of wood-burning devices in new development.	<u>Mandatory Compliance</u> . Approximately 15 percent of California's major anthropogenic sources of black carbon include fireplaces and woodstoves. ¹ The Project would not include hearths (woodstove and fireplaces) as mandated by this rule.
<i>ENERGY</i>		
California Renewables Portfolio Standard, Senate Bill 350 (SB 350) and Senate Bill 100 (SB 100)	Increases the proportion of electricity from renewable sources to 33 percent renewable power by 2020. SB 350 requires 50 percent by 2030. SB 100 requires 44 percent by 2024, 52 percent by 2027, and 60 percent by 2030. It also requires the State Energy Resources Conservation and Development Commission to double the energy efficiency savings in electricity and natural gas final end uses of retail customers through energy efficiency and conservation.	<u>No Conflict</u> . The Project would utilize electricity provided by Pacific Gas & Electric (PG&E), which is required to meet the future 2030, 2045, and 2050 Renewable Portfolio Standard (RPS) performance standards.
All Electric Appliances for New Residential and Commercial Buildings (AB 197)	All electric appliances beginning 2026 (residential) and 2029 (commercial), contributing to 6 million heat pumps installed statewide by 2030.	<u>No Conflict</u> . Project-specific plans would be required to demonstrate that only all electric appliances would be installed for commercial uses starting in 2029, consistent with this requirement, if the Project is developed in year 2029 or later.
California Code of Regulations, Title 24, Building Standards Code	Requires compliance with energy efficiency standards for residential and nonresidential buildings.	<u>Mandatory Compliance</u> . Future development associated with Project implementation would be required to meet the applicable requirements of the 2022 Title 24 Building Energy Efficiency Standards, including installation of rooftop solar panels and additional CALGreen requirements (see discussion under CALGreen Code requirements below).

<i>SECTOR/SOURCE</i>	<i>CATEGORY/DESCRIPTION</i>	<i>CONSISTENCY ANALYSIS</i>
California Green Building Standards (CALGreen) Code Requirements	All bathroom exhaust fans are required to be ENERGY STAR compliant.	<u>Mandatory Compliance.</u> Project-specific construction plans would be required to demonstrate that energy efficiency appliances, including bathroom exhaust fans, and equipment are ENERGY STAR compliant.
	HVAC system designs are required to meet American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) standards.	<u>Mandatory Compliance.</u> Project-specific construction plans would be required to demonstrate that the HVAC system meets the ASHRAE standards.
	Air filtration systems are required to meet a minimum efficiency reporting value (MERV) 8 or higher.	<u>Mandatory Compliance.</u> Specific development projects would be required to install air filtration systems (MERV 8 or higher) as part of its compliance with the 2022 Title 24 Building Energy Efficiency Standards.
	Refrigerants used in newly installed HVAC systems shall not contain any chlorofluorocarbons.	<u>Mandatory Compliance.</u> Specific development projects would be required to meet this requirement as part of its compliance with the CALGreen Code.
	Parking spaces shall be designed for carpool or alternative fueled vehicles. Up to eight percent of total parking spaces is required for such vehicles.	<u>Mandatory Compliance.</u> Specific development projects would be required to meet this requirement as part of its compliance the CALGreen Code.
MOBILE SOURCES		
Mobile Source Strategy (Cleaner Technology and Fuels)	Reduce GHGs and other pollutants from the transportation sector through transition to zero-emission and low-emission vehicles, cleaner transit systems, and reduction of vehicle miles traveled.	<u>No Conflict.</u> The Project would not conflict with this strategy; refer to CALGreen Code discussion above.
Senate Bill (SB) 375	SB 375 establishes mechanisms for the development of regional targets for reducing passenger vehicle GHG emissions. Under SB 375, CARB is required, in consultation with the State's Metropolitan Planning Organizations, to set regional GHG reduction targets for the passenger vehicle and light-duty truck sector for 2020 and 2035.	<u>Consistent.</u> The Project would comply with the Mendocino Council of Governments (MCOG) 2022 Regional Transportation Plan (RTP) and Active Transportation Plan (ATP) and therefore, the Project would be consistent with SB 375.

SECTOR/SOURCE	CATEGORY/DESCRIPTION	CONSISTENCY ANALYSIS
<i>WATER</i>		
CCR, Title 24, Building Standards Code	Title 24 includes water efficiency requirements for new residential and non-residential uses.	<u>Mandatory Compliance</u> . Refer to the discussion under 2022 Title 24 Building Standards Code and CALGreen Code, above.
Water Conservation Act of 2009 (Senate Bill X7-7)	The Water Conservation Act of 2009 sets an overall goal of reducing per capita urban water use by 20 percent by December 31, 2020. Each urban retail water supplier shall develop water use targets to meet this goal. This is an implementing measure of the Water Sector of the AB 32 Scoping Plan. Reduction in water consumption directly reduces the energy necessary and the associated emissions to convey, treat, and distribute the water; it also reduces emissions from wastewater treatment.	<u>Consistent</u> . Refer to the discussion under 2022 Title 24 Building Standards Code and CALGreen Code, above.
<i>SOLID WASTE</i>		
California Integrated Waste Management Act (IWMA) of 1989 and Assembly Bill (AB) 341	The IWMA mandates that State agencies develop and implement an integrated waste management plan which outlines the steps to divert at least 50 percent of solid waste from disposal facilities. AB 341 directs the California Department of Resources Recycling and Recovery (CalRecycle) to develop and adopt regulations for mandatory commercial recycling and sets a Statewide goal for 75 percent disposal reduction by the year 2020.	<u>No Conflict</u> . The Project would be required to comply with AB 341. This would reduce the overall amount of solid waste disposed of at landfills. The decrease in solid waste would in return decrease the amount of methane released from decomposing solid waste.
Note: 1. California Air Resources Board, <i>California's 2017 Climate Change Scoping Plan</i> , Figure 4: California 2013 Anthropogenic Black Carbon Emission Sources, November 2017.		

No further response to this comment is warranted.

Response M-40: The commentor provided the following comment on the Draft EIR:

GREENHOUSE GASES, CLIMATE CHANGE AND ENERGY**3.4**

Guidelines, the means to achieve the goal of conserving energy include decreasing overall energy consumption, decreasing reliance on natural gas and oil, and increasing reliance on renewable energy sources. In particular, the proposed Project would be considered “wasteful, inefficient, and unnecessary” if it were to violate State and federal energy standards and/or result in significant adverse impacts related to Project energy requirements, energy inefficiencies, energy intensiveness of materials, cause significant impacts on local and regional energy supplies or generate requirements for additional capacity, fail to comply with existing energy standards, otherwise result in significant adverse impacts on energy resources, or conflict or create an inconsistency with applicable plan, policy, or regulation.

The amount of energy used by the proposed Project during operation would directly correlate with the amount of energy used by Project buildings and outdoor lighting, and the generation of vehicle trips associated with the proposed Project. Other Project energy uses include fuel used by vehicle trips generated during Project construction and operation, fuel used by off-road construction vehicles during construction activities, and fuel used by Project maintenance activities during Project operation. **The project is inherently wasteful because it demolishes the existing building requiring avoidable demolition and construction activities compared to building reuse, which is not analyzed.** It should be noted that the proposed Project would incorporate several renewable energy and energy efficiency features. For example, the proposed Project is required by the California Building Energy Efficiency Standards (Energy Code) to be “solar ready”;⁶ specifically, the proposed Project includes a solar-ready area of 2,400 square feet. Additionally, the proposed Project would include pre-wiring for four EV charging stations, although the actual EV charging stations are not anticipated to be installed at the time of Project first operation. Furthermore, the proposed Project would incorporate water-efficient approaches to landscaping, consistent with the Model Water Efficient Landscaping Ordinance.

064

The following discussion provides a detailed calculation of energy usage expected for the proposed Project, as provided by applicable modelling software (i.e. CalEEMod v2020.4.0 and the CARB EMFAC2021). Additional assumptions and calculations are provided within Appendix B.2 of this EIR.

This comment is noted. Demolition is required under the proposed Project. It should also be noted that much more stringent energy efficiency standards are required for new buildings (under Title 24 California Code), such as the proposed project, compared to the requirements that existed when the existing building was constructed (post-1996). It is also noted that the California Building Codes are updated every three years and, as such, have been updated multiple times since the existing building was constructed. Demolition in and of itself does not make a project inherently wasteful. While building reuse would hypothetically be less wasteful than project demolition, it project demolition activities only constitute a very small amount of energy consumption, compared to the proposed Project as a whole (as described in further detail under Response M-42). No further response to this comment is warranted.

Response M-41: The commentor provided the following comment on the Draft EIR:

ON-ROAD VEHICLES (CONSTRUCTION)

The proposed Project would also generate on-road vehicle trips during Project construction (from construction workers and vendors travelling to and from the Project site). De Novo Planning Group estimated the vehicle fuel consumed during these trips based the assumed construction schedule, vehicle trip lengths and number of workers per construction phase as provided by CalEEMod, and Year 2022 gasoline and diesel MPG factors provided by EMFAC2021 (year 2022 factors were used to represent a conservative analysis, as the energy efficiency of construction activities is anticipated to improve over time). For the sake of simplicity, it was assumed that all construction worker light duty passenger cars and truck trips use gasoline as a fuel source, and all medium and heavy-duty vendor trucks use diesel fuel. Table 3.4-5, below, describes gasoline and diesel fuel consumed during each construction phase (in aggregate). As shown, the vast majority of on-road mobile vehicle fuel used during the construction of the proposed Project would occur during the building construction phase.

065 There is no feasible mitigation available that would reduce on-road mobile vehicle GHG emissions generated by the Project construction activities (requiring the use of electric construction vehicles was deemed infeasible, given price and availability concerns). See Appendix B.2 of this EIR for a detailed accounting of construction on-road vehicle fuel usage estimates.

This is misleading and arguably incorrect. Avoiding most demolition and construction activities through the reuse of the existing building would significantly reduce the energy consumption of this project and be more consistent with the Coastal General Plan, which encourages the adaptive reuse of existing buildings and discourages demolition. It is entirely feasible to reduce this project's energy use by pursuing the environmentally superior project alternative through avoidance of these energy-intensive activities.

This comment is noted. While it is true that avoiding demolition activities through the reuse of the existing building would reduce energy consumption of the proposed Project during the proposed Project construction phase, the proposed Project's demolition activities add only a very small amount of energy consumption, compared to the proposed Project as a whole (as described in further detail under Response M-42). Much more stringent energy efficiency standards are required for new buildings (under Title 24 California Code), such as the proposed project, compared to the requirements in effect when the existing building was constructed. Moreover, the proposed Project remains consistent with the General Plan. No further response to this comment is warranted.

Response M-42: The commentor provided the following comment on the Draft EIR:

3.4 GREENHOUSE GASES, CLIMATE CHANGE AND ENERGY

Moreover, the proposed Project would incorporate several renewable energy and energy efficiency features. For example, the proposed Project is required by the California Building Energy Efficiency Standards (Energy Code) to be “solar ready”; specifically, the proposed Project includes a solar-ready area of 2,400 square feet. Additionally, the proposed Project would include four EV charging stations. Furthermore, the proposed Project would incorporate water-efficient approaches to landscaping, consistent with the Model Water Efficient Landscaping Ordinance.

The proposed Project would comply with all existing energy standards and would not be expected to result in significant adverse impacts on energy resources. For these reasons, the proposed Project would not cause an inefficient, wasteful, or unnecessary use of energy resources nor cause a significant impact on any of the thresholds as described by the CEQA Guidelines. This is a *less than significant* impact.

066

This conclusion is not clearly justified by the preceding analysis. The project will obviously involve “inefficient, wasteful, or unnecessary use of energy” because it proposes demolition of the existing building and construction of an entirely new building. The energy use associated with those avoidable project activities is inherently wasteful and unnecessary. This presents a significant impact in the area of energy use and associated GHG emissions. This is not adequately analyzed in this Section 3.4 or in the alternatives analysis in Section 5.0 concerning the building reuse project alternative.

This comment is noted. As previously stated under Response M-40 and Response M-41, while it is true that avoiding demolition activities through the reuse of the existing building would reduce energy consumption of the proposed Project during the proposed Project construction phase, the proposed Project’s demolition activities add only a very small amount of energy consumption, compared to the proposed Project as a whole. Specifically, as shown on page 3.4-39 of the Draft EIR, demolition activities are anticipated to only utilize a total of 108 gallons of gasoline fuel and 103 gallons of diesel fuel. This is miniscule in the context of the proposed Project as a whole, which is anticipated to consume approximately 53,493 gallons of gasoline and 9,143 gallons of diesel fuel per year from mobile vehicles during project operation (due to the generation of project trips associated with the proposed Project operation), as described on page 3.4-38 of the Draft EIR. Moreover, the construction activities are anticipated to require thousands of gallons of gasoline and diesel fuel each, for project construction activities as a whole (including the fuel needed for construction workers to travel to and from the Project site, as well as the fuel required for off-road vehicles), which is much more than the 108 gallons of gasoline fuel and 103 gallons of diesel fuel anticipated during project demolition activities.

It should also be noted that much more stringent energy efficiency standards are required for new buildings (under Title 24 California Code), such as the building anticipated to be built for the proposed project, compared to the requirements in effect for the existing building. Therefore, the proposed project building is anticipated to be much more energy efficient on a square footage basis, as

compared to the existing building on the Project site. No further response to this comment is warranted.

Response M-43: The commentor provided the following comment on the Draft EIR:

LAND USE 3.5

This section describes the existing land uses on the Project site and in the surrounding area, describes the applicable land use regulations, and evaluates the environmental effects of implementation of the proposed Project related to land use. Information in this section is based on the following reference documents: *Fort Bragg Coastal General Plan* (City of Fort Bragg, July 2008), the *City of Fort Bragg Commercial District Design Guidelines* (City of Fort Bragg, June 2004) and the Fort Bragg Municipal Code (City of Fort Bragg, 2021). 067
~~The Citywide Design Guidelines were updated this year and this reference is outdated.~~

LOCAL

Fort Bragg Coastal General Plan

As noted above, General Plans are prepared under a mandate from the State of California, which requires each city and county to prepare and adopt a comprehensive, long-term general plan for its jurisdiction and any adjacent related lands. State law requires General Plans to address seven mandated components: circulation, conservation, housing, land use, noise, open space, and safety. In addition to those components required by State law, the Fort Bragg Coastal General Plan also contains optional elements, including Community Design and Public Facilities.

FORT BRAGG COASTAL GENERAL PLAN POLICIES

068

General Plan policies associated with specific environmental topics (air quality, biological resources, noise, transportation, utilities, etc.) are discussed in the relevant chapters of this EIR.

~~Unfortunately, they may be "discussed" but often are not adequately discussed or analyzed as noted elsewhere.~~

A reference to the Citywide Design Guidelines was added to Section 3.5, Land Use, of the Draft EIR. See Chapter 3.0, Revisions, of this Final EIR for the revision. It is noted that the Regulatory Setting section of the Draft EIR in Section 3.5 accurately reflects the 2022 Citywide Design Guidelines.

As noted previously, consistency with the General Plan policies is discussed in Table 3.5-1 in Section 3.5, Land Use, of the Draft EIR.

