

ORDINANCE NO. 808

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX AMENDING FAIRFAX TOWN CODE CHAPTER 17.012, ADDING A NEW CHAPTER 17.090 (RM-S MULTI-FAMILY RESIDENTIAL – SENIOR), AND AMENDING THE TOWN ZONING MAP

WHEREAS, on April 25, 2016, Resources for Community Development (“Applicant”) submitted a planning application to the Town of Fairfax which proposed to subdivide a 20-acre site located at 2626 Sir Francis Drake Boulevard (the “Site,” APN 174-070-017) and develop an affordable senior housing project on one of the resulting parcels (collectively, the “Project”); and

WHEREAS, the Project would subdivide the Site into three parcels, consisting of a single 2-acre parcel (“2-acre Parcel”), and two 9-acre parcels (“9-acre Parcels”). While the 9-acre Parcels are not proposed to be developed at this time, the Applicant seeks approval to develop the 2-acre Parcel with a 54-unit affordable senior housing project (53 resident units plus one manager’s unit); and

WHEREAS, the State of California has encouraged the development of senior housing by mandating a density bonus be given to qualifying senior housing developments, thereby allowing the provision of age-restricted housing for seniors (California Government Code Section 65915, subsections (b)(1)(C) and (f)(3)); and

WHEREAS, the Project’s 53 senior housing units would be affordable to households in the very low and low income categories, as defined by California Health & Safety Code Section 50053, and the Project thus qualifies for a density bonus under California Government Code Section 65915; and

WHEREAS, the Housing Needs Assessment in the Fairfax 2015 Housing Element found that by the year 2020, Marin County is expected to have the oldest population in the state, with a median age of 47.7 years—almost 10 years older than the projected statewide median age of 38.1 years. The greatest increases in population age groups over the next 40 years are expected to be elderly and young adult households, which tend to have the lowest income levels. According to the California Department of Finance, the elderly population is expected to comprise 26 percent of the population increase in Marin County over the next 40 years, with the greatest percentage increase in those over 75 years of age; and

WHEREAS, the General Plan of the Town of Fairfax (“General Plan”) includes goals, objectives, policies, and programs related to the provision of senior housing, including:

- Goal H-2, which has as its objective “[h]ousing and programs for special needs populations, including seniors, single parents, and families, as well as workforce housing and emergency homeless shelters;”
- Objective H-2.1, which is to realize “[h]ousing opportunities for the Town’s residents with special needs, including 40 units of senior housing;” and
- Policy H-2.1.1 (‘Senior and Workforce Housing’), which states that “[t]he Town Council will appropriately rezone properties suitable for senior and workforce housing on a case-by-case basis and seek to accommodate the growing number of seniors as identified in the needs analysis within the Fairfax community;” and

WHEREAS, the General Plan likewise specifically recognizes the 2-acre Parcel as an Opportunity Site that would be suitable for the development of senior housing, to wit:

- Program H-2.1.1.1, which provides, “[r]ezone two acres of the Christ Lutheran Church property (upon approval of subdivision of the site) at 2626 Sir Francis Drake Boulevard from UR 7 to PDD and thereby make it possible to accommodate a minimum of 40 units and a maximum of 41 units of senior housing. The maximum does not apply to any units granted under the State Density Bonus Law. Program H-4.1.1.5 proposes to revise the PDD district standards to require residential-only development at this Opportunity Site at a minimum of 20 units per acre and to put specific development standards in place. No discretionary review besides confirming compliance with objective design standards will be allowed on the site following rezoning. In addition, the standards will be revised to reduce the minimum acreage for this PDD parcel from 5 acres to 1 acre. If the rezoning and General Plan Amendment happens as a result of a submittal of a development application for the Christ Lutheran Church site the Town will cover the costs of the rezone and General Plan Amendment;” and
- Program LU-8.1.1.4, which provides, “[c]hange the zoning designation for 2626 Sir Francis Drake (Christ Lutheran Church);” and

WHEREAS, the current zoning designation for the entire Site is currently Upland Residential (‘UR’) 7 ; and

WHEREAS, by adoption of Resolution No. ____ on _____, 2017, the Town Council of the Town of Fairfax has approved the adoption of a new General Plan land use designation (RM-S Multi-Family Residential - Senior) that is intended to apply solely to parcels that will provide multi-family senior housing; and

