



# TOWN OF FAIRFAX

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**TO:** Planning Commission  
**DATE:** April 19, 2018  
**FROM:** Ben Berto, Planning and Building Services Director  
**SUBJECT:** Work Program Priorities

## **BACKGROUND**

At your February 15 and March 15, 2018 meetings, the Planning Commission reviewed and made recommendations on Planning's 2018 work program. The recommendations have been scheduled to be presented at the May 2 Town Council meeting.

This meeting allows further review and refinement of Commission work program items. The Town Council also held a retreat on March 9, 2018 to discuss their goals for the upcoming fiscal year, some of the results of which relate to and lend direction on the proposed work items.

Following are the Commission's recommended work program items. Once the Town Council has provided direction on work program priorities, staff will work with the Commission on implementing the work program.

## **WORK PROGRAM PRIORITIES**

### **Marinda Heights Subdivision of the Wall Property**

The proposed Marinda Heights Subdivision of the Wall Property will involve a substantial amount of staff and Planning Commission work and time in the coming months.

The application is still incomplete. Staff issued a project status determination memorializing this incomplete status letter on March 23, 2018. Click on or cut and paste following link to review the letter:

[https://www.fairfaxbuildingplanning.org/uploads/1/7/2/9/17296328/project\\_status\\_letter\\_w\\_attachments\\_032318.pdf](https://www.fairfaxbuildingplanning.org/uploads/1/7/2/9/17296328/project_status_letter_w_attachments_032318.pdf)

After the incomplete items have been addressed, the project will enter into its Environmental Impact Report (EIR) phase. A request for proposals will be sent out to qualified environmental consulting firms, one of which will be selected to prepare the EIR. Early in the environmental review process, a public scoping session will be scheduled discuss potential environmental impacts with the public.

### **Cannabis regulations**

Several Town Council hearings (the latest at the Council's April 4, 2018 meeting) and a special panel discussion workshop have already been held to explore various cannabis-related topics, and begin the process of determining the Town's positions on various cannabis topics. A special meeting is in the process of being scheduled (preliminarily the latter part of May) that will feature a consultant specializing in governmental oversight of cannabis businesses. The consultant will provide information and guidance to the Town Council, staff, and likely the Planning Commission (in a joint meeting).

The Town Council recognized "Regulate commercial cannabis businesses" as one of their highest priorities.

### **GENERAL PLAN IMPLEMENTING PROGRAMS**

Following are the ten highest program priorities that the Planning Commission recommended at its February 15 and March 15, 2018 meetings. The proposed General Plan implementing programs are not strictly ranked in terms of priority, however those listed first represent a rough Planning Commission consensus as higher priorities. Some of the lower priorities are also recognized as items which, although high priorities that were assigned to the Planning Commission and staff in the General Plan, are more town-wide concerns and the purview of other agencies.

Summary discussions are included with each General Plan Program priority. The General Plan Element in which the Program is found is listed first and is underlined.

Following are the ten (thirteen actually, three programs tied for votes) highest Planning Commission General Plan implementing Program priorities:

1. Conservation Program CON-8.2.1.1-*Establish an ordinance for protecting, maintaining, rehabilitating, and enhancing historical and cultural resources within the Fairfax Planning Area.*

The Planning Commission expressed strong support for preserving the historic character of the downtown. Cassidy DeBaker, Fairfax resident and archaeologist, provided the Commissioners with an overview of the historical significance of the downtown area on October 19, 2017.

At their goal-setting workshop, the Town Council also listed as one of its top 2018 goals “Consider establishment of density limits and objective development standards in commercial areas to address potential residential development on sites.”

These Planning Commission and Town Council work items are closely related. It is anticipated that Ms. DeBaker will take the lead on inventorying and developing information on the historical character of the downtown. Assuming that the Town Council supports an integrated approach, staff will work with her to develop policies and regulations for the preservation of the Town’s historical structures and character.

2. *Land Use Program LU-1.2.1.1 Evaluate existing Visually Significant Areas on the Visual Resources Map and update as appropriate*

The graphical Visual Resources Map, Figure OS-1, found on page OS-4 of the General Plan’s Open Space Element dates from the 1970’s. While competent for the period, hand-drawn maps such as these are often only modestly connected to the real location of physical features in space. Determining where these features are actually located and designating features and boundaries in regards to real-world projects will be a challenge.