Response M-44: The commentor provided the following comment on the Draft EIR:

3.5 LAND USE

Overall Sign Guidelines Preferred Standards

1. Signs that reflect the type of business through design, shape, or graphic form are encouraged.
2. Signs should coordinate with the building design, materials, color, size, and placement. 069

This content completely omits the Design Guidelines' content concerning site layout and parking lot configuration.

3.5.3 IMPACTS AND MITIGATION MEASURES

THRESHOLDS OF SIGNIFICANCE

Consistent with Appendix G of the CEQA Guidelines, the proposed Project will have a significant impact on land use and planning if it will:

- 070
- 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.
- This is not a threshold of significance; the actual thresholds should incorporate the relevant policies.

As noted in the text on page 3.5-4 ("Some of the applicable Design Guidelines which the proposed Project would be subject to include, but are not limited to, the following"), the list of design guidelines is not comprehensive and is only a summary. The proposed Project will comply with all mandatory standards of the Design Guidelines, and will incorporate as many preferred standards set forth in the Guidelines as possible.

With respect to Comment 070 and thresholds of significance, see Response M-15.

Response M-45: The commentor provided the following comment on the Draft EIR:

3.5 LAND USE

IMPACTS AND MITIGATION MEASURES

071

Impact 3.5-1: The proposed Project would not conflict with an applicable land use plan, policy, or regulation adopted to avoid or mitigate an environmental effect. (Less than Significant)

Land use plans, policies, and regulations that were adopted to avoid or mitigate an environmental effect include the Fort Bragg General Plan and Fort Bragg Coastal Land Use and Development Code. Consistency with these plans, policies, and regulations are discussed below.

FORT BRAGG COASTAL GENERAL PLAN

072

Since general plans often contain numerous policies emphasizing differing legislative goals, a development project may be "consistent" with a general plan, taken as a whole, even though the project appears to be inconsistent or arguably inconsistent with some individual policies. (*Sequoyah Hills Homeowners Association v. City of Oakland* (1993) 23 Cal.App.4th 704, 719.) "Because policies in a general plan reflect a range of competing interests, the governmental agency must be allowed to weigh and balance the plan's policies when applying them, and it has broad discretion to construe its policies in light of the plan's purposes." (*San Franciscans Upholding the Downtown Plan v. City & County of San Francisco* (2002) 102 Cal.App.4th 656, 678.) Compliance with a particular policy, however, is required where the policy is "fundamental, mandatory and specific[.]" (*Families Unafraid to Uphold Rural El Dorado County v. El Dorado County Bd. of Sup'rs* (1998) 62 Cal.App.4th 1332, 1341-1342; see also *Old East Davis Neighborhood Association v. City of Davis* (2021) 73 Cal.App.5th 895 [288 Cal.Rptr.3d 573, 583].)

The ultimate question of the meaning of particular General Plan policies, and thus the proposed Project's consistency with them, lies with the City Council. The language found in general plan is sometimes susceptible to varying interpretations. Case law interpreting the Planning and Zoning Law (Gov. Code, § 65000 et seq.) makes it clear that: (i) the ultimate meaning of such policies is to be determined by the elected city council or a lower tier decision-making body such as a planning commission, **as opposed to city staff** and EIR consultants, applicants, or members of the public; and (ii) the decision-making body's interpretations of such policies will prevail if challenged in court if the interpretations are "reasonable," even though other reasonable interpretations are also possible (See *No Oil, Inc. v. City of Los Angeles* (1987) 196 Cal.App.3d 223, 245-246, 249).

As discussed below, **City Staff** has concluded that the proposed Project is consistent with the key land use issues and development concepts of the Fort Bragg Coastal General Plan. Should City decision-makers choose to approve the proposed Project, they can rely on the analysis in this section, including Table 3.5-1 below, as support for the conclusion that the proposed Project is consistent with the General Plan policies **discussed herein**. Certification of the Final EIR will be indicative of agreement with the conclusions in the table.

But the project is inconsistent with other applicable policies!

074

The Project site is located within the City limits and will provide employment-generating uses that will promote employment and economic development, while providing retail grocery opportunities.

3.5-8 Draft Environmental Impact Report – Best Development Grocery Outlet

Note: the City Council can defer to or confirm staff's suggested interpretation in general but it can only do so when the interpretation is reasonable and such an interpretation is not incompatible with applicable rules of statutory interpretation or relevant court opinions concerning. Some of the staff interpretations of CGP policies in this DEIR appear to violate applicable rules (e.g., by ignoring words as if they are meaningless which violates the rule against "surplusage").

Note: this is not relevant to this project because the CGP explicitly requires a project to be consistent with ALL applicable policies, which is not analogous withreliance on an overall balancing test described in the cited case law.

073 However, the following analysis is far from comprehensive and omits applicable policies that the project conflicts with, as noted in other comments, which means the project presents significant impacts.

Refer to Response M-16 for an explanation on the high level of deference the City (both staff and Council) is afforded when interpreting its own General Plan

policies. Refer also to responses pertaining to General Plan Policy consistency for an explanation of how the plain language of applicable policies warrant the consistency determination given by the City *and/or* why the City's interpretation of its General Plan policies is absolutely reasonable and thereby warrants deference (Responses M-46 through M-54).

Notably, EIRs are not required to include assessments of a proposed project's consistency with *all* General Plan policies. Rather, the relevant requirement is that an EIR should "discuss any inconsistencies between the proposed project and *applicable* general plans, specific plans and regional plans." (Guidelines, § 15125, subd. (d), italics added.) Thus, the Draft EIR was not required to present a "comprehensive" list of general plan policies and perform a consistency analysis on each one, as the commenter suggests in Comment 073 (Draft EIR, p. 3.5-8). The EIR addressed those policies that City staff believes are applicable and, further, those with which it believes the proposed Project could possibly be inconsistent.

Response M-46: The commentor provided the following comment on the Draft EIR:

075 Additionally, as shown in Table 3.5-1, the proposed Project, in City Staff's opinion, is consistent with all of the applicable General Plan policies that aim to avoid or mitigate an environmental effect. This statement is not justified as discussed elsewhere; it is only consistent with some policies.

TABLE 3.5-1: GENERAL PLAN POLICY CONSISTENCY

GENERAL PLAN POLICY	PROJECT CONSISTENCY
LAND USE	
LU-1.1 Implementation of the Land Use Designations Map: Implement the Land Use Designations Map by approving development and conservation projects consistent with the land use designations, and ensure consistency between the Coastal General Plan and the Coastal Land Use & Development Code	Consistent. The Project is consistent with the existing land use designation for the Project site. The Project site has a City of Fort Bragg General Plan land use designation of Highway CH. No change to the Project site's current land use designation is proposed under the Project.
LU-4.1 Formula Businesses and Big Box Retail: Regulate the establishment of formula businesses and big box retail to ensure that their location, scale, and appearance do not detract from the economic vitality of established commercial businesses and are consistent with the small town, rural character of Fort Bragg.	<p>Consistent. To determine whether the: 1) location; 2) scale; and 3) appearance of the proposed Grocery Outlet would detract from the economic vitality of established commercial businesses, staff has prepared the following analysis:</p> <p>Location: The zoning designation, Highway Visitor Commercial, is applied to sites along CA Hwy 1 and is generally vehicle oriented. Land uses in the immediate vicinity of the project site include lodging, restaurant, café, retail and auto repair. Both the proposed project (retail) and adjacent existing businesses are permitted land uses by right, adhering to the intent of the CH zoning district, and thus would not detract from the economic vitality of established commercial businesses. How? This isn't explained or supported, only asserted to be true.</p> <p>Scale: New development is comparable in scale with existing buildings and streetscape. The size of the proposed retail store is comparable with other buildings in the immediate vicinity and would not detract from the economic vitality of established commercial businesses. The new building is slightly smaller than the existing, and similar two-story buildings exist in the vicinity.</p>

The commenter disagrees with the conclusion that the proposed Project is consistent with the applicable General Plan policies (see Table 3.5-1 of the Draft EIR) and argues, instead, that the proposed Project conflicts with several General Plan policies. Specifically, this comment questions how the Project is consistent with Policy LU-4.1.

As noted above in Response M-45, EIRs are not required to include assessments of a proposed project's consistency with all General Plan policies. Rather, the relevant requirement is that an EIR should "discuss any inconsistencies between the proposed project and applicable general plans, specific plans and regional plans." (Guidelines, § 15125, subd. (d), italics added.) Thus, the Draft EIR was not required to present a "comprehensive" list of general plan policies and perform a consistency analysis on each one, as the commenter suggests in Comment 073

(Draft EIR, p. 3.5-8). The EIR addressed those policies that City staff believes are applicable and, further, those with which it believes the proposed Project could possibly be inconsistent.

Policy LU-4.1, in relevant part here, requires the City to “[r]egulate the establishment of formula businesses...to ensure that their locations, scale, and appearance do not detract from the economic vitality of established commercial businesses....” The Draft EIR determined that the proposed Project would not “detract from the economic vitality of established commercial businesses” because “[l]and uses in the immediate vicinity of the Project site include lodging, restaurant, café, retail and auto repair.” Also, because “[b]oth the proposed Project (retail) and adjacent existing businesses are permitted land uses by right adhering to the intent of the CH zoning district.”

This determination is supported by the fact of the existence of several comparable formula businesses immediately surrounding the Project Site (Chevron, Mountain Mike’s Pizza, Arco, Super 8 by Wyndham, etc.), at least one of which is sizably larger than the proposed Project (Super 8).

Earlier in the Draft EIR, in the discussion of Impact 3.5-2, the City concluded that the proposed Project will not cause “urban decay” within the City. (Draft EIR, pp. 3.5-30 – 3.5-31.) For more detail on the character of the area and how the proposed Project fits in, refer to Response M-17. For more detail on agency deference for interpreting its general plan, refer to Responses M-46 through M-54.

These Project design components will become conditions of approval that bind the Applicant’s compliance and the City’s enforcement.

Response M-47: The commentor provided the following comment on the Draft EIR:

3.5 LAND USE

GENERAL PLAN POLICY	PROJECT CONSISTENCY
	<p>Appearance: Staff required the applicant to modify and revise the initial project design to better comply with the Citywide Design Guidelines. The Design Review Permit process gives an opportunity to further evaluate the proposed design and, if desired, to further modify the design in order to ensure the appearance does not detract from the economic vitality of established commercial businesses. But how? No analysis is provided.</p> <p>077</p>
<p>LU-4.3 Large-Scale Commercial Development: To maintain scenic views of the coast and to ensure that building sizes at the City's gateways are in scale with the community, no commercial building shall exceed the following limitations on the gross floor area:</p> <ul style="list-style-type: none"> a) between the Noyo River and Pudding Creek Bridges - maximum 50,000 square feet; b) east of Highway One and north of Pudding Creek Bridge - maximum 30,000 square feet; c) west of Highway One and north of Pudding Creek Bridge and south of the Noyo River Bridge - maximum 15,000 square feet; and d) east of Highway One and south of Noyo River Bridge – maximum 40,000 square feet. 	<p>Consistent. The Project is consistent with this policy. The Project would result in construction of a 16,157-sf Grocery Outlet store on the Project site. The site is located east of Highway 1, north of the Noyo River, and south of the Pudding Creek Bridge.</p>
<p>LU-4.4 Standards for Commercial Uses in Residential Areas: Commercial uses in and adjacent to residential areas shall not adversely affect the primarily residential character of the area.</p> <p>078</p> <p>How? This assertion is not explained or supported</p>	<p>Consistent. The Project is consistent with this policy. Commercial uses are located to the west, north, and south of the site. To the east of the site across S. Franklin Street are five single-family residences, one multi-family residential building, and two vacant lots zoned General Commercial. The northern portion of the Project site contains existing development and the southern portion of the site is vacant with a dirt driveway. Upon development of the Project, the site would contain a grocery store with parking areas. The retail grocery store would be a maximum of 28 feet tall at the top of the proposed canopy and a maximum of 23 feet tall at the top of the proposed parapet. The proposed building includes differentiated treatments along the base, mid-section, and top along the three facades facing public streets, windows would remain clear glass for lighting a view out, and the roofline on the corner cut-off entrance is also unique to the other rooflines for additional visual interest. The building will be composed of elements and details representative of Fort Bragg's architectural heritage, as the Applicant's chosen design elements were influenced by Fort Bragg's downtown architecture. The window and door treatments give homage to the smaller shops along the main downtown street's detailing as well as the Hardie Board (wood composite) wood paneling, masonry, and providing a variety of the materials on the elevations to add visual interest.</p>

3.5-10 Draft Environmental Impact Report – Best Development Grocery Outlet

See above Response M-46.

None of the established surrounding business provide the same service as the proposed Project. They provide gas, lodging, dining, auto repairs, etc. They do not provide groceries and therefore will not lose business as a result of the proposed Project. As noted above, the Draft EIR, in the discussion of Impact 3.5-2, concluded that the proposed Project will not cause “urban decay” within the City. (Draft EIR, pp. 3.5-30 – 3.5-31.)

The proposed Grocery Outlet would not significantly reduce patronage of other grocery stores in Fort Bragg (although notably none exist in the immediate vicinity of the Project site). The proposed Project would draw a some of its local customer base from existing Grocery Outlet shoppers who currently drive to the Grocery Outlet in Willits but would now be able to shop at the Fort Bragg location instead, once operable, as documented by one of the proposed Project’s transportation consultants. (Draft EIR, Appendix G [pp. 8-9] “[m]any speakers [at a Planning Commission meeting] described driving to the existing Grocery Outlet Store in Willets [sic] and stated that they would patronize the new store in Fort Bragg”.)

With respect to Policy LU-4.4, the proposed Project is consistent with this policy for several reasons. First, the Project site is surrounded primarily by commercial uses in three directions (“to the west, north, and south) and adjacent to residential only in direction but separated by a roadway (“east of the site across S. Franklin Street are five single-family residences [and] one multifamily residential building”). Next, the proposed grocery store would be limited in height, at a “maximum of 28 feet tall” at its top canopy and that its facades would include specialized treatments and rooflines that would add “visual interest” and “align with buildings on adjacent properties to avoid clashes in building height.” These design elements all contribute to the proposed Project harmonizing with the limited surrounding residential development.

As highlighted by the commenter, the “building will be composed of elements and details representative of Fort Bragg’s architectural heritage” including “window and door treatments [that will] give homage to the smaller shops along the main downtown street’s detailing as well as the Hardie Board (wood composite) wood paneling, masonry, and providing a variety of the materials on the elevations to add visual interest,” would ensure the proposed Project would “blend with the existing surrounding development,” including the adjacent residences. (Draft EIR, p. 3.5-10.) It is noted that the discussion regarding Fort Bragg’s architectural heritage has been removed from the Draft EIR. See Chapter 3.0, Revisions, of this Final EIR.