General Plan Program LU-1.2.1.1 acknowledges the limitations of the Visual Resources Map and recommends updating as appropriate. Staff is working with GIS consultants to achieve an updated, real-world georeferenced Map of Visual Resources. Ben do we have an estimated completion date for the map that could be inserted here?

3. *Open Space Program OS-3.2.2.1 Update Fairfax Ordinance 17.060 to clarify conditions surrounding development near ridgelines and encourage the County of Marin to align the Marin County Ridgeline Ordinance, as it exists as of the date of approval of this General Plan, with the Fairfax Ordinance 17.060.*

Chapter 17.060 of the Zoning Code, Ridgeline Development, contains review criteria and findings, including language on the applicability of the Town’s Visual Resources Map (see #2 above). The County of Marin’s Ridgeline and Upland Greenbelt development regulations contain similar provisions. Work will evaluate what the two regulations share in common and how they differ, and what modifications/clarifications may be appropriate.

Applying Fairfax’s Ridgeline Development regulations to the Marinda Heights Subdivision of the Wall property will also help clarify Fairfax’s regulations and point to potential updates.

4. *Housing Program H-1.1.1.5, Preserve Existing Low Income Units. The Town has 2 deed restricted housing projects, Bennett House and part of Creekside, but does not currently have any deed-restricted “at-risk” units at this time. Should there be affordable units at*

*risk in the future, the Town will work with property owners of deed-restricted units that are at risk of converting to market rate housing to preserve the lower-income housing by providing funding from the Town's trust fund, working with the County to target Section 8 vouchers for the units or providing other funds for improvements.*

The shortage of affordable housing is a major issue in Marin and statewide. The Town Council affirmed its interest in efforts to "Explore innovative approaches, such as Tiny Homes, to create more affordable housing opportunities." The current context is not just to preserve deed-restricted units, but to preserve low-income housing. This could include new policies and regulations to avoid any net loss of housing. For example, preventing the conversion of existing duplexes, triplexes, or single-family residences with ADU's, into single-family residences.

5. *Housing Program H-4.1.2.1\_Enact Density Bonus Zoning and Other Incentives. Town staff will prepare amendments to the Zoning Ordinance, for review and approval by the Planning Commission and Town Council, to encourage an increase in the supply of well-designed housing for extremely low-, very low- and moderate-income households. The amendments will include adoption of a density bonus ordinance consistent with the State Density Bonus Law (GC Section 65915 et seq.). In addition, staff and decision makers will evaluate the following:*

- o Implementation of additional elements of a density bonus program (above and beyond those required by GC Section 65915 et seq.), including establishing simplified density bonus provisions.*
- o Inclusion of financially equivalent incentives, such as use of trust fund resources, expedited processing by Planning and Building Services, and waived or reduced fees to the extent possible for lower-income housing.*
- o Updates to fee schedules to reduce and/or defer fees, to the extent possible, for lower-income housing.*
- o Establishment of streamlined processing procedures and other mechanisms to fit with funding requirements and to facilitate desirable lower-income projects that have a significant portion of their total floor area committed to housing.*

According to the Town Attorney, the Town can adopt its own Density Bonus ordinance setting forth tiers identifying which density bonus concessions are preferable, which might be accepted and which are not preferred. This in turn would inform developers about which concessions are acceptable or not to the Town. The ordinance can be used to clarify some of the policies in the General Plan, for example, the General Plan policy indicating that the Town will consider reducing parking standards for affordable housing. The ordinance can make it clear that the parking reduction would not be acceptable on top of a project already using reduced parking as a concession. Including a tier system and clarifying the specifics of what is

meant by certain GP policies would give the Town more control over any project attempting to use density bonus and concession regulations to decrease amenities and/or increase the number of project units.

6. *Land Use Program LU-7.2.5.2 Develop and adopt an ordinance to preserve neighborhood scale and character to rebuild structures when wide-scale destruction has occurred.*

This program points towards developing a local post-disaster recovery ordinance, which will improve the speed, efficiency, quality, and predictability of post-disaster efforts, and provide guidance about preserving neighborhood scale and character. Fairfax witnessed the real-world example of the Sonoma and Napa County firestorm, and the numerous challenges faced in rebuilding after catastrophic widespread destruction. The firestorm demonstrates what could occur in Fairfax.

The recent Cascade Canyon Firewise certification illustrates how neighborhoods can address disaster preparedness and increase their own awareness of how to respond after a catastrophic event. Establishing local priorities for recovery will also assist our community in the event disaster strikes.

The Town Council included a related priority their 2018 goal: "Implement a fire prevention program including risk reduction activities, property inspections, creation of Firewise neighborhoods, emergency preparedness, and community outreach/education."

7. (a). *Seismic Safety Program S-1.1.3.4 Based on inventories and evaluations conducted in S-1.1.3.1 through 1.3.3.3, design and implement a seismic retrofit program to address the highest priority structures. Make information readily available to the public.*

The Town created a seismic safety inventory of its commercial buildings in 1986-87 and since that time, the four unreinforced masonry buildings in the commercial area have been retrofitted. It isn't clear the extent to which standard wood framed buildings, including government or other public buildings, or historic structures such as the Pavilion, have been evaluated and retrofit work conducted. Some of the larger private multi-family residential buildings may be at risk as they have space-framed (soft story) parking areas on the first floor.

A review of the seismic inventory and retrofit work that has occurred to date would be a good start at developing a program to identify and seismically retrofit highest priority structures. Additional funding would be necessary to implement this program in a comprehensive manner. Currently the town waives the permit fee for residential seismic upgrades, and can issue a generic plan-set for residents use as well.

- (b). *Conservation Program CON-6.1.2.3, Incorporate lighting restrictions for proposed new commercial development, replacement street lighting and residential landscaping.*

This would be relatively straightforward to implement. Involving a new lighting ordinance, it would include features such as what would trigger the requirement for lighting upgrades (electrical service upgrades or significant remodels?). The Town is already in the process of upgrading its street lights to energy efficient fixtures. The Planning Commission is scheduled to hear in April a brief night sky presentation relating to outdoor lighting. This could provide a good overview, and serve as a basis for additional investigation of issues.

8. (a) *Safety Program S-4.4.1.2 Establish a Fire Hazard Abatement District.*

This is outside the purview of the Planning Commission and planning staff. However, the Town Council recognizes this as a priority in the following 2018 goal: "Implement a fire prevention program including risk reduction activities, property inspections, creation of Firewise neighborhoods, emergency preparedness, and community outreach/education."

(b) *Open Space Program OS-1.4.2.1 If development plans are presented to the Planning Commission for parcels on the [open space] inventory list, the commission should encourage clustered development on a small segment of the parcel, with the provision of an easement on the undeveloped portion to create Designated Open Space.*

This Program speaks for itself, and to an extent has already been applicable in previous Commission discussions with the developer of the proposed Marinda Heights subdivision of the Wall Property and in the development plans that have subsequently been submitted. Proposed easements, etc. will be part of the review of this and other vacant property development projects.

9. *Safety Program S-4.4.1.2 Develop a fire evacuation plan for the highest fire hazard areas, including those areas with limited access/egress, dead-end roads, one-lane roads, and steep canyons. Plan should include: potential evacuation routes and signage, including alternate routes on pedestrian walkways, bikeways, and trails, design and installation of a warning system, and public education and training.*

This is another Program outside the purview of the Planning Commission and planning staff (similar to Priority 8 (a)). However, as noted previously, fire safety is a Town Council priority.

10. (a) *Conservation Program CON-3.1.2.1 Develop a Creek Master Plan with implementing programs and funding sources for restoring the creeks and protecting habitat in the Planning Area.*

To accomplish this program, staff would research how other municipalities have tackled similar master plan efforts, work with Marin County's Watershed Department to learn of studies and work that have already been completed (e.g., creek restoration projects) and draw upon this information for the purposes of master plan development, further review the "Geomorphologic Assessment of Town of Fairfax Project Sites-Final Report, July 31, 2006" prepared for the Town

by Fluvial Geomorphology Consulting, and research how potential modifications to the current creek ordinance and creek setback ordinance could further protect creeks and associated riparian habitats. It is likely that efforts regarding this program will be longer-term in view of the many pressing priorities with which the Planning Commission and staff are already faced.

*(b) Housing Program H-4-1.1.4\_Review and Update Parking Standards. Town staff will review and consider updating parking standards, for review and possible approval by the Planning Commission to allow for more flexible parking requirements to allow facilitate infill, transit-oriented, and mixed-use development. The Town will require and consider reducing the parking space requirements for one-bedroom units. Recommendation will be made based on the review and action taken on the recommendations.*

The Town of Fairfax has not updated the town parking ordinance since 1982. Many things have changed since then. The number of vehicles each family owns has increased overall, an increasing number of electric vehicles require charging facilities, smaller vehicles are being marketed, and the State has adopted Accessory Dwelling (ADU) regulations that prohibit local jurisdictions from requiring covered parking or from requiring parking at all in some circumstances. Autonomous vehicles along carefully-mapped routes may be a part of our transportation future – carshare and web-hailed transport services are already here.