The commenter’s contention that this assertion is not explained or supported, is incorrect. As stated above, CEQA presumes that a project will be implemented as proposed. (Berkeley Hillside Preservation, *supra*, 60 Cal.4th at p. 1119.) Therefore, it is presumed that the proposed Project will be constructed to the architectural and design specifications described in the EIR, which were

developed with the specific purpose of mirroring the area's existing character. As discussed in Section 3.1, of the Draft EIR, the proposed Project would be subject to the policies and goals of the Fort Bragg General Plan, Citywide Design Guidelines, as well as the City's Standards for all Development and Land Uses outlined in Chapter 17.30 of the Municipal Code. The Citywide Design Guidelines complement the standards contained in the City of Fort Bragg Inland Land Use and Development Code, and the Coastal Land Use and Development Code by providing good examples of appropriate design solutions, and by providing design interpretations of the various regulations. Chapter 17.30, Standards for all Development and Land Uses, of the City's Coastal Land Use and Development Code expands upon the zoning district development standards of Article 2 by addressing additional details of site planning, project design, and the operation of land uses. The intent of these standards is to ensure that proposed development is compatible with existing and future development on neighboring properties, and produces an environment of stable and desirable character, consistent with the General Plan, Local Coastal Program, and any applicable specific plan.

Refer to response to Response M-46 for more details on these issues and how the proposed Project will fit in with the character of the area, inclusive of the handful of adjacent residences that exist across S. Franklin Street.

Response M-48: The commentor provided the following comment on the Draft EIR:

LAND USE 3.5

GENERAL PLAN POLICY	PROJECT CONSISTENCY
	Rooflines of the building would align with buildings on adjacent properties to avoid clashes in building height. The proposed architecture would blend with the existing surrounding development.
LU-10.2: Locating New Development. New residential, commercial, or industrial development, except as otherwise provided in the LCP, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. Where feasible, new hazardous industrial development shall be located away from existing developed areas.	Consistent. The Project site is located in an existing developed area and the proposed Project would include development of a commercial building on a site that can accommodate the proposed use.
LU-10.4: Ensure Adequate Services and Infrastructure for New Development. Development shall only be approved when it has been demonstrated that the development will be served with adequate water and wastewater treatment. Lack of adequate services to serve the proposed development shall be grounds for denial of the development. 079	<p>Consistent. As discussed in Section 3.7 of this Draft EIR, the development will be served with adequate water and wastewater treatment. All impacts related to utilities and services systems, including water and wastewater treatment, would be less than significant.</p> <p>This assertion is not adequately supported in 3.7. As discussed, the average Grocery Outlet Store uses 300 to 450 gallons of water per day (109,500 to 164,250 gallons per year) in both domestic water for the store and irrigation water for the landscaping. The Grocery Outlet store average use is considerably lower than was estimated using the average commercial space rate. Additionally, drought tolerant landscaping will be required. The usage for the proposed Project is expected to be less than 25 percent of the average water usage of other grocers in the City. In part, this is due to the operations of the market which does not include a deli, meat counter, bakery, or food preparation. Everything arrives packaged and in addition to the landscaping, water is used mainly for sanitation, restrooms, and other minor uses. To provide further context, for the FY 19-20 the City produced 272,833,000 gallons of water and sold 200,164,052 gallons. In that year, grocery stores made up less than 2 percent of the City's water sales. The increase in water sales in the city would be approximately 0.055 percent and a 0.04 percent increase in the usage of treated water.</p> <p>Further, because cause this is a commercial building, the applicant will be required to show that the facility has adequate pressure to accommodate fire suppression. However, this is not a CEQA impact because the project will not impact the water pressure of the existing distribution system. The fire hydrants in this location have sufficient pressure and flows as documented in the</p>

Please see Response M-91 regarding water demand and sea-level rise.

Response M-49: The commentor provided the following comment on the Draft EIR:

<p>PF-1.2: Ensure Adequate Services and Infrastructure for New Development. No permit for development shall be approved unless it can be demonstrated that such development will be served upon completion with adequate services, including but not limited to potable water; wastewater collection, treatment and disposal; storm drainage; fire and emergency medical response; police protection; transportation; schools; and solid waste collection and disposal; as applicable to the proposed development.</p> <p>a. Demonstration of adequate water and sewer facilities shall include evidence that adequate capacity will be available within the system to serve the development and all other known and foreseeable development the system is committed to serving, and that the municipal system will provide such service for the development;</p> <p>b. Demonstration of adequate road facilities shall include information demonstrating that (i) access roads connecting to a public street can be developed in locations and in a manner consistent with LCP policies; and (ii) that the traffic generated by the proposed development, and all other known and foreseeable development, will not cause Levels of Service (LOS) of roads, streets, and intersections within the City to reduce below LOS standards contained in Policy C-1.1 of the Circulation Element of the Coastal General Plan.</p>	<p>Consistent. The proposed Project would include redevelopment of the Project site in order to replace a 16,436-sf vacant former office building with a 16,157-sf Grocery Outlet (retail grocery store) with associated improvements on the Project site. As discussed in Section XV, Public Services, of the Initial Study, adequate public services exist to serve the Project. As discussed in Section 3.7 of this Draft EIR, all impacts related to utilities and services systems would be less than significant.</p> <p>080</p> <p>Not justified, sea level rise impacts are excluded.</p>
<p>PF-1.3 Ensure Adequate Service Capacity for Priority Uses:</p> <p>a. New development that increases demand for new services by more than one equivalent dwelling unit (EDU) shall only be permitted in the Coastal Zone if,</p> <ul style="list-style-type: none"> • Adequate services do or will exist to serve the proposed development upon completion of the 	<p>Consistent. Water Supply. The City developed a new 45-acre-foot raw water reservoir called Summers Lane Reservoir to ensure adequate water storage during years of severe drought and to meet the water quality needs for the Fort Bragg Water Service District. The reservoir draws water from an existing water line which previously ran from Waterfall Gulch to Newman Gulch and stores raw water for the City's potable water use. With the</p>

Please see Response M-91 regarding water demand and sea-level rise.

Response M-50: The commentor provided the following comment on the Draft EIR:

LAND USE 3.5

GENERAL PLAN POLICY	PROJECT CONSISTENCY
<p>proposed development, and</p> <ul style="list-style-type: none"> • Adequate services capacity would be retained to accommodate existing, authorized, and probable priority uses upon completion. Such priority uses include, but are not limited to, coastal dependent industrial (including commercial fishing facilities), visitor serving, and recreational uses in commercial, industrial, parks and recreation, and public facilities districts. Probable priority uses are those that do not require an LCP amendment or zoning variance in the Coastal Zone. b. Prior to approval of a coastal development permit, the Planning Commission or City Council shall make the finding that these criteria have been met. Such findings shall be based on evidence that adequate service capacity remains to accommodate the existing, authorized, and probable priority uses identified above. 	<p>development of Summers Lane Reservoir, the City was also able to obtain additional water storage capacity to meet the needs of a buildout development scenario in the City of Fort Bragg. The City has a licensed water right to divert water from the Noyo River as well as permanent license to divert water from both Newman Gulch and Waterfall Gulch, a tributary to Hare Creek. The water is piped from Summers Lane Reservoir to the Newman Reservoir and on to the treatment plant (City of Fort Bragg, 2014).</p> <p>The City currently has the ability to store 6,300,000 gallons of treated water, including two 1,500,000-gallon tanks at the Corporation Yard and one across the street and a smaller tank at the Highway 20 Fire Station. Additional untreated water storage of 3,300,000 gallons is accommodated within the two raw water storage ponds at the Water Treatment Plant, Newman Reservoir, and the Waterfall Gulch pond. There is also a significant volume of water stored within the City's distribution system. The Summers Lane Reservoir holds approximately 14,700,000 gallons of raw water for a total storage of approximately 22,800,000 gallons. City water customers use about 600,000 to a million gallons of water per day in the summer. Water supply analyses indicate the City has sufficient water supply to serve the projected buildout of the City of Fort Bragg as currently zoned within the existing City Limits through 2040.</p> <p>Not accurate or justified as discussed elsewhere. Water and Wastewater Service. The existing water connection on South Street includes a 6-inch fire service and is proposed to be the main water service to the building, with a new 8-inch fire connection to be constructed to the east of the existing connection. There is an existing 4-inch sewer lateral extending from the existing manhole on South Street that is proposed to be removed and replaced with the construction of a new 6-inch sewer lateral per City standards.</p> <p>As all-new development is required to pay its fair share of the water system infrastructure and future capital improvements through the Water Capacity Charge, the applicant will be required to pay water capacity charges when they secure their Building Permit.</p> <p>Additionally, as all new development is required to pay its fair share of the wastewater system infrastructure and future capital improvements through the wastewater Capacity Charge, the applicant will be required to pay wastewater capacity charges when they</p>

081

Not accurate The City's water supply even with the reservoir is projected to be inadequate for existing development due to projected sea level rise.

082

Please see Response M-91 regarding water supply and sea level rise.

Response M-51: The commentor provided the following comment on the Draft EIR:

<p>OS-5.2 To the maximum extent feasible and balanced with permitted use, require that site planning, construction, and maintenance of development preserve existing healthy trees and native vegetation on the site. Not justified.</p> <p>083</p> <p>Removal of the existing trees directly conflicts!</p>	<p>Consistent. As noted above in the discussion for Policy OS-5.1, there are four ornamental trees located in the northern portion of the site along South Street. These trees would likely be removed and replaced with landscaping selected for the local climate. Proposed landscaping would be native to the area.</p>
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Refer to Response M-12 regarding the four ornamental trees to potentially be removed as part of the proposed Project and M-34, on the preclusion of planting of nonnative invasive species as landscaping.

This policy, importantly, includes the nonmandatory, flexible language (i.e., “maximum extent feasible”). A proposed project is only inconsistent with the governing general plan if it “conflicts with a general plan policy that is fundamental, mandatory, and clear.” (*Families Unafraid to Uphold Rural El Dorado County v. El Dorado County Bd. of Supervisors* (1998) 62 Cal.App.4th 1332, 1341-1342 (FUTURE); see also *Endangered Habitats League, supra*, 131 Cal.App.4th at p. 782 [“[a] project is inconsistent if it conflicts with a general plan policy that is fundamental, mandatory, and clear”].

Consistent with these legal principles, general plan policies that include vague, nonmandatory, or flexible language (i.e., “to the maximum extent feasible”) should not be interpreted as though they set stringent quantitative standards that absolutely must be satisfied. These types of broadly-worded general plan “goals” should generally be understood to be aspirational, and should not be mistaken for policies that are “fundamental, mandatory, and clear.”

The language used in OS-5.2 is nonmandatory and flexible and therefore the proposed Project cannot be found to conflict with this policy. (FUTURE, *supra*, 62 Cal.App.4th at pp. 1341-1342.) Here, despite not being necessary, City staff has reasonably concluded that the proposed Project does not conflict with Policy OS-5.2.

Response M-52: The commentor provided the following comment on the Draft EIR:

<p>OS-16.2 Right of Public Access: Development in the Coastal Zone shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation. Public prescriptive rights must be protected wherever they exist.</p>	<p>Consistent. The project is not in an area used by the public to access the coast nor is it identified in the Coastal General Plan as a location for public access to the Noyo River. The properties to the north and south are identified as access points and irrevocable offers to dedicate will be required when these projects are developed in the future.</p>
<p>OS-15.2: Protect and Restore Open Space: During the development review process, protect and restore open space areas such as wildlife habitats, view corridors, coastal areas, and watercourses as open and natural.</p>	<p>Consistent. The southern portion of the site is vacant with a dirt driveway, but does not qualify as one of the types of open space addressed by this policy. It does not qualify as a view corridors or a coastal area, and no watercourses are located on-site. Although limited habitat potential is found in the southern portion of the site, the mitigation measures included in this section would ensure that impacts to special-status bird and bat species would be less than significant.</p>
CIRCULATION	
<p>C-1.3: Do not permit new development that would result in the exceedance of roadway and intersection Levels of Service standards unless one of the following conditions is met:</p> <p>a) Revisions are incorporated in the proposed development project which prevent the Level of Service from deteriorating below the adopted Level of Service standards; or</p> <p>b) Funding of prorata share of the cost of circulation improvements and/or the construction of roadway improvements needed to maintain the established Level of Service is included as a condition or development standard of project approval.</p>	<p>Consistent. A Traffic Impact Analysis was completed for the Project, which includes Level of Service (LOS) analysis. See Appendix F of this EIR. It is noted that LOS is no longer used as the metric to determine environmental impacts under CEQA.</p> <p>In the cumulative condition, LOS standards would be exceeded. However, the Project would contribute their fair share to the cost of regional circulation improvements by paying adopted fees and making frontage improvements. In addition, the Project would contribute its fair share to the cost of cumulatively needed improvements to the SR 1 (Main Street) / South Street intersection.</p>
<p>C-1.4: Include specific time frames for the funding and completion of roadway improvements for projects which cause adopted roadway and intersection Level of Service standards to be exceeded. Require security, bonding or other means acceptable to the City to ensure the timely implementation of roadway mitigations.</p>	<p>Consistent. As discussed in Section 3.7, Transportation and Circulation, the Grocery Outlet Store Project proponents should contribute their fair share to the cost of regional circulation improvements by paying adopted fees and making frontage improvements. In addition, the project should contribute its fair share to the cost of cumulatively needed improvements to the SR 1 (Main Street) / South Street intersection.</p>
<p>This policy is about specific time frames but this purported consistency analysis omits that aspect</p>	<p>Table 3.7-16 in Section 3.7 notes the Grocery Outlet Store</p>

084

False, misstates policy.

085

How? There is no enforceable requirement for these improvements or alleged special conditions. The DEIR should be revised to include these necessary improvements to justify a conclusion of consistency with this.

086

3.5-20

Draft Environmental Impact Report – Best Development Grocery Outlet

With respect to Policy OS-15.2, the City accurately determined that, although the “southern portion of the site is vacant with a dirt driveway,” it “does not qualify as one of the types of open space addressed by this policy.” (Draft EIR, p. 3.5-20.) The City’s interpretation is reasonable, and the commenter does not offer any evidence to support this assertion. An interpretation of a General Plan policy that prevented the development of parcels specifically identified for development would frustrate the policy of allowing development. General Plan provisions seemingly in tension with one another (e.g., pro-development and anti-development provisions) should be reconciled and harmonized to the extent reasonably possible. (No Oil, supra, 196 Cal.App.3d at p. 244-245.)

The Project site is not designated or zoned for “Open Space,” which, under the Land Use Element of the Coastal General Plan (p. 2-7), is the designation given to “areas of land which are largely unimproved and used for the preservation of natural resources and habitats, passive outdoor recreation, scenic resources, or for the protection of public health and safety (e.g., preservation of floodplains).” Rather, the Project site is planned and zoned for commercial development. (Draft EIR, p. 2.0-2 [“[t]he Project site has a City of Fort Bragg General Plan land use designation of Highway Visitor Commercial (CH) and a City zoning designation of Highway Visitor Commercial (CH)”].) Moreover, the Project site does not contain “wildlife habitats, view corridors, coastal areas, [or] watercourses,” as demonstrated in the analysis presented in the Draft EIR, Chapter 3.1 (Aesthetics and Visual Resources) and Chapter 3.3 (Biological Resources). Refer also to Response M-16 regarding the lack of scenic views from the Project site and Response M-29 regarding the lack of active bird and bat habitat and the lack of wetlands onsite.

With respect to Policy C-1.3, this policy is mandatory—the Applicant must comply with it and the City will enforce it. This fair-share contribution also will be included as a “Condition of Approval” that will bind both the Applicant and City to this requirement. (Draft EIR, p. 3.7-22 [“[t]he Grocery Outlet Store Project proponents should contribute their fair share to the cost of regional circulation improvements by paying adopted fees and making frontage improvements. In addition, the proposed Project should contribute its fair share to the cost of cumulatively needed improvements to the SR 1 (Main Street) / South Street intersection”].) Thus, this requirement is enforceable and the proposed Project will be implemented with it intact. (See Berkeley Hillside Preservation, *supra*, 60 Cal.4th at p. 1119 [CEQA presumes that a project will be implemented as proposed].)

It is noted that the City requires payment of the fair share before a building permit is issued.

See below response regarding Policy C-1.4.

Response M-53: The commentor provided the following comment on the Draft EIR:

LAND USE 3.5

GENERAL PLAN POLICY	PROJECT CONSISTENCY
087	project's relative contribution to future traffic volumes at each study intersection based on the method recommended in Caltrans traffic study guidelines. As shown, project trips represent 16.1% of the future new traffic at the SR 1 / South Street intersection. Assuming a \$500,000 traffic signal, the project's contribution could be \$84,500. But where is the specific time frame?
C-1.5: Traffic Impact Fees. When traffic impact fees are collected, establish a schedule from the date of collection of said fee for the expenditure of funds to construct roadway improvements that meets project needs. Where a project would cause a roadway or intersection to operate below the adopted traffic Level of Service standards, the roadway or intersection improvements should be completed in a timely manner but no later than five years after project completion.	Consistent. As noted above, the Project's fair share to the cost of cumulatively needed improvements to the SR 1 (Main Street) / South Street intersection could be \$84,500. The improvements are cumulatively needed and the project would not cause a roadway or intersection to operate below the adopted traffic Level of Service standards. 088 This purported consistency analysis fails to address the schedule or completion time.

Policy C-1.4 is not triggered where a specific development is only paying a fair share fee to be used towards the completion of new public facilities required not only because of the specific development but also because of other past, present, and future development. Here, because the proposed Project is only creating a portion of the need for certain new facilities, the policy does not require a specific time frame for completing those facilities. The dates on which capital improvements funded by a fair share fee program are determined by the pace of development, as such development must occur before sufficient funding for the improvements has been provided to the City. The pace of development is affected by market factors and other external factors over which the City has no control (such as the need for Caltrans approval of improvements on facilities over which it has control).

This issue was addressed in the Agenda Item Summary Report prepared in advance of the Planning Commission meeting of May 26, 2021, at which time the City was considering the proposed Project in connection with a Mitigated Negative Declaration. On page 21, that report stated as follows:

"The impacts of the Grocery Outlet Store Project have been considered within the context of future traffic conditions in this area of Fort Bragg. Long term traffic conditions have been forecast and evaluated based on growth assumptions made in other recent traffic studies and based on understanding of other approved projects in this area.

In a project plus future buildout scenario the proposed Project's cumulative impact could be significant at the Highway 1 (Main Street)/South Street intersection based on General Plan policy, since the proposed Project will cause the intersection to operate at LOS E, which

exceeds the LOS D minimum, and peak hour traffic signal warrants will be met at some time in the future. To address future conditions at this location it will be necessary to install traffic controls that stop the flow of traffic on Highway 1 in order to allow side street traffic to enter, such improvements may include a traffic signal or a roundabout.

Any improvements within the state right of way require Caltrans approval. At this time, Caltrans has indicated that it will not permit any traffic controls at this location, and therefore agrees with the recommendation of the Traffic Study that frontage improvements and contribution to a fair-share funding mechanism be required for future improvement.

According to the analysis, Project trips represent 16.1% of the future new traffic at the Highway 1 / South Street intersection. Assuming a \$500,000 traffic signal, the proposed Project's contribution could be \$84,500.

In accordance with Policies C- 1.2 to C-2.1 described above, the results of the traffic study, and Caltrans comments, to ensure the proposed Project is adequately served by transportation facilities, cumulative impacts associated with nearby and future development is incorporated, and the developer is funding their pro-rata share of the cost associated with future transportation needs the Staff recommends the addition of Special Condition 16.

Special Condition 16: A "Fair-Share" agreement shall be entered into by the applicant to fund future traffic improvements as necessary. The agreement shall be in the form approved by the Director of Public Works and the amount shall be based on a traffic study performed by a qualified professional at the cost to the applicant. The "Fair-Share" agreement shall be executed and funds deposited with the City prior to certificate of occupancy."

With respect to Policy C-1.5, this policy specifically states that the schedule for construction of roadway improvements will be established "when traffic impact fees are collected." The Draft EIR, in addressing the proposed Project's consistency with this policy, is not required to contain a detailed schedule, as it is not known at present the time on which traffic impact fees will be collected. See also the response to Comment 087 above.

Response M-54: The commentor provided the following comment on the Draft EIR:

3.5 LAND USE

GENERAL PLAN POLICY	PROJECT CONSISTENCY
for handicapped access and require the installation of curb cuts, ramps, and other improvements facilitating handicapped access.	compliant. The project includes ADA-compliant features, including three ADA-accessible parking spaces. In addition, the project will include an internal system of walkways and crosswalks to provide pedestrian connectivity between the parking lot, building, and sidewalk, and would be ADA-compliant.
C-14.1 Development to Pay Its Fair Share: Require new development to pay its fair share of transportation improvements to maintain levels of service and traffic safety in the City.	Consistent. As noted above in the discussion for Policy C-1.3, a Traffic Impact Analysis was completed for the Project. The Project would contribute their fair share to the cost of regional circulation improvements by paying adopted fees and making frontage improvements. In addition, the Project would contribute its fair share to the cost of cumulatively needed improvements to the SR 1 (Main Street) / South Street intersection. How?
COMMUNITY DESIGN	
CD-1.1: Visual Resources: Permitted development shall be designed and sited to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural landforms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance scenic views in visually degraded areas. 090	Consistent. In the opinion of City staff, the project site is not located "along the ocean" or within a "scenic coastal area" within the meaning of Policy CD 1.1, as the site is on the landward side of Highway 1, and there is intervening commercial development between the site and Highway 1. The project is replacing an existing structure with one of approximately the same size. Current views from the middle and southern portions of the project site are limited by the adjacent two-story motel adjacent west of the site, which is the direction in which the Pacific Ocean and landscapes immediately adjacent to the coast are located. Although the proposed structure will block an existing view of the ocean from the far northern portion of the project site, that view is not easily discernable by pedestrians and is interrupted by two large trees and a Chevron Station and an intervening vacant legal lot between the project site and that Chevron Station. This vacant lot could be developed under existing conditions, and a new structure could completely block the existing interrupted view of the Chevron Station and ocean. As discussed in Section I, Aesthetics and Visual Resources, of the Initial Study, the proposed development is compatible with the character of surrounding areas. The proposed Project would include redevelopment of the Project site in order to replace a 16,436-sf vacant former office building with a 16,157-sf Grocery Outlet (retail grocery store) with associated improvements on the Project site. The retail grocery store would be a maximum of 28 feet tall at the top of the proposed canopy and a maximum of 23 feet tall at the top of the proposed parapet.
CD-1.4: New development shall be sited and designed to minimize adverse impacts on scenic areas visible from scenic roads or public viewing areas to the maximum feasible extent. 092 Same issues as CD-1.1. Conclusion is not justified	Consistent. In the opinion of City staff, the project site is not located within a "scenic area" within the meaning of Policy CD 1.4, as the site is on the landward side of Highway 1, and there is intervening commercial development between the site and Highway 1. As noted

089

091

The trees do not actually block any of the existing ocean views through the site and hypothetical future view-blocking development is too speculative and not part of the baseline conditions so it should be excluded from this analysis. The DEIR requires corresponding revision.

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With respect to Comment 89 regarding fair share fees, see Response M-54 above.

Refer to Response M-51 on the use of this nonmandatory and vague language (“maximum extent feasible”) in general plan policies. Refer also to Response M-16 regarding how and why the proposed Project does not significantly impact any scenic views.

Response M-55: The commentor provided the following comment on the Draft EIR:

093 Per Chapter 17.36 – Parking and Loading, of the CLUDC, the proposed Project is consistent with the purpose of this chapter by meeting the following applicable requirements:

But how? this asserted conclusion is not explained nor is there any supporting analysis.

- Parking spaces by land use;
- RV space within the Site (a Minor Use Permit will be applied for to waive this requirement);
- Bicycle parking spaces, and design and devices;
- Motorcycle parking spaces and dimensions;
- Location and access to nonresidential parking;
- Minimum parking space configuration and surfacing of all parking spaces and maneuvering areas;
- Number of driveways and site access for nonresidential development;
- Proposed driveways distances from street corners;
- Driveway spacing and dimensions for nonresidential development;
- Providing off-street loading spaces; and
- Loading space dimensions, location, and screening.

094 Per Chapter 17.38 – Signs, of the CLUDC, the proposed Project is consistent with the purpose of this chapter by meeting the following applicable requirement:

But how? this asserted conclusion is not explained nor is there any supporting analysis.

- The proposed signs do not exceed the standards of Sections 17.38.070 (Zoning District Sign Standards) and 17.38.080 (Standards for Specific Sign Types), and are of the minimum size and height necessary to enable pedestrians and motorists to readily identify the Site from a sufficient distance to safely and conveniently access the Site;
- The placement of the sign on the Site is appropriate for the height and area of a freestanding and wall sign;
- The proposed signs relate to the architectural design of the structure;
- The proposed signs do not unreasonably block the sightlines of existing signs on adjacent properties;
- The placement and size of the sign will not impair pedestrian or vehicular safety;
- The design, height, location, and size of the signs are visually complementary and compatible with the scale, and architectural style of the primary structures on the Site, prominent natural features on the Site, and structures and prominent natural features on adjacent properties on the same street; and
- The proposed signs are in substantial conformance with the design criteria in Subsection 17.38.060.F (Design criteria for signs).

Per Chapter 17.50 – Land and Marine Resource Protection, of the CLUDC, the proposed Project is consistent with the purpose of this chapter by providing evidence that the following sensitive coastal

095 resources are not applicable: How? Where is this alleged “evidence” provided?

- Archaeological resource preservation;
- Environmentally sensitive habitat areas; and

According to the City’s May 26, 2021 Agenda Item Summary Report completed for the Project previously, as well as previous reviews of the Project site plan by the City of Fort Bragg, the City determined that the Project is consistent with the

listed applicable requirements discussed in comments 93 and 94. The archaeological resource preservation portion of Chapter 17.50 of the CLUDC applies to the review and approval of coastal development permits, grading permits, and building permits for all development located within areas known to contain, or potentially containing, archaeological and paleontological resources including as follows:

1. Former Georgia Pacific timber mill. The entire property which comprises the former Georgia-Pacific timber mill site;
2. Noyo Bay. The area located along the south side of Noyo Bay (e.g., Todd Point);
3. Noyo River. All of the areas located adjacent to the north side of the Noyo River;
4. North Fort Bragg Coast. All of the areas located west of Highway 1 and north of Pudding Creek;
5. Special Review Areas. All Special Review Areas identified on Map OS-2 in the Coastal General Plan, and;
6. Other areas identified by the Director. Other areas identified by the environmental review process (Chapter 17.72), or brought to the attention of the City through special studies performed after the enactment of this Section, as having the potential for containing archaeological or paleontological resources.

The Project site is not located in the aforementioned areas and, as such, this section of the CLUDC does not apply.

The environmentally sensitive habitat areas provisions of Chapter 17.50 apply to the review of coastal development permits for all development proposed on sites that include, are immediately adjacent to, or are within an ESHA defined as any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments. In addition to compliance with this Section, all development within or adjacent to Wetland ESHA shall comply with Chapter 17.58. In addition to compliance with this Section, all development within or adjacent to River and Stream or Riparian ESHA shall comply with Chapter 17.52.

The Project site is not located in the aforementioned area and, as such, this section of the CLUDC does not apply.

Response M-56: The commentor provided the following comment on the Draft EIR:

3.5 LAND USE

- Visual Resources, as the proposed project is not located in an area that triggers requirements of Section 17.50.070.

The Fort Bragg Zoning Code implements the General Plan. As noted previously, the Project site has a City zoning designation of CH. No changes to the Project site's current land use or zoning designations are proposed under the Project. All existing City development standards and zoning requirements for the existing zoning are applicable to the proposed activities on the Project site.

096 The City reviews all plans (improvement plans, building plans, site plans, etc.) that are submitted for final approval to ensure that they are consistent with the City's Zoning ordinance.

Theoretically but where is this done in the DEIR? How did the review "ensure" that the project is actually consistent? Overall, the proposed Project would have a *less than significant* impact relative to the Zoning Code.

CONCLUSION

The proposed project would not conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect as the project is consistent with all applicable land use plans, policies, and regulations, including the City of Fort Bragg's CLUDC. A *less than significant* impact would occur.

097 These assertions are not supported by adequate analysis. ALL applicable policies have not been evaluated.

Please see Response M-45 regarding General Plan policy consistency.

See the discussion on pages 3.5-28 through 3.5-30 in Section 3.5, Land Use, of the Draft EIR regarding zoning consistency. As also stated in the quoted text, the City will review all plans to ensure consistency with the Zoning Code. This is not a theory; this is a factual statement.

Response M-57: The commentor provided the following comment on the Draft EIR:

For the reasons listed above, the proposed project is not expected to result in urban decay in the City of Fort Bragg. This is a *less than significant* impact.

How is this assertion justified? There is no threshold of significance for this impact so there is no way to demonstrate that the project's impacts will be less-than-significant. The DEIR must be revised to include actual relevant thresholds of significance for this, and ALL OTHER, impact areas being reviewed. The City has failed to do so in most instances and only actually incorporated thresholds of significance in a few impact study areas and checklist questions. This is a very significant flaw in the DEIR as currently drafted. Failing to revise the DEIR to incorporate adequate supporting analysis based on an explicit and relevant threshold of significance for each impact area being studied would amount to a reversible abuse of discretion. The City should rectify that situation through extensive revisions to the current DEIR and recirculate the substantially-revised DEIR for additional responsible agency and public review and comment.

099

In addition, this DEIR completely omits any analysis of the project's consistency with the Citywide Design Guidelines. The project remains identical to its earlier iteration reviewed and approved using an MND, which actually included some Design Guideline analysis, albeit concerning inapplicable sections of the Design Guidelines. Please refer to the issues presented in relevant comments for more detail about the project's inconsistency with the Citywide Design Guidelines, particularly those provisions regarding the proposed site layout and parking area design, which continue to be inconsistent. Please revise the DEIR to include this analysis.

An Urban Decay Study (ALH Urban & Regional Economics, 2023) was completed for the proposed Project. The Urban Decay Study was incorporated into the Land Use section of the Draft EIR. See Chapter 3.0, Revisions, of this Final EIR for the revisions to Section 3.5 of the Draft EIR. As discussed, pursuant to the existing market conditions, projected retail supply and demand conditions, and Grocery Outlet project orientation, the Urban Decay Study concludes that there is no reason to consider that development of the proposed Grocery Outlet store would cause or contribute to urban decay.