Review of the Town parking regulations could include: considering allowing one or more of the required three parking spaces per residence to be compact sized, reducing the number of spaces, locational requirements for EV charging stations with respect to the property lines (whether or not to require a setback), elimination of covered parking requirements, etc. (see Zoning Ordinance Amendments discussion below).

The Town Council also listed as one of their 2018 goals “Discuss strategies for addressing parking in the downtown area including the adjacent neighborhoods.” Hiring a parking consultant would be necessary for a project of this scope, which could include consideration of more flexible parking requirements.

## **ZONING ORDINANCE AMENDMENTS**

As previously discussed by Staff and the Planning Commission, some streamlining of staff’s current work as it relates to processing applications under current zoning regulations is necessary if substantive progress is desired on General Plan implementing programs. A cursory review of the scant implementation of the hundreds of General Plan implementing programs involving the Planning Commission and planning staff underscores the fact that staff has negligible time available beyond day-to-day work processing. Hired consultants would also be necessary to proceed with several of the General Plan implementing programs.

The Planning Commission at the March 15, 2018 meeting supported the following Zoning

streamlining amendments:

**(1) Limit the time a development application can remain incomplete.**

The question is whether, and for how long, an application should be allowed to remain incomplete but 'on the books'? Currently for the most part there is no time limit on incomplete applications. There are several benefits to enacting a time limit:

- It minimizes the possibility that the Town Code and other governmental regulations may change mid-review, complicating the process.
- It minimizes the possibility of staff turnover during the project submittal. Although this hasn't been a significant problem (in most instances) in Fairfax, when it does occur it adds considerable uncertainty to all aspects of a review process.
- It avoids stale information. Many technical reports (engineering, etc.) contain expiration dates. Requiring new versions of the 'same' information engenders resistance, even if the information is no longer valid.
- Lack of progress completing an application often indicates changed circumstances on the part of applicants that significantly impacts their ability to pursue the project to successful completion. Even once a project is complete, changes are often required in order for a project to be approved. Inability to even complete an application is not a good sign that they can/will do so. It is better for an application to expire and the applicant to resubmit when circumstances permit completion in a timely manner.

A search of regulations in other jurisdictions reveals that at least two, San Anselmo and the County of Marin, have similar ordinances. Staff recommends an 'application being deemed expired' versus withdrawing the application. Listed expiration deadlines lets an applicant know up front the circumstances that result in a project expiring and avoids potential due process questions involved with a withdrawal process. It is also very efficient.

Based on similar procedures already adopted in Marin, staff suggests the following expiration information and procedures be included:

- (1) The Planning Application form would be modified to include language stating that if an application has been deemed incomplete in writing by staff and remains so for a specified period of time (e.g., 180 days), the application would be considered expired.
- (2) In accordance with the Permit Streamlining Act, within 30 days of a planning application submittal, staff would transmit an "incomplete letter" summarizing all of the information needed to complete the application. This letter would include language regarding the time period within which an applicant must submit information addressing all the incompleteness items or the application would expire.



- (3) Once an application has been inactive (requested completion information not submitted) for most of the full time period after which the application would expire, staff would transmit a 'final warning' letter to the applicant stating that the application would expire in 30 days, and would include the expiration deadline.
- (4) The 'final warning' letter could include a statement that application materials would be available for pick up for 1 week following the expiration deadline, and if the materials were not picked up within the week, they would be recycled.
- (5) If any application fees remained unexpended, these would be refunded to the applicant.
- (6) Code language would state that if an applicant decides to initiate a previously expired application at a later date, the applicant would have to submit a complete Planning Application and pay the full planning fees.

**(2) Revise regulations concerning a) Covered Parking, b) Tandem Parking**

**a) Covered Parking** Town Code § 17.052.010(D) requires, "At least one of the off-street parking spaces for a residential unit must be covered, except as set forth in § 17.052.020". TC § 17.052.020(C) exempts properties from have a covered parking spot if they have a slope of greater than 15%, and slope down from the street access. See Attachment B for a visual depiction of what constitutes a 15% slope." A 15% slope is a fairly moderate slope, so many of the properties in Town are already exempt from the covered parking requirements. The State of California's new Accessory Dwelling Unit Statute now allows garages to be converted into Accessory Dwelling Units without discretionary review, and does not allow jurisdictions to require replacement parking to be covered, or in many cases in Town, require any parking at all.