Design Review is not required at the EIR phase. As discussed in Section 3.1, of the Draft EIR, the proposed Project would be subject to the policies and goals of the Fort Bragg General Plan, Citywide Design Guidelines, as well as the City's Standards for *all Development and Land Uses* outlined in Chapter 17.30 of the Municipal Code. The Citywide Design Guidelines complement the standards contained in the City of Fort Bragg Inland Land Use and Development Code, and the Coastal Land Use and Development Code by providing good examples of appropriate design solutions, and by providing design interpretations of the various regulations. Chapter 17.30, Standards for *all Development and Land Uses*, of the City's Coastal Land Use and Development Code expands upon the zoning district development standards of Article 2 by addressing additional details of site planning, project design, and the operation of land uses. *The intent of these standards is to ensure that proposed development is compatible with existing and future development on neighboring properties*, and produces an environment of stable and desirable character, consistent with the General Plan, Local Coastal Program, and any applicable specific plan.

As discussed in the Draft EIR, the Project is subject to the mandatory provisions of the City's Design Guidelines. The aesthetic impacts of the proposed Project have already been analyzed in the EIR. While not a CEQA issue, City staff's analysis of the Project against the mandatory guidelines is included as new Appendix E of this Final EIR. The analysis includes conditions to ensure compliance where required.

Please see Response M-15. As explained, qualitative thresholds, and thresholds based on CEQA Guidelines Appendix G questions, are acceptable for use in EIRs.

Response M-58:

The commentor provided the following comment on the Draft EIR:

3.6.3 IMPACTS AND MITIGATION MEASURES

THRESHOLDS OF SIGNIFICANCE

Consistent with Appendix G of the CEQA Guidelines and CEQA case law, the Project will have a significant impact related to noise if it will result in:

- Generation of a 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;
- Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the Project in excess of ambient conditions; and/or
- Generation of excessive groundborne vibration or groundborne noise levels.

100

The actual thresholds of significance are based on the standards in the cited sources and this should be revised to reflect the actual numbers rather than reciting the checklist questions that aren't actual thresholds of significance.

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3.6-7

The standards are included in the local regulatory setting of Section 3.6 of the Draft EIR. The standards were added to Section 3.6.3 of Section 3.6 of the Draft EIR. See Chapter 3.0, Revisions, of this Final EIR for the revisions. Additionally, please see Response M-59 regarding the construction noise standard.

It is noted that, as explained above, qualitative thresholds, and thresholds based on CEQA Guidelines Appendix G questions, are acceptable for use in EIRs. Nevertheless, the Draft EIR compares the proposed Project's various quantified operational and construction noise levels against the City's quantified noise standards when assessing potential impacts as a means to demonstrate compliance with the Appendix G-based thresholds. (Draft EIR, pp. 3.6-7 [Table 3.6-4], 3.6-15.)

Response M-59:

The commentor provided the following comment on the Draft EIR:

3.6 NOISE

Determination of a Significant Increase in Noise Levels

TEMPORARY CONSTRUCTION NOISE IMPACTS

With temporary noise impacts (construction), identification of “substantial increases” depends upon the duration of the impact, the temporal daily nature of the impact, and the absolute change in decibel levels. Per the City of Fort Bragg Municipal Code, construction activities operating between 10 p.m. and 7 a.m. which create a noise disturbance at the property boundary of a residence are prohibited and would be considered a significant impact.

For short-term noise associated with Project construction, Saxelby Acoustics recommends use of the Caltrans increase criteria of 12 dBA (Caltrans Traffic Noise Protocol, 2020).

¹⁰¹ That recommendation is without merit because the City has adopted much lower criteria for what is considered a “substantial increase”.

OPERATIONAL IMPACTS

The noise standards applicable to the proposed Project include the relevant portions of the City of Fort Bragg General Plan and Municipal Code described in the Regulatory Setting section above (Section 3.6.2), and the following standards. Generally, a project may have a significant effect on the environment if it will substantially increase the ambient noise levels for adjoining areas or expose people to severe noise levels. The City of Fort Bragg General Plan Noise Element provides specific standards to be used in the determination of a significant impact. These criteria are reproduced below:

¹⁰²

Program N-1.2.2: Consider requiring an acoustical study and mitigation measures for projects that would cause a “substantial increase” in noise as defined by the following criteria or would generate unusual noise which could cause significant adverse community response:

- a) cause the L_{dn} in existing residential areas to increase by 3 dB or more;
- b) cause the L_{dn} in existing residential areas to increase by 2 dB or more if the L_{dn} would exceed 70 dB; or
- c) cause the L_{dn} resulting exclusively from project-generated traffic to exceed an L_{dn} of 60 dB at any existing residence.

The City has not adopted any formal standard for evaluating temporary construction noise which occurs within allowable hours. For short-term noise associated with Project construction, Saxelby Acoustics recommends use of the Caltrans increase criteria of 12 dBA (Caltrans Traffic Noise Protocol, 2020), applied to existing residential receptors in the Project vicinity. This level of increase is approximately equivalent to a doubling of sound energy and has been the standard of significance for Caltrans projects at the state level for many years. Application of this standard to construction activities is considered reasonable considering the temporary nature of construction activities.

It is noted that Section 3.6, Noise, of the Draft EIR was revised to further discuss the construction standard used in the Draft EIR. See Chapter 3.0, Revisions, of this Final EIR for the revisions. As shown in the revisions, the Project will have a significant impact related to noise if it will result in:

- Generation of a 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, as outlined below:

- Non-transportation noise that exceeds 55 dBA L_{eq} / 75 dBA L_{max} during daytime (7 A.M. to 10 P.M.) hours, excluding temporary construction noise.
- Non-transportation noise that exceeds 45 dBA L_{eq} / 65 dBA L_{max} during daytime (7 A.M. to 10 P.M.) hours, excluding temporary construction noise.
- Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the Project in excess of ambient conditions, as outlined below; and/or
 - An increase in temporary construction noise levels of more than 12 dBA at existing residential receptors located around the project site,
 - A permanent increase in operational noise that would:
 - cause the L_{dn} in existing residential areas to increase by 3 dB or more;
 - cause the L_{dn} in existing residential areas to increase by 2 dB or more if the L_{dn} would exceed 70 dB; or
 - cause the L_{dn} resulting exclusively from project-generated traffic to exceed an L_{dn} of 60 dB at any existing residence.
- Generation of excessive groundborne vibration or groundborne noise levels, as outlined below.
 - A threshold of 0.20 in/sec p.p.v. at sensitive receptors.

Response M-60:

The commentor provided the following comment on the Draft EIR:

IMPACTS AND MITIGATION MEASURES

- 103 **Impact 3.6-1: The proposed Project would not 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. (Less than Significant with Mitigation)**

TRAFFIC NOISE ENVIRONMENT AT OFF-SITE RECEPTORS WITH AND WITHOUT THE PROJECT

Implementation of the proposed Project would result in an increase in daily traffic volumes on the local roadway network, and consequently, an increase in noise levels from traffic sources along affected segments. Tables 3.6-6 and 3.6-7 show the predicted traffic noise level increases on the local roadway network for Existing, Existing Plus Project, Cumulative No Project, and Cumulative Plus

Please see Response M-61.

Response M-61: The commentor provided the following comment on the Draft EIR:

3.6 NOISE

(*see also highlights 101-103 on prior pages with 104)

shown on Figure 3.6-6. The construction noise modeling includes an 8-foot-tall temporary sound barrier around the construction area.

TABLE 3.6-9: PREDICTED CONSTRUCTION NOISE LEVELS PHASE

RECEIVER (USE)	MEASURED DAYTIME NOISE LEVEL, LEQ ¹	PREDICTED CONSTRUCTION NOISE LEVEL, LEQ	TOTAL NOISE LEVEL (AMBIENT + CONSTRUCTION)	CHANGE (dB)
<i>DEMOLITION - BUILDING</i>				
R1 (Residential)	56.0 dBA	59.9	61.4	5.4
R2 (Residential)	56.0 dBA	61.0	62.2	6.2
R3 (Residential)	56.0 dBA	62.6	63.5	7.5
R4 (Residential)	56.0 dBA	59.4	61.0	5.0
R5 (Residential)	56.0 dBA	57.7	59.9	3.9
<i>DEMOLITION - FOUNDATION</i>				
R1 (Residential)	56.0 dBA	64.9	65.4	9.4
R2 (Residential)	56.0 dBA	66.0	66.4	10.4
R3 (Residential)	56.0 dBA	67.6	67.9	11.9
R4 (Residential)	56.0 dBA	64.4	65.0	9.0
R5 (Residential)	56.0 dBA	62.7	63.5	7.5
<i>SITE PREPARATION</i>				
R1 (Residential)	56.0 dBA	64.5	65.1	9.1
R2 (Residential)	56.0 dBA	65.2	65.7	9.7
R3 (Residential)	56.0 dBA	66.4	66.8	10.8
R4 (Residential)	56.0 dBA	65.4	65.9	9.9
R5 (Residential)	56.0 dBA	64.3	64.9	8.9
<i>GRADING</i>				
R1 (Residential)	56.0 dBA	65.5	66.0	10.0
R2 (Residential)	56.0 dBA	66.2	66.6	10.6
R3 (Residential)	56.0 dBA	67.4	67.7	11.7
R4 (Residential)	56.0 dBA	66.4	66.8	10.8
R5 (Residential)	56.0 dBA	65.3	65.8	9.8

104
Why? This analysis is improperly consolidated from the necessary two steps into one by including the mitigation measure in the initial impact analysis rather than the appropriate second and distinct step of evaluating the effectiveness of the proposed mitigation measure at reducing the otherwise significant impact.

Sound walls are part of standard noise abatement during construction in areas with surrounding land uses that may contain sensitive receptors, as occurs here. (See Draft EIR, pp. 3.6-5 - 3.6-6 [sensitive receptors neared to the Project site].) Therefore, it was reasonable for the City to assume, for the purposes of noise modeling, that a temporary sound wall will be used during construction.

Mitigation Measure 3.6-1 requires this sound wall:

An 8-foot-tall temporary construction sound wall shall be constructed along the east and south sides of the Project site, as shown on Figures 3.6-6 and 3.6-7. The sound barrier fencing should consist of ½" plywood or minimum STC 27 sound curtains placed to shield nearby sensitive receptors. The plywood barrier should be free from gaps, openings, or penetrations to ensure maximum performance. (Draft EIR, p. 3.6-16.)

The Applicant consents to this measure and intends to implement it without any attempt to argue before the City Council that the measure should be rejected as infeasible. (See Pub. Resources Code, § 21081, subd. (c).) The Draft EIR may therefore assume that the sound wall will be used, and need not conduct a

“before” and “after” analysis. The only reason to perform two separate analyses would be to account for the possibility that the City Council may not impose the measure. Given the Applicant’s willingness to use the temporary sound wall, such an outcome is highly unlikely.

The City’s approach is not precluded by *Lotus v. Department of Transportation* (2014) 223 Cal.App.4th 645, 655-658 (*Lotus*), which encourages agencies to differentiate between mitigating project features and externally imposed mitigation measures and to analyze the effectiveness of the former. In *Mission Bay Alliance v. Office of Community Investment & Infrastructure* (2016) 6 Cal.App.5th 160, 185, the same appellate panel that had decided *Lotus* interpreted its earlier decision to hold that “any mischaracterization of a mitigation measure for a Project component” is error under CEQA “only if it precludes or obfuscates required disclosure of the project’s environmental impacts and analysis of potential mitigation measures.” Here, no such obfuscation or confusion exists. It is clear from the Draft EIR (and from this letter) that the noise mitigation for the proposed Project *will* include a temporary sound wall. Thus, the City did not err in describing noise levels that assume that the sound wall will be used. Readers have not been misled or confused in any way. The construction noise levels were modeled without a sound wall, and with a sound wall, to demonstrate effectiveness of the mitigation measure. See Chapter 3.0, Revisions, of this Final EIR which clarifies that the Applicant is agreeable to Mitigation Measure 3.6-1. This commitment essentially makes the use of the sound wall a part of the proposed Project.

Response M-62: The commentor provided the following comment on the Draft EIR:

3.6 NOISE

levels of up to 67.6 dBA Leq. This would equal an approximate noise increase of up to 11.9 dBA over ambient noise conditions at the closest sensitive receptor.

105 Compliance with the City's permissible hours of construction, as well as implementing the best management noise reduction techniques and practices (both outlined in Mitigation Measure 3.6-1), would help to ensure that noise levels stay below the 12 dBA threshold. That threshold is not applicable because the City defines a significant increase as 3 dBA not 12. Based upon the Table 3.6-9 data, construction noise levels are not predicted to exceed the 12 dBA test of significance. Therefore, with implementation of Mitigation Measure 3.6-1, temporary construction noise impacts would be *less than significant*.

MITIGATION MEASURE(S)

Mitigation Measure 3.6-1: To reduce potential construction noise impacts during Project construction, the following multi-part mitigation measure shall be implemented for the Project:

- All construction equipment powered by internal combustion engines shall be properly muffled and maintained.
- Quiet construction equipment, particularly air compressors, shall be selected whenever possible.
- All stationary noise-generating construction equipment such as generators or air compressors shall be located as far as is practical from existing residences. In addition, the Project contractor shall place such stationary construction equipment so that emitted noise is directed away from sensitive receptors nearest the Project site.
- Unnecessary idling of internal combustion engines shall be prohibited.
- The construction contractor shall, to the maximum extent practical, locate on-site equipment staging areas so as to maximize the distance between construction-related noise sources and noise-sensitive receptors nearest the Project site during all Project construction.
- Exterior construction activities shall be limited to 7:00 a.m. to 8:00 p.m., and interior construction activities shall be limited to 7:00 a.m. to 10:00 p.m. All construction activities shall be limited to Monday to Saturday, holidays excluded.
- Staging areas on the Project site shall be located in areas that maximize, to the extent feasible, the distance between staging activity and sensitive receptors.
- An 8-foot-tall temporary construction sound wall shall be constructed along the east and south sides of the project site, as shown on Figures 3.6-6 and 3.6-7. The sound barrier fencing should consist of ½" plywood or minimum STC 27 sound curtains placed to shield nearby sensitive receptors. The plywood barrier should be free from gaps, openings, or penetrations to ensure maximum performance.

106 There is no required analysis of the effectiveness of this proposed mitigation measure at reducing the project's impacts to less-than-significant. The DEIR requires revision to include such analysis that will demonstrate that Measure 3.6-1 will actually decrease the temporary construction noise impacts to less than the appropriate threshold of significance of a 3 dBA increase over ambient noise levels. Even if a 12 dBA increase was an appropriate threshold of significance, the DEIR does not have any analysis showing if or how Measure 3.6-1 can be expected to reduce the temporary construction noise exposure increases to below the level of significance.

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Please see Response M-59 regarding the construction noise standard and Response M-61 regarding the effectiveness of the construction noise wall.

Response M-63: The commentor provided the following comment on the Draft EIR:

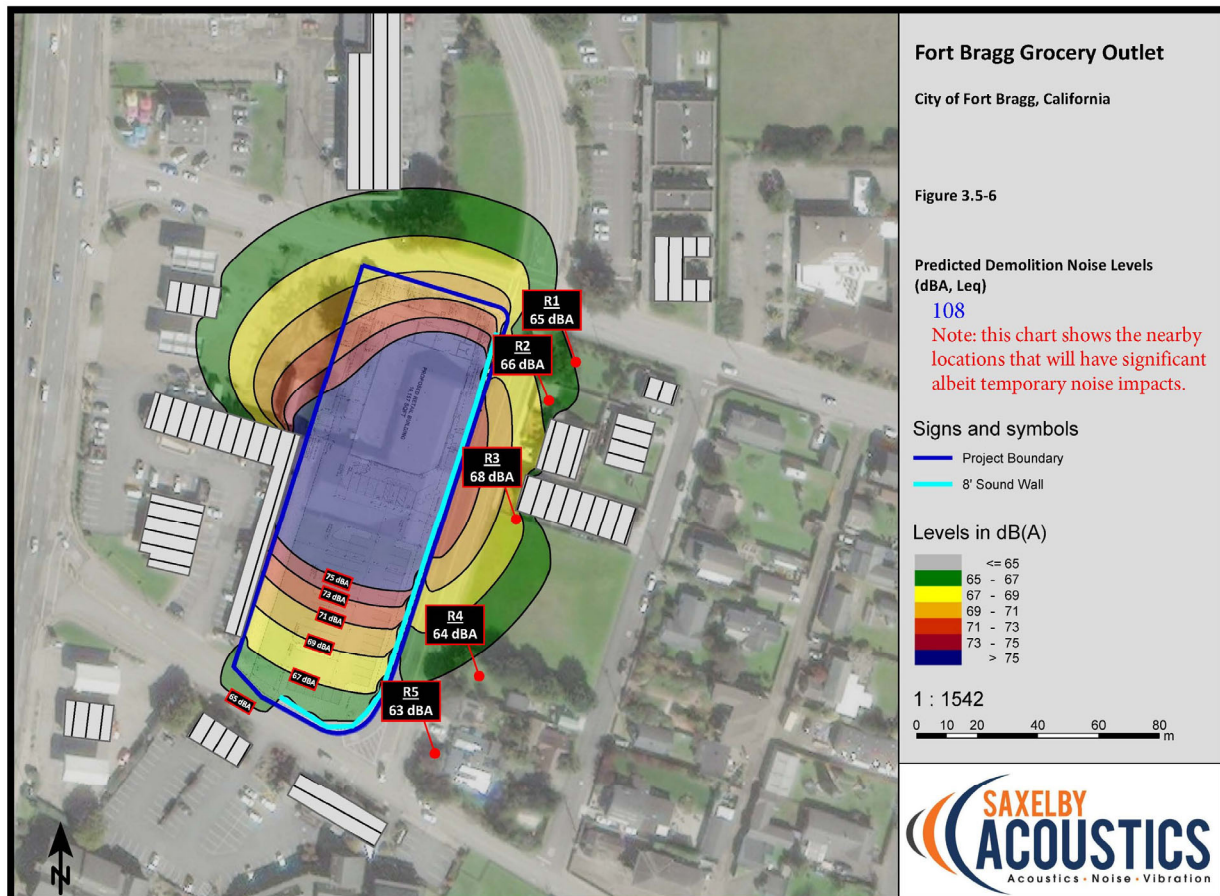
3.6 NOISE

construction crack documentation and construction vibration monitoring should be conducted to ensure that construction vibrations do not cause damage to any adjacent structures. Any such documented damage would be required to be repaired by the applicant.

107 Again, the DEIR fails to include any analysis of this proposed mitigation measure's expected effectiveness of reducing the project's significant impacts to less-than-significant. The DEIR should be revised to include this required analysis about Measure 3.6-2.

Please see Response M-61 regarding the effectiveness of the construction noise wall.

Response M-64: The commentor provided the following comment on the Draft EIR:



Please see Response M-61 regarding the effectiveness of the construction noise wall. Please also see Chapter 3.0, Revisions, of this Final EIR for changes to the construction noise impact discussion and associated figures. The revised figures

show the predicted noise levels with and without implementation of Mitigation Measure 3.6-1 and the associated construction sound wall.

Response M-65: The commentor provided the following comment on the Draft EIR:

month. Trucks comprise about three percent of the daily traffic in this area.

109

Franklin Street. Franklin Street is a north-south route that lies about 450 feet east of Main Street. Franklin Street extends from an intersection on N. Harbor Drive for about 1½ miles to its northern terminus near Pudding Creek. The Circulation Element designates Franklin Street as a Major Collector. In the area of the Project site, Franklin Street is a two-lane roadway with paved shoulders, and sidewalk exists on both sides of the street in the area near the South Street intersection. A prima facie 25 mph speed limit is in effect. Franklin Street was observed to carry 1,928 to 2,194 vpd in the area of the Project and 2,394 to 3,540 vpd north of South Street.

Cypress Street. Cypress Street is an east-west street that extends east from Main Street for about ½ mile. The Circulation Element identifies Cypress Street as a Minor Collector. In the area immediately east of SR 1 Cypress Street is a two-lane street with a center TWLT lane. Sidewalk exists on both sides of the street, and the posted speed limit is 25 mph. Recent 24-hour traffic counts indicated that Cypress Street carried 3,529 to 5,214 vpd near Main Street.

South Street. South Street is an east-west street that extends easterly from Main Street for about ½ mile along the north boundary of the Project site. The Circulation Element identifies South Street as

This is not accurate, sidewalks are missing for much of the eastern side of Franklin Street, presenting potentially significant impacts to pedestrians accessing the project site.

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3.7-3

Please see Response M-150. It is noted that, as stated in the text in question, paved shoulders *or* sidewalks exist in the area of the Project site.

Response M-66: The commentor provided the following comment on the Draft EIR:

3.7 TRANSPORTATION AND CIRCULATION

a Minor Collector. In the area of the Project site, South Street is a two-lane street with paved shoulders and sidewalks. The posted speed limit is 25 mph. The traffic counts conducted for this analysis indicated that South Street carried 1,665 to 2,449 vpd.

110

Inaccurate: the sidewalks are not developed or paved to the east of the project site across Franklin Street.

North Harbor Drive. North Harbor Drive is a street that extends east from an intersection on Main Street to the City's Noyo River harbor area. This two-lane road is designated a Local Street in the Circulation Element. Sidewalk exists near Main Street but not at locations east of the Project site. The posted speed limit is 25 mph. The daily traffic counts conducted for this analysis indicated that North Harbor Drive carried 2,488 to 3,200 vpd.

Paved shoulders *or* sidewalks exist in the area of the Project site.

Response M-67: The commentor provided the following comment on the Draft EIR:

As indicated in Table 3.7-2, each intersection delivers a peak hour Level of Service that satisfies minimum City of Fort Bragg requirements. It is worthwhile to note that at the SR 1 / North Harbor Drive intersection a few left turns and through traffic movements were made contrary to posted turn prohibitions. **These movements were excluded from the LOS calculations.** It is noted, however, that the turn prohibitions have since been removed. 112

The LOS analysis should not exclude this relevant data and must be amended to include left turn delays.

TABLE 3.7-2: EXISTING INTERSECTION LEVEL OF SERVICE

INTERSECTION	CONTROL	WEEKDAY PM PEAK HOUR			SATURDAY PEAK HOUR		
		MIN	OBSERVED		MIN	OBSERVED	
			LOS	AVERAGE DELAY (SEC/VEH)		LOS	AVERAGE DELAY (SEC/VEH)
SR 1 - Main Street / Cypress Street	Signal	D	B	14	D ¹	B	13
Cypress Street / Franklin Street	AWS	C	B	12	C	A	9
SR 1 – Main Street / South Street Southbound left turn Westbound approach	WB Stop	D	B	11	D ¹	B	11
			C	23		C	22

The commenter's demands regarding level of service (LOS) are irrelevant to the legal adequacy of the Draft EIR because, as explained below, since late 2018, changes in LOS can no longer be considered a significant impact under CEQA. It is noted, however, that in 2022, KD Anderson & Associates revised the LOS analysis to reflect changes in traffic movement prohibitions which occurred after 2019. The data in Table 3.7-2 and throughout the Transportation and Circulation section reflects current conditions. See Chapter 3.0, Revisions, of the Final EIR for the updated LOS analysis in the revised Transportation and Circulation section.

In 2013, the Legislature passed legislation with the intention of ultimately doing away with LOS in most instances as a basis for environmental analysis under CEQA. Enacted as part of Senate Bill 743 (Stats. 2013, ch. 386), Public Resources Code section 21099, subdivision (b)(1), directed the Governor's Office of Planning and Research to prepare, develop, and transmit to the Secretary of the Natural Resources Agency for certification and adoption proposed CEQA Guidelines addressing "criteria for determining the significance of transportation impacts of projects within transit priority areas...." Subdivision (b)(2) of section 21099 states that, upon certification of those guidelines, "automobile delay, as described solely by level of service or similar measures of vehicular capacity or traffic congestion *shall not be considered a significant impact the environment* pursuant to [CEQA], except in locations specifically identified in the [CEQA] guidelines, if any." (Pub. Resources Code, § 21009, subd. (b)(2), emphasis added; see also Draft EIR, pp. 3.7-1 – 3.7-2, 3.7-25.)

In late 2018, the Natural Resources Agency promulgated CEQA Guidelines section 15064.3, pursuant to Senate Bill 743. Subdivision (c) states in relevant part that “[t]he provisions of this section shall apply prospectively as described in [CEQA Guidelines] section 15007.” Section 15007, subdivision (b), states that “[a]mendments to the guidelines apply prospectively only. New requirements in amendments will apply to steps in the CEQA process not yet undertaken by the date when agencies must comply with the amendments.”

In *Citizens for Positive Growth & Preservation v. City of Sacramento* (2019) 43 Cal.App.5th 609, 625–626, the Court of Appeal refused to address the merits of a pending CEQA appeal involving the sufficiency of an EIR’s LOS-based analysis of transportation-related impacts. The court found that the legal challenge was moot in that, if the court were to find problems with the analysis and remand the matter back to the respondent city, the city would be under no obligation to undertake additional LOS- based analysis. Accordingly, issues and comments related to LOS need not be addressed in an EIR and cannot be litigated. In its analysis of transportation and traffic impacts, the City included discussions of LOS-related issues on a voluntary basis and not in order to satisfy any CEQA requirement.

Response M-68: The commentor provided the following comment on the Draft EIR:

TRANSPORTATION AND CIRCULATION

3.7

TRAFFIC SIGNAL WARRANTS

The volume of traffic occurring at unsignalized intersections was compared to peak hour traffic warrants, and the results are noted in Table 3.7-4. As shown, the current volume at the SR 1 (Main Street) / South Street intersection is close to satisfying warrants, but the volumes at this location remain below the minimum requirements for the side street approach (i.e., 100 vph). On Saturday, the peak hour volumes at the SR 1 (Main Street) / North Harbor Drive intersection reach the level that satisfy peak hour warrants, but because the approach is limited to right-turns-only, a traffic signal is not justified. **This conclusion is not justified because it is conditioned on outdated conditions, namely the removal of the right-turns-only limitation. A signal is thus justified.**

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TABLE 3.7-4: CURRENT TRAFFIC SIGNAL WARRANTS

INTERSECTION	WEEKDAY PM PEAK HOUR			SATURDAY PEAK HOUR		
	VOLUME (VPH)		WARRANT MET? ¹	VOLUME (VPH)		WARRANT MET? ¹
	MAJOR	MINOR		MAJOR	MINOR	
Cypress Street / Franklin Street	533	179	No	404	102	No
SR 1 – Main Street / South Street	2,277	88	No	2,224	78	No
South Street / Franklin Street	237	143	No	238	63	No
SR 1 – Main Street / N Harbor Drive	2,330	72	No	2,338	130	Yes
N Harbor Drive / Franklin Street	299	69	No	382	89	No

¹BASED ON RURAL PEAK HOUR VOLUME WARRANT ONLY

SOURCE: KDANDERSON & ASSOCIATES, 2019.

ALTERNATIVE TRANSPORTATION MODES

This section describes the existing pedestrian, bicycle, and transit facilities in the vicinity of the Project site.

Pedestrian Facilities

There are sidewalks in many locations on the street surrounding the Project site. Sidewalk is present at these locations:

- both sides of Franklin Street from a point about 250 feet south of South Street northerly to Cypress Street; **This is false: sidewalks and corner ramps are missing from the east side of Franklin St.**
- east side of Franklin Street for 100 feet north of North Harbor Drive;
- both sides of Cypress Street;
- both sides of South Street;
- north side of North Harbor Drive from SR 1 to the Project site (230 feet);
- south side of North Harbor Drive from SR 1 to 160 feet east;
- east side of Main Street (SR 1).

114

Crosswalks are striped at intersections as noted earlier, and ADA ramps have been provided at most locations.

The discussion in question pertains to existing sidewalk facilities; it does not describe where such facilities are not found. As noted on page 3.7-42 of Section

3.7 of the Draft EIR, there are two locations where gaps in the pedestrian system may remain, including:

- The south side of South Street from Franklin Street easterly to Myrtle Street (150 feet)
- The north side of North Harbor Drive between Franklin Street and Myrtle Street (100 feet)

The gaps exist at locations where it appears that residences were constructed prior to the City of Fort Bragg requiring frontage improvements. Privately maintained landscaping exists near the road. The availability of right of way to construct improvements is unknown.

Response M-69: The commentor provided the following comment on the Draft EIR:

VEHICLE TRIP ASSIGNMENT

Using the trip generation and distribution assumptions described above, the trips generated by the proposed project were assigned to the study area street system. In this case consideration was given to the relative travel time along alternative routes to the same destination. This consideration particularly involved traffic leaving the project headed south on SR 1 and reflects the left turn prohibition at the North Harbor Drive intersection, the stop controls at the South Street intersection and the availability of signaled access to southbound SR 1 at the Cypress Street intersection. It is noted that the left turn prohibition at the North Harbor Drive intersection has since been removed.

City staff report that on peak weekend many drivers elect to drive north past South Street to Cypress and turn onto SR 1 at that location. This analysis assumes this maneuver will be attractive, and 1/3 of the exiting project traffic headed south of SR 1 has been assigned along that route. Figure 3.7-2 presents resulting peak hour volumes accompanying the Grocery Outlet project. As indicated, based on the layout of the site and these assumptions we anticipate that the Franklin Street driveway will be the primary access to the site, and 70% of the project's total traffic in and out is shown to use that driveway.

115
There is no factual support for these assertions that justifies these study assumption.

LEVELS OF SERVICE

To assess the quality of existing traffic conditions, Levels of Service were calculated at study area

Additional traffic impact analysis (TIA) was completed in September 15, 2022 by the original traffic impact analysis consultant for the proposed Project, KD Anderson & Associates. Subsequent to the original TIA (KD Anderson & Associates, Inc., 2019) preparation, Caltrans District 1 elected to remove the left turn prohibition on N. Harbor Drive at its intersection with State Route 1 (SR 1). That change allows motorist to turn left directly onto the state highway at this location instead of making the turn at the SR 1 / South Street intersection further north. The change would also provide a route for Project customers headed south. The additional (2022) analysis has been incorporated into Section 3.7 of the Draft EIR. See Chapter 3.0, Revisions, of this Final EIR for the changes. In summary, the changed traffic prohibition did not result in increased CEQA impacts to this intersection which were not previously disclosed in the Draft EIR. As noted in Table 3.7-11 of Section 3.7 of the Draft EIR, a traffic signal warrant for the SR 1 / South Street intersection was warranted in the weekday PM peak hour

and Saturday peak hour. With the change in turning movements discussed above, a traffic signal warrant at the SR 1 / South Street intersection is no longer warranted. See Table 3.7-11 in Chapter 3.0, Revisions, of the Final EIR.