Rather than unduly burden the relatively few applicants who would be subject to the covered parking requirement under Town Code, the Commission agreed that the Town Code should be modified to simply allow uncovered parking Town-wide.

**b) Tandem Parking** Town Code § 17.052.010(E) states that "no tandem parking shall be allowed, except for a [third] guest space in tandem with [two parking spaces] required parking for the principal residence. Tandem parking shall not be used in conjunction with a parking space required for a residential second unit."

In the first place, the new State ADU regulations prevent jurisdictions from prohibiting tandem parking or parking in the side yard setback in conjunction with ADU's. The above Zoning provision prohibiting tandem parking for a residential second unit is therefore void on its face.

Also, many of the Town's housing stock already has legal non-conforming tandem parking and parking in the side yard setback.

Historically, tandem parking and parking in the side yard setback were commonly found throughout the older housing developments in Fairfax. Craftsman style residences often had their driveways run alongside the house to a garage in back or along the side of the house. Driveways and garages were also often only 1 car in width.

Insofar as the State does not allow any type of additional parking to be required for most ADU's in Town, and that tandem parking cannot be prohibited for such units, it again appears unfair to burden a resident with no ADU with more stringent parking requirements than a property with two dwelling units.

Your Commission agreed that tandem parking could be allowed for all three required residential parking spaces. However parking in the side yard setback should still require a variance (and Planning Commission review).

### **(3) Allow administrative review for parcels that are substandard in size or width**

In 1973 the Town adopted its current Zoning Ordinance which included hill area residential development regulations and increased all the setback regulations and minimum lot size and width requirements for all residential properties. The code change dramatically increased the minimum parcel sizes for all for sloped parcels. The result of the changes were that roughly 90 % of the residentially zoned properties in Town became legal non-conforming, either with respect to their lot sizes or their existing setbacks. At the same time the Town included code language in all the residential zone districts equivalent to the following code provision:

*Except as otherwise provided in §§ 17.044.030 through 17.044.050 of this title, a use permit or hill area residential development permit (HRD) must be first secured in the RS-6 zone for any use, occupancy or physical improvement of or on a building site failing to meet the following requirements:*

- (A) Minimum area of 6,000 square feet and minimum width of 60 feet with a slope of ten percent or less;*
- (B) The minimum building site area shall be increased by 300 square feet for each one percent increase in slope over ten percent to and including 15 percent; and the minimum width shall be increased by one foot for each 500 square feet of additional area required;*
- (C) Building sites having a slope of more than 15 percent, shall increase in area above 7,000 square feet, and a minimum width of 65 feet, at a rate of 1,000 square feet of area and three feet of width for each one percent increase in slope; and*
- (D) Fractions shall be disregarded and dropped in all computations made under this section.*

These changes have resulted in almost every single-residential project in Fairfax requiring some discretionary approval (typically a Conditional Use Permit) from the Planning Commission. As a

result of this, Staff currently encounters only 1 to 2 permits per year that can be processed at a staff level.

Examples of projects that have had to be heard by the Planning Commission in the last couple years, that could/would be processed by staff include: closet addition, window seat addition, bathroom addition, conversion of an existing porch into additional dining room space, and two entryway additions - one 18 square feet and the other 50 square foot in size, several fences, conversion of existing unfinished space to storage and slide repair retaining walls.

The Commission in March agreed to recommend changing the zoning to allow projects that comply with all the regulations for the zone district the project is located in, except for lot width, to be administratively reviewed by staff. Compliance standards would include setbacks, height, FAR and lot coverage, and they would not be 50 % remodels. 50% remodels and projects not complying with the regulations on substandard parcels or on parcels with substandard parking for the zone they are located in would still come before the Commission.

Changing the review of such projects to administratively by staff would:

- Result in the same level of regulatory review as currently, but would not involve a public hearing before the Planning Commission.
- Free up considerable staff and Planning Commission time to focus on more substantive program priorities such as those discussed previously in this report.
- Reduce the time and expense burden on homeowners and other applicants, thereby reducing the incentive to install improvements without any necessary Town approvals.