Response M-70: The commentor provided the following comment on the Draft EIR:

Traffic Signal Warrants

The volume of traffic occurring at each intersection with development of the project was again compared to the CA MUTCD peak hour signal warrant thresholds, as noted in Table 3.7-11. With the project, peak hour traffic signal warrants are met at the SR 1 (Main Street) / South Street intersection during the weekday p.m. and Saturday peak period. However, under General Plan policy this is not a significant impact because the approach Level of Service is acceptable (i.e., LOS D). The SR 1 (Main Street) / North Harbor Drive intersection would continue to carry volumes that satisfy peak hour warrants on Saturday, but because the Level of Service remains acceptable, the project's impact is not significant for purposes of compliance with the Coastal General Plan Circulation Element.

116

This conclusion is not justified because the relevant analysis is outdated since it excluded left turns at the SR1/North Harbor Drive intersection based on prior, now inapplicable, turn restrictions. The analysis must be updated to reflect the actual baseline conditions and applicable traffic control measures. As such the record lacks substantial evidence to support this conclusion. This project's contributions to the overall traffic patterns and inadequate conditions must be re-analyzed to reflect left turn delays at this intersection.

Additional traffic impact analysis (TIA) was completed in September 15, 2022 by the original traffic impact analysis consultant for the proposed Project, KD Anderson & Associates. Subsequent to the original TIA (KD Anderson & Associates, Inc., 2019) preparation, Caltrans District 1 elected to remove the left turn prohibition on N. Harbor Drive at its intersection with State Route 1 (SR 1). That change allows motorist to turn left directly onto the state highway at this location instead of making the turn at the SR 1 / South Street intersection further north. The change would also provide a route for Project customers headed south. The additional (2022) analysis has been incorporated into Section 3.7 of the Draft EIR. See Chapter 3.0, Revisions, of this Final EIR for the changes. In summary, the changed traffic prohibition did not result in increased impacts to this intersection.

Response M-71: The commentor provided the following comment on the Draft EIR:

TABLE 3.7-9: EXISTING PLUS GROCERY OUTLET STORE INTERSECTION LOS

INTERSECTION	CONTROL	WEEKDAY PM PEAK HOUR						SATURDAY PEAK HOUR			
		MIN	EXISTING		EX PLUS PROJECT		MIN	EXISTING		EX PLUS PROJECT	
			LOS	AVERAGE DELAY (SEC/VEH)	LOS	AVERAGE DELAY (SEC/VEH)		LOS	AVERAGE DELAY (SEC/VEH)	LOS	AVERAGE DELAY (SEC/VEH)
SR 1 - Main Street / Cypress Street	Signal	D	B	14	B	14	D ¹	B	13	B	13
Cypress Street / Franklin Street	AWS	C	B	12	B	12	C	A	9	B	10
SR 1 – Main Street / South Street	WB Stop	D	B	11	B	12	D ¹	B	11	B	12
Southbound left turn Westbound approach			C	23	D	29		C	22	D	29
South Street / Franklin Street	NB/SB Stop	C	A	7	A	7	C	A	7	A	7
Westbound left turn			A	8	A	8		A	7	A	7
Eastbound left turn			B	12	B	14		B	11	B	12
Northbound approach			B	12	B	13		B	11	B	11
Southbound approach	WB Stop	D	B	11	B	11	D ¹	B	11	B	11
SR 1 – Main Street / No Harbor Drive			B	11	B	11		B	11	B	11
Northbound left turn			B	11	B	12		B	11	B	12
Southbound left turn			B	13	B	13		B	13	B	13
Eastbound approach ²			B	14	B	15		C	16	C	17
Westbound approach ²			B	14	B	15		C	16	C	17
No Harbor Drive / Franklin Street	AWS	C	A	8	A	8	C	A	9	A	9

¹ LOS F ACCEPTED ON SATURDAY SUMMER PEAK HOUR.

² EXISTING LEFT TURN AND THROUGH TRAFFIC CONTRARY TO POSTED TRAFFIC CONTROLS IS NOT INCLUDED IN LOS CALCULATION. **Note 2 presents a deficiency in the analysis.**

BOLD INDICATES CONDITIONS IN EXCESS OF ADOPTED STANDARD. **HIGHLIGHTED** VALUES ARE A SIGNIFICANT IMPACT.

SOURCE: KDANDERSON & ASSOCIATES, 2019.

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Please see Response M-67 regarding LOS/CEQA and Response M-70 regarding the additional traffic analysis which was completed to reflect the changed condition.

Response M-72: The commentor provided the following comment on the Draft EIR:

CUMULATIVE IMPACTS

The extent to which the Grocery Outlet Store project complies with Circulation Element standards 118
has also been considered within the context of future traffic conditions in this area of Fort Bragg. How?
Long term traffic conditions have been forecast and evaluated based on growth assumptions made
in other recent traffic studies and based on understanding of other approved projects in this area.

Year 2040 Long Term Background Cumulative Conditions

APPROACH TO DEVELOPING TRAFFIC VOLUME FORECASTS

Future traffic volumes were created based on long term future traffic volumes growth rates provide by Caltrans. *Caltrans 2014 Growth Factors (2014)* have been employed for recent Fort Bragg traffic studies and have been used herein. These 20-year growth factors were developed from California Air Resources Board traffic growth projections and historic traffic growth data. A growth factor of 1.15 has been employed, which is equivalent to roughly 0.7% annual growth.

The extent to which other approved projects should be considered in future forecasts in addition to the growth rate was considered. City of Fort Bragg staff reported that one approved project exists in the area of the Grocery Outlet Store that would be expected to result in traffic volume increases beyond that already addressed by the assumed background growth rate. *The Plateau Housing Project* is located on the east end of South Street south of Kempe Way.

That project totals 68 residences, divided between 20 units of permanent supportive housing, 25 units of affordable senior housing and 23 units of workforce / family housing. Based on ITE rates for Detached Senior Residences (code 215) and Multiple Family Residences (code 220) the project could generate 432 weekday and 418 Saturday daily trips, with 32 trips in the weekday p.m. peak hour and 36 trips in the Saturday midday peak. The trip generation calculation for the workforce / family housing portion of *The Plateau Housing Project* is considered a worst-case scenario. These trips were assigned to the study area street system based on current travel patterns, and subsequently superimposed onto the cumulative background forecast.

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The answer to the commenter's question lies on the page the question was posed. See page 3.7-16 of the Draft EIR. As discussed:

Future traffic volumes were created based on long term future traffic volumes growth rates provide by Caltrans. *Caltrans 2014 Growth Factors (2014)* have been employed for recent Fort Bragg traffic studies and have been used herein. These 20-year growth factors were developed from California Air Resources Board traffic growth projections and historic traffic growth data. A growth factor of 1.15 has been employed, which is equivalent to roughly 0.7% annual growth.

The extent to which other approved projects should be considered in future forecasts in addition to the growth rate was considered. City of Fort Bragg staff reported that one approved project exists in the area of the Grocery Outlet Store

that would be expected to result in traffic volume increases beyond that already addressed by the assumed background growth rate. *The Plateau Housing Project* is located on the east end of South Street south of Kempe Way.

That project totals 68 residences, divided between 20 units of permanent supportive housing, 25 units of affordable senior housing and 23 units of workforce / family housing. Based on ITE rates for Detached Senior Residences (code 215) and Multiple Family Residences (code 220) the proposed Project could generate 432 weekday and 418 Saturday daily trips, with 32 trips in the weekday p.m. peak hour and 36 trips in the Saturday midday peak. The trip generation calculation for the workforce / family housing portion of *The Plateau Housing Project* is considered a worst-case scenario. These trips were assigned to the study area street system based on current travel patterns, and subsequently superimposed onto the cumulative background forecast.

Response M-73: The commentor provided the following comment on the Draft EIR:

Peak Queues. As noted in Table 3.7-13, background traffic growth will result in longer queues at the intersections on Cypress Street. At the Main Street / Cypress Street intersection the 95th percentile queue in the westbound left turn lane may increase to 165 feet during peak periods. However as noted in the discussion of existing conditions, the queue will continue to extend into the transition area between the left turn lane and the adjoining TWLT lane but will not spillover into the adjoining through lane. Because the through travel lane is not affected, background conditions would be acceptable.

119 This is not accurate. This DEIR indicates that the westbound left turn lane includes only 100 feet of queue capacity at the SR1/Cypress Street intersection. The existing conditions exceed that available queue capacity and vehicles waiting to turn left at the signal often backs up into the through travel lane, which is consistent with my personal experience driving vehicles through this intersection and waiting to turn left onto SR1 or proceed through the intersection to access W. Cypress Street. This project contributes at least 10 feet of needed queuing space for left turns at this intersection, which, along with the cumulative impacts of nearby projects like the Plateau housing development accessed off of South Street, presents a cumulatively considerable contribution to the overall conditions that fail to meet applicable performance criteria set out in the Coastal General Plan. As such, there is no substantial evidence in the record to support this asserted conclusion and this project presents an unmitigated cumulatively considerable contribution to the impacts that requires mitigation to reduce the project's impacts to less-than-significant. For example, by improving the Cypress Street intersection's performance through redirecting existing and projected traffic to the South Street and North Harbor Drive intersections with SR1 by requiring the project to pay its fair share contribution to improvements at those intersections as mitigation measures. Further, the traffic analysis in the DEIR needs to be updated to include analysis of the effectiveness of these mitigation measures in reducing the impacts to less-than-significant.

As noted on page 3.7-6 of the Draft EIR, Table 3.7-3 identifies the 95th percentile queue lengths occurring at the signaled SR 1 (Main Street) / Cypress Street

intersection during the weekday p.m. peak hour and Saturday peak hour. As noted, the westbound queue length exceeds the length of the striped left turn lane on that approach. In this case the queue extends back into the 40-foot long transition area between the westbound lane at the SR 1 intersection and the TWLT lane that continues towards the Cypress Street / Franklin Street intersection. The 95th percentile queue would not block access to the existing driveway served by the TWLT lane. It is also noted that the Plateau Housing Project was considered in the near-term and cumulative traffic condition.

Response M-74: The commentor provided the following comment on the Draft EIR:

120 ***Peak Queues.*** As noted in Table 3.7-13, the project will add westbound left turns at the SR 1 (Main Street) / Cypress Street intersection, and the 95th percentile queue may increase by about 10 feet during peak periods. However as noted in the discussion of existing plus project impacts, the queue will continue to extend into the transition area between the left turn lane and the adjoining TWLT lane but will not spillover into the adjoining through lane. **Because the through travel lane is not affected, the project's impact is not significant for purposes of compliance with the Coastal General Plan Circulation Element.**

Not accurate, the left turn lane is only 100 feet long from SR1 eastward so the queue will back up into the through lane.

Traffic Signal Warrants. Table 3.7-15 notes Year 2040 Plus Project traffic volumes and identifies the status of resulting peak hour traffic signal warrants. As indicated, peak hour traffic signal warrants would be satisfied at the same intersections identified under the background Year 2040 conditions. The SR 1 (Main Street) / South Street intersection would carry volumes that satisfy warrants in both the weekday p.m. peak hour and Saturday peak hour, while the SR 1 (Main Street) / North Harbor Drive intersection satisfies peak hour warrants in the Saturday peak hour.

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Please see Response M-73.

Response M-75: The commentor provided the following comment on the Draft EIR:

Project Impacts / Mitigation Options. Based on General Plan policy, the project's cumulative impact is significant for purposes of compliance with the Coastal General Plan Circulation Element at the SR 1 (Main Street) / South Street intersection since the project will cause the intersection to operate at LOS E, which exceeds the LOS D minimum, and peak hour traffic signal warrants are met. **The project's impact is significant for purposes of compliance with the Coastal General Plan Circulation Element, and Conditions of Approval are required based on LOS. This is partially true but technically inaccurate: the DEIR needs to include appropriate MITIGATION MEASURES to address this impact.** To address future conditions at this location it would be necessary to consider alternatives such as:

Prohibit westbound left turns, as is the case at the SR 1 (Main Street) / North Harbor Drive intersection. **Not accurate and not within the City's authority since Caltrans controls the SR1 right of way, including the intersecting street approaches at these intersections.**

Install traffic controls that stop the flow of traffic on SR 1 in order to allow side street traffic to enter, such as an **all-way stop**, a **traffic signal** or a **roundabout**.

Pursuant to a Condition of Approval for the Project, the Project applicant would be required to pay their fair share fee for the traffic control at the SR 1 (Main Street) / North Harbor Drive intersection. **How do improvements to this intersection improve the performance at SR1/South Street?**

Table 3.7-12 also presents the Levels of Service occurring during the weekday p.m. peak hour with the Grocery Outlet Store as these treatments are pursued. As indicated, prohibiting left turns would result in LOS C at the intersection. While traffic diverted will likely make a right turn before making a u-turn at Cypress Street, the SR 1 (Main Street) / Cypress Street intersection would still operate at LOS C with this additional traffic. The cost to sign and stripe the intersection for these new controls would be minimal. Either a traffic signal or roundabout would yield LOS A, a Level of Service that satisfies the City's minimum standard, but the feasibility of either option at an intersection that is only 700 feet from the Cypress Street traffic signal will need to be confirmed. The cost of a traffic signal on the state highway would likely be about \$500,000, depending on the extent of ancillary intersection improvements required under Caltrans standards. The cost to retrofit an existing intersection to a two-lane roundabout would likely be in the range of \$1.5 to \$2.5 million.

Because any improvements within the state right of way require Caltrans approval, it is important to consider the steps needed to gain approval for any mitigation. Caltrans policy regarding applicable **The DEIR determines mitigation is necessary but fails to incorporate actual mitigation measures. This is a flaw requiring revision to include feasible mitigation measures rather than hypothetical future special conditions.**

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The answer to questions 121 and 122 can be found on the page which is shown above. See Page 3.7-21. As discussed, "Pursuant to a Condition of Approval for the proposed Project, the Project applicant would be required to pay their fair share fee for the traffic control at the SR 1 (Main Street) / North Harbor Drive intersection." A mitigation measure is not warranted because LOS is not a CEQA topic; instead; this requirement will be implemented through an enforceable Condition of Approval.

As noted in Response M-52, the Applicant must comply with the Condition of Approval and the City will enforce it. This fair-share contribution also will be included as a "Condition of Approval" that will bind both the Applicant and City to this requirement. (Draft EIR, p. 3.7-22 "[t]he Grocery Outlet Store Project proponents should contribute their fair share to the cost of regional circulation improvements by paying adopted fees and making frontage improvements. In addition, the proposed Project should contribute its fair share to the cost of cumulatively needed improvements to the SR 1 (Main Street) / South Street

intersection”].) Thus, this requirement is enforceable and the proposed Project will be implemented with it intact. (See Berkeley Hillside Preservation, supra, 60 Cal.4th at p. 1119 [CEQA presumes that a project will be implemented as proposed].)

Please also see Response M-67 regarding LOS.

Response M-76: The commentor provided the following comment on the Draft EIR:

3.7 TRANSPORTATION AND CIRCULATION

traffic controls has recently been expanded based on *Traffic Operations Policy Directive 13-02*. This directive requires that Caltrans consider the relative merits of alternative traffic controls when it becomes necessary to stop traffic on state highways. Roundabouts are the default intersection control, but all-way stops and traffic signals are to be considered. The policy directive requires preparation of an *Intersection Control Evaluation (ICE)* to determine the preferred traffic control. A preliminary ICE report would consider issues such as comparative traffic operations, right of way requirements, effects on adjoining access, etc. City of Fort Bragg preferences amongst feasible alternatives can also be considered. After an applicable solution is identified and funded, work would be completed in the Caltrans right of way under an encroachment permit from Caltrans.

Mitigations. The Grocery Outlet Store project proponents should contribute their fair share to the cost of regional circulation improvements by paying adopted fees and making frontage improvements. In addition, the project should contribute its fair share to the cost of cumulatively needed improvements to the SR 1 (Main Street) / South Street intersection.

125 **Despite this conclusion, no such mitigation measures are included in the DEIR. Revise accordingly.** Table 3.7-16 notes the Grocery Outlet Store project’s relative contribution to future traffic volumes at each study intersection based on the method recommended in Caltrans traffic study guidelines. As shown, project trips represent 16.1% of the future new traffic at the SR 1 / South Street intersection. Assuming a \$500,000 traffic signal, the project’s contribution could be \$84,500.

Please see Response M-75.

Response M-77: The commentor provided the following comment on the Draft EIR:

3.7 TRANSPORTATION AND CIRCULATION

“By adding retail opportunities into the urban fabric and thereby improving retail destination proximity, local-serving retail development tends to shorten trips and reduce VMT. Thus, lead agencies generally may presume such development creates a less-than-significant transportation impact. Regional-serving retail development, on the other hand, which can lead to substitution of longer trips for shorter ones, may tend to have a significant impact. Where such development decreases VMT, lead agencies should consider the impact to be less-than-significant.” 126 **The proposed Grocery Outlet will serve the entire coastal region.**

The commenter is correct that the proposed Project will serve the region; however, the proposed Project-specific analysis shows that the proposed Project would not have a significant VMT impact

Response M-78: The commentor provided the following comment on the Draft EIR:

6. ADDITIONAL ACCESS TO NOYO HARBOR

127

Currently, access to the north side of Noyo Harbor is limited to North Harbor Drive. Another access is required to improve traffic circulation and to ensure that emergency vehicles can reach Noyo Harbor in the event North Harbor Drive is obstructed. Improved access to the Noyo Harbor would be considered if and when the City annexes the harbor.

Goal C-6 Improve access to the North Part of the Noyo Harbor.

Policy C-6.1 Provide Additional Access Routes to Noyo Harbor: Consider constructing a new access route from the west side of Main Street to the north side of the Noyo Harbor. Any new access route to the north side of the Noyo Harbor shall be consistent with all applicable policies of the LCP including, but not limited to, the wetland, environmentally sensitive habitat area, public access, and visual protection policies.

- Program C-6.1.1: Evaluate the economic and environmental feasibility of acquiring an access route to Noyo Harbor using existing road alignments extended onto the Georgia-Pacific site.

This important issue is mentioned but not analyzed in the DEIR. The project's contribution to this existing unsafe condition should be reviewed in detail. Doing so will require revision of the DEIR to include that analysis.

Please see Response M-45 regarding General Plan policy consistency.

It is noted that the highlight and comment was taken from Section 3.7.2, Regulatory Setting, of Section 3.7 of the Draft EIR. The discussion does not pertain to the proposed Project and instead discusses Noyo Harbor access-related General Plan discussions.

According to the City, the Noyo Harbor Access Planning Project is in its infancy. The City is working with other regional agencies and intends to apply for a planning grant in 2023 that will provide funds to address the need for an alternate egress out of the Noyo Harbor.

Response M-79: The commentor provided the following comment on the Draft EIR:

TRANSPORTATION AND CIRCULATION

3.7

9. PEDESTRIAN FACILITIES

Most areas of Fort Bragg have sidewalks for pedestrians. There are, however, a number of residential streets which lack sidewalks, and substandard sidewalk facilities exist throughout the City. Better pedestrian access across Fort Bragg's bridges and along Main Street from the Noyo Bridge to the southern City limits and from Elm Street north is needed. New development must be served by adequate pedestrian facilities. In addition to the policies and programs listed below, see the Conservation, Open Space, and Parks Element regarding policies and programs recommended for increasing and improving the trail system within the Planning Area.

128

This project is not served by adequate pedestrian facilities because of missing sidewalks that won't be provided.
Goal C-9 Make it easier and safer for people to walk in Fort Bragg.

Please see Response M-68 regarding sidewalk gaps and Response M-45 regarding General Plan policy consistency.

It is noted that the highlight and comment was taken from Section 3.7.2, Regulatory Setting, of Section 3.7 of the Draft EIR. The discussion does not pertain to the proposed Project and instead discusses pedestrian related General Plan discussions.

Response M-80: The commentor provided the following comment on the Draft EIR:

3.7.3 IMPACTS AND MITIGATION MEASURES

THRESHOLDS OF SIGNIFICANCE

Consistent with Appendix G of the CEQA Guidelines, the proposed Project will have a significant impact on transportation and circulation if it would result in:

- Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities;
- Conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b);
- Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment); and/or
- Result in inadequate emergency access.

129

These are the checklist questions not the relevant thresholds of significance.

IMPACTS AND MITIGATION MEASURES

Impact 3.7-1: Project implementation would not conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities (Less than Significant)

PEDESTRIAN IMPACTS

Pedestrians were included in the intersection traffic counts. There are sidewalks in many locations on the streets surrounding the project. Sidewalk is present at these locations:

- both sides of Franklin Street from a point about 250 feet south of South Street northerly to

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3.7-41

As explained at length previously (see Response M-15, for example), thresholds based on questions included in the CEQA Guidelines (Appendix G) are acceptable for use in EIRs.

Response M-81: The commentor provided the following comment on the Draft EIR:

3.7 TRANSPORTATION AND CIRCULATION

Cypress Street

- east side of Franklin Street for 100 feet north of North Harbor Drive 130
- both sides of Cypress Street Not accurate: sidewalks on the south side of South St. east of the
- both sides of South Street project and portions of the east side of Franklin are missing.
- north side of North Harbor Drive from SR 1 to the project site (230 feet)
- south side of North Harbor Drive from SR 1 to 160 feet east
- east side of Main Street (SR 1)

Crosswalks are striped at intersections as noted earlier, and ADA ramps have been provided at most locations.

Some Grocery Outlet Store employees or customers will elect to walk to and from the site, as there is residential and commercial development near the site. However, sidewalk exists on the streets adjoining the site, and with frontage improvements installed by Grocery Outlet Store, sidewalks will generally provide a complete path of travel to and from the site. There are two locations where gaps in the pedestrian system may remain, including:

- The south side of South Street from Franklin Street easterly to Myrtle Street (150 feet)
- The north side of North Harbor Drive between Franklin Street and Myrtle Street (100 feet)

The gaps exist at locations where it appears that residences were constructed prior to the City of Fort Bragg requiring frontage improvements. Privately maintained landscaping exists near the road. The availability of right of way to construct improvements is unknown.

Please see Response M-68 regarding sidewalk gaps and Response M-45 regarding General Plan policy consistency. The gaps which the commenter has pointed out are discussed in the subsequent sentences, as shown in the above.

Response M-82:

The commentor provided the following comment on the Draft EIR:

CONCLUSION

Implementation of the proposed Project would not result in a conflict with an existing or planned pedestrian facility, bicycle facility, or transit service/facility. In addition, the Project would not interfere with the implementation of a planned bicycle facility, pedestrian facility, or transit service/facility. The Project would not cause a degradation in transit service such that service does not meet performance standards established by the transit operator. Overall, implementation of

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the proposed project would have a *less than significant* impact relative to this topic.

This conclusion is not justified because the project conflicts with several applicable policies that remain unmitigated.

Impact 3.7-2: Project implementation would not conflict with or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b) (Less than Significant)

Starting in July 2020, CEQA Guidelines section 15064.3 requires agencies to move from a Level of Service based impacts analysis under CEQA to analysis based on regional Vehicle Miles Traveled (VMT). Current direction regarding methods to identify VMT and comply with state requirements is provide by the California Governor's OPR December 2018 publication, *Technical Advisory on Evaluating Transportation Impacts in CEQA*.

This advisory contains technical recommendations regarding assessment of VMT, thresholds of significance, and mitigation measures. Again, OPR provides this Technical Advisory as a resource for the public to use at their discretion. OPR is not enforcing or attempting to enforce any part of the recommendations contained therein. (Gov. Code, § 65035 ["It is not the intent of the Legislature to vest in the Office of Planning and Research any direct operating or regulatory powers over land use, public works, or other state, regional, or local projects or programs."].) OPR provides this direction for retail projects:

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3.7-43

Please see Response M-45 regarding General Plan policy consistency.

Response M-83:

The commentor provided the following comment on the Draft EIR:

VMT.

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The relevant applicable analysis scenarios were analyzed using the methodologies described above, and the VMT analysis results are summarized in Table 3.7-17. The results in Table 3.7-17 indicate that the Project would result in a net increase in VMT over baseline conditions. However, the model considers a very limited amount of re-routing of Fort Bragg residents that currently go to the Grocery Outlet store located in Willits for grocery shopping. As such, the VMT calculation was adjusted for re-routing.

According to information provided by Grocery Outlet, over the last 12 months (June 2021 to June 2022), around 9% of the people that visit their Willits store come from Fort Bragg. Considering that the length of a one-way trip from Fort Bragg to the Willits Grocery Outlet store is approximately 35 miles, and one mile from Fort Bragg to the Project, 990 VMT is equivalent to the re-routing of 30 one-way trips or 15 round trips from the Willits Grocery Outlet store to the Project store. Per the Institute of Transportation Engineers *Trip Generation Manual, 11th Edition*, a grocery store such as the one in Willits generates approximately 3,500 daily one-way trips.

3.7-44

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Pease see Response M-84 regarding VMT.

Response M-84: The commentor provided the following comment on the Draft EIR:

TRANSPORTATION AND CIRCULATION

3.7

Therefore, in conclusion, the re-routing of less of 1% of these trips would result in a net decrease in VMT for both baseline (2022) and future year (2030) conditions. Table 3.7-18 shows the adjusted VMT results accounting for a trip redistribution from the Willits Grocery Outlet to the Fort Bragg Grocery Outlet of 1% and 9%. Table 3.7-18 is referenced but omitted. These conclusions lack any evidentiary support as a result. The only analysis suggests a significant impact. 134

TABLE 3.7-17: PROJECT EFFECT ON VMT AFTER INITIAL MODELING

ANALYSIS HORIZON YEAR	SCENARIO	SCENARIO VMT
Model Base Year 2009	No Project	659,672
	Plus Project	658,755
	Year 2009 Delta	-917
Model Future Year 2030	No Project	763,620
	Plus Project	764,610
	Year 2030 Delta	+990
Interpolated Baseline Year 2022 Delta		+ 263

(*see also 133)

SOURCE: FEHR & PEERS, 2022. These both show significant impact due to increased VMT. 135

Thus, per the significance criteria, the modeled VMT results, and the adjustments based on market information presented previously, the Project results in a less-than-significant impact. 136
There is no evidentiary support for this conclusion, which is merely an unsupported assertion.

Table 3.7-18 was inadvertently omitted from this section. This table, prepared by traffic consultant Fehr & Peers, however, appears in Appendix H of the Draft EIR (p. 6). The table is shown below:

TABLE 3.7-18: PROJECT EFFECT ON VMT ACCOUNTING FOR TRIP REDISTRIBUTION FROM WILLITS GROCERY OUTLET TO FORT BRAGG GROCERY OUTLET

ANALYSIS HORIZON YEAR	SCENARIO	SCENARIO VMT (1% REDISTRIBUTION)	SCENARIO VMT (9% REDISTRIBUTION)
Model Base Year 2009	No Project	659,672	659,672
	Plus Project	657,565	648,045
	Year 2009 Delta	-2,107	-11,627
Model Future Year 2030	No Project	763,620	763,620
	Plus Project	763,420	753,900
	Year 2030 Delta	-200	-9,720
Interpolated Baseline Year 2022 Delta		-927	-10,447

SOURCE: FEHR & PEERS, 2022.

See Chapter 3.0, Revisions, of this Final EIR for the revision.

Based on this data showing a net reduction in vehicle miles traveled (VMT), Fehr & Peers concludes: "Thus, per the significance criteria, the modeled VMT results, and the adjustments based on market information presented previously, the proposed Project results in a less-than-significant impact." (Draft EIR, Appendix H [p.6].)

This quantitative analysis is confirmed by traffic consultant KD Anderson's qualitative analysis:

Based on the location of competing stores, the most likely effect on regional travel associated with the development of the proposed Project is to slightly reduce the length of trips from areas south of the river off of SR 20 or SR 1 that are today made northbound, and to offer another option for shopping trips made by residents of areas to the north. As the proposed project is relatively close to other stores, the regional effect on VMT is likely to be small, but generally will be reduced by offering a closer option for northbound traffic.

(Draft EIR, Appendix F [p. 35].)

Also on this subject, KD Anderson states:

The regional effect on VMT is likely to be small, but generally will be reduced by offering a closer option for northbound traffic. This conclusion is consistent with the OPR presumption that the VMT effects of locally serving retail uses of 50,000 sf or less may be considered to be less than significant.

Testimony offered at the Planning Commission supported the conclusion that the Fort Bragg Grocery Outlet Store would reduce regional VMT. Many speakers described driving to the existing Grocery Outlet Store in Willets and stated that they would patronize the new store in Fort Bragg. This redistribution of current traffic to a closer Grocery Outlet Store is consistent with OPR guidance.

Similarly, the Grocery Outlet Store representative also provided supporting testimony. Based on their experience, the entry of Grocery Outlet Store into any community...redistribute[s] the current shopping pattern, but based on Bureau of Labor Statistics analytics, community grocery consumption remains the

same regardless of the number of grocers servicing the area. That dynamic supports the notion that the entry of Grocery Outlet actually lowers VMT and traffic congestion as consumers travel choices tend to favor convenience. Thus, the entry of any new grocer will tend to reduce travel as consumers located near the new location will gravitate to that new location making shorter trips. While traffic studies may conservatively describe trips to the Grocery Outlet Store as "new", there is an offsetting reduction in trips to the pre-existing grocery providers.

(Draft EIR, Appendix G [pp. 8-9].)

Thus, the Draft EIR's conclusion that "the re-routing of less of 1% of these trips would result in a net decrease in VMT for both baseline (2022) and future year (2030) conditions" is supported by the analysis of two different traffic experts, constituting ample substantial evidence. (See Pub. Resources Code, § 21082.2; Guidelines, § 15384.) The above-referenced appendices were: (1) included as part of the publicly circulated Draft EIR; (2) expressly identified in the Table of Contents (p. TOC-5); (3) specifically cited at the beginning of Section 3.7 (p. 3.7-1); and (4) readily and easily accessible to readers. (See *Ocean Street Extension Neighborhood Assn. v. City of Santa Cruz* (2021) 73 Cal.App.5th 985, 1006-1008 (Ocean Street) [in upholding EIR, court relies in part on appendix, which the court considered to be part of the EIR: "[t]he FEIR explains that there are possible significant effects that were determined not to be significant with mitigation measures in place and directs readers to the appendix for more detail"].)