As a side note, staff recommends that the Town Code regulations that trigger discretionary review solely due to inadequate lot size and width, be eliminated in light of the regulatory and procedural burden it places on a significant percentage of property owners in Fairfax.

#### **(4) Streamline Tree Permit requirements**

Town Code Chapter 8.36 Trees is recommended to be amended as follows:

- 1) Staff review of tree removal permits that are submitted with a report by an ISA Certified Arborist that does not provide tree cutting services, indicating a tree is diseased or dying to a point where it is not salvageable;
- 2) Staff review of tree removal requests where the tree is damaging a residence.
- 3) Accompanied with prior training, grant the Planning Commission review authority for tree removal requests that accompany other planning applications they are reviewing. Currently, the bifurcated review of all such projects results in a 'tail wagging the dog' situation wherein the Planning Commission has already approved a project that necessitates tree removal, and the Tree Committee is in the unenviable position of subsequently supposedly approving or denying a tree removal permit, denial of which would require a project to go back before the

Planning Commission for amendment.

Staff is confident that with proper training, recommendations by ISA-certified professionals, and assistance from staff and the Town Arborist when necessary, the Planning Commission can competently make such decisions.

These changes would not reduce the level of review for any proposed tree removal, but would substantially reduce the procedural burden currently experienced by many applicants.

At their March goal-setting retreat, the Town Council considered the Tree Committee-Planning Commission changes to the Town's tree regulations, and awaits the Planning Commission's recommendation.

#### **(5) Allow ministerial review of certain applications**

**Fence height variances.** With adoption of appropriate design standards, authorize staff to approve exceptions to the height limits and if certain conditions or standards occur:

) where fences are stepped down the hillside and only in small portions of the fence exceed the 6 foot setback.

) Where adjoining residential properties have significantly different elevations, consider allowing side yard fences to exceed 6 feet in height. Standards could be included requiring the uphill property owner desiring the taller fence to step the fence back to allow room for plantings on the downhill neighbor's side of the fence.

**Encroachment permits.** Entry stairways in the public right-of-way that do not exceed a certain height above grade (for example, 2 feet). Standards could include a minimum slope or grade difference between the street and front property line (for example 5 feet), and where it would not eliminate or interfere with an existing on-street public parking space).

**Over height accessory structures.** Arbors and open shade shade structures that exceed the maximum permitted 15 foot height limit for accessory structures as long as they otherwise meet the applicable setback regulations, etc. Staff is not suggesting staff review of over height accessory buildings such as storage sheds or garages.

#### **(6) Discretionary permit approval expiration**

Town Code §17.072.140 contains an expiration time limit of one (1) year for Hill Area Residential Development Permits and Variances if an applicant does not obtain a building permit within 1 year of approval. A similar expiration period should be applied to all discretionary permits. The Town Attorney agrees with a consistent expiration. Currently, Use Permits, Design Review Permits, Excavation Permits and Sign Permits do not have expiration language included in the Code, with the occasional result that projects are not completed in a timely manner and there is no penalty for not doing so. It was noted by one Commissioner that occasionally projects take more than a year. Staff would apply discretion to such projects

(for example, grading, or where construction periods are limited by resource considerations, as long as an applicant could demonstrate good faith efforts to pursue completion of a project in a timely manner.

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The Planning Commission did not reach a consensus on the following potential zoning amendment, and requested that it be reconsidered when missing Planning Commissioners were in attendance.

**(7) Change the Town definition of 50% remodel to match the Ross Valley Fire Department's definition**

Fairfax Town Code § 15.04I.015 [Buildings and Construction] reads “Substantial remodel shall mean the renovation of any structure, which combined with any additions to the structure, affects a floor area which exceeds fifty percent of the existing floor area of the structure within a twelve month period. When any changes are made in the building, such a walls, columns, beams or girders, floor or ceiling joists and coverings, roof rafters, roof diaphragms, piles or retaining walls or similar components, the floor area of all rooms affected by such changes shall be included in computing floor areas for the purposes of applying this definition. This definition does not apply to the replacement and upgrading or residential roof coverings, repair or replacement of foundations, the installation of energy efficient windows of like size, or the removal of interior wall coverings solely for installation of insulation”.

Town Code § 17.008.020, [Zoning] Definitions, “Fifty Percent Remodel, the renovation of any structure that affects more than 50% of the existing floor area of the structure, expands that floor area by more than 50% or results in the addition of a bedroom, as measured in accordance with § 17.016.040 of this title”. Section 17.016.040, clarifies that affects is defined as, “when any changes are made in the building, such as walls columns, beams or girder, floor or ceiling joists, roof rafters, roof diaphragms, foundation, piles or retaining walls or similar components, the floor area of all rooms affected by such changes shall be included in determining affected floor area”.

The difference between these two definitions are subtle, but could result in differences in how a project is evaluated. The Buildings and Construction Chapter uses “substantial remodel” while the Zoning Chapter refers to “50% remodel” and also stipulates that the addition of a bedroom also graduates a project to the same level of review as a 50% remodel but only with respect to reviewing the parking and FEMA regulations governing the height of living space floor elevations above flood water elevations.

Ross Valley Fire uses the “substantial remodel” definition to trigger the installation of fire sprinklers in a home.

The Zoning Ordinance uses the “50%” remodel definition to trigger either the installation of additional parking on sites that do not meet the current parking requirements, or to require that the Planning Commission review the project. They may in turn grant a parking variance to allow the expansion without the provision of additional parking.

The Commission can recommend code amendments to the section in any way they desire. However, the consensus of the Commission and the Town Council at the time the Zoning definition was adopted in 2009 was that houses, particularly in the hillside areas, should not be increased in size or add additional bedrooms, without the provision of conforming parking, or the approval of a variance based on findings by the Commission. Keep in mind that the State of California does not allow municipalities to limit the number of adults that can use each bedroom below two so every bedroom addition could result in 2 more adults driving to a site and trying to park their vehicles along the public roadways.

Staff recommends that the definition and ordinance be retained as is.

#### Additional considerations

All administrative decisions by staff are appealable to the Town Council per Town Code Chapter 17.036. Staff could also include Zoning Ordinance language that projects could be referred to the Planning Commission if they are deemed by staff to involve substantial policy issues or public controversy. As a practical matter, it serves nobody’s interests to have a decision by staff appealed to the Town Council. When such an outcome appears likely, staff would prefer to refer the application to the Planning Commission wherein a full public hearing is held.

Encroachment Permits are revocable and applicants who are granted encroachment permits sign and notarize a revocable encroachment permit which staff records at the Marin County Recorder’s Office prior to issuance of the building permit for any improvements in the right-of-way, to memorialize that the revocable nature of such permits is understood and agreed-upon.

#### **RECOMMENDATION**

Finalize recommendations on the work program priorities and Zoning Ordinance amendments to go to the Town Council for their review. The Town Council is tentatively scheduled to consider these work program recommendations at their meeting on May 2.

Attachment: Staff report on Town Council goals for 2018, 4/4/18





**TOWN OF FAIRFAX**  
**STAFF REPORT**  
**April 4, 2018**

**TO:** Mayor and Town Council  
**FROM:** Garrett Toy, Town Manager *GT*  
**SUBJECT:** Adopt Town Council goals for 2018

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**RECOMMENDATION**

Adopt Town Council goals for 2018.

**DISCUSSION**

On March 9, 2018, the Council conducted its annual retreat at the Women's Club to discuss Town Council goals, accomplishments, and Council protocols and policies. Attached is a list of Council goals for 2018 and a list of Town accomplishments in 2017. Staff will make recommendations regarding the implementation and funding of the Council's goals/priorities as part of the budget approval process.

**FISCAL IMPACT**

None

**ATTACHMENTS**

- A. List of Council goals for 2018
- B. List of Town accomplishments in 2017

**ATTACHMENT A**



**Council Goals for 2018**  
(not in order of priority)

- Discuss strategies for addressing parking in the downtown area including the adjacent neighborhoods
- Amend zoning code to reduce maximum home size
- Explore innovative approaches, such as Tiny Homes, to create more affordable housing opportunities
- Continue to make improvements to pedestrian trails
- Allow mobile shower pilot program in Town
- Begin design of the seismic retrofit and ADA improvements to the Pavilion
- Complete design and begin construction of the ADA and parking improvements to the Parkade
- Repair portions of sidewalks in downtown along Bolinas Rd. and Broadway from Bank St. to Pacheco Ave.
- Regulate commercial cannabis businesses
- Implement fire prevention program including risk reduction activities, property inspections, creation of Firewise neighborhoods, emergency preparedness, and community outreach/education
- Consider establishment of density limits and objective development standards in commercial zones to address potential residential development on sites