WHEREAS, Applicant has requested a General Plan amendment to authorize that the General Plan land use designation of the 2-acre Parcel be changed to RM-S Multi-Family Residential - Senior, and that the zoning required by the General Plan for the 2-acre Parcel likewise be changed to a new zoning district, RM-S Multi-Family Residential - Senior; and by adoption of Resolution No. _____, on _____, 2017, the Town Council has approved both requests; and

WHEREAS, Town staff has prepared this Ordinance in order to, and the Council finds that the Ordinance does in fact, conform to the dictates of the General Plan, as amended by Resolution No. _____, including, but not limited to:

- Goal H-2 and Objective H-2.1, by establishing a zoning framework that will allow for the production of housing for seniors, a group recognized as a special need population;
- Policy H-2.1.1, by appropriately rezoning the 2-acre parcel, which the Town has already found suitable for senior housing, and thus attempting to accommodate the growing number of seniors as identified in the needs analysis within the Fairfax community; and
- Program LU-8.1.1.4, by changing the land use designation for the 2-acre parcel to RM-S, thus allowing for the development of senior housing at this location; and
- Program H-2.1.1.1, by rezoning two acres of the Christ Lutheran Church at 2626 Sir Francis Drake Boulevard from UR 7 du/acre (UR-7) to a new zoning designation (RM-S)

that will make it possible to accommodate a minimum of 40 units and a maximum of 54 units of senior housing (with the application of the state density bonus), in accordance with stated development standards. The Ordinance will require no discretionary review (besides confirming compliance with objective design standards) following rezoning for development of the 2-acre Parcel; and

WHEREAS, California Government Code Section 65860(c) requires towns and cities to amend their zoning ordinances to conform to their respective general plans; and

WHEREAS, the Planning Department has prepared this amendment to the Town's zoning ordinance, found at Title 17 of the Fairfax Town Code, in order to implement the General Plan dictates set forth above and in consideration of the Project; and

WHEREAS, on April 20, 2017, the Planning Commission held a duly noticed public hearing to receive public input on and consider the Project, including the zoning ordinance amendments set forth herein, and all persons wishing to testify were heard; and

WHEREAS, by adoption of Resolution No. 17-13, the Planning Commission recommended the Town Council approve the zoning ordinance and map amendments set forth herein; and

WHEREAS, by adoption of Resolution No. _____ on _____, 2017, the Town Council, as the decision-making body for the Project, has approved and adopted a Final MND and Initial Study and Mitigation Monitoring Program for the Project (which specifically contemplated the adoption of this Ordinance), were completed in compliance with CEQA and the State CEQA Guidelines. The Final MND and Initial Study and Mitigation and Monitoring Program for the Project fully analyzed any environmental impacts of this Ordinance; and

WHEREAS, by adoption of this Ordinance, the Town of Fairfax demonstrates its intention to provide senior housing and provide a common set of rules to define such communities through the creation of the RM-S zoning district; and

WHEREAS, Applicant and the Town shall enter into a density bonus agreement, per California Government Code 65915, which shall be recorded in the official records of the County of Marin against the 2-acre Parcel, and shall reflect the RM-S zoning applicable to the 2-acre Parcel; and

WHEREAS, all other legal prerequisites to the adoption of this Ordinance have occurred.

NOW THEREFORE, the Town Council of the Town of Fairfax does ordain as follows:

SECTION 1. The recitals set forth above are incorporated as if fully restated here.

SECTION 2. Fairfax Town Code Title 17 ('Zoning'), Chapter 12 ('Zone Districts Established'), Section 010 ('Established'), is hereby amended to add the following entry:

“(E) RM-S multiple-family residential – senior zone;

All existing entries shall remain and be renumbered accordingly.

SECTION 3. Fairfax Town Code Title 17 ('Zoning'), Chapter 12 ('Zone Districts Established'), Section 040 ('Boundaries; Generally'), is hereby deleted in its entirety and shall be replaced as follows:

"Each of the zones designated in §§ 17.012.050 through 17.012.180 shall have included within it the land area specified."

SECTION 4. Fairfax Town Code Title 17 ('Zoning'), Chapter 12 ('Zone Districts Established'), Section 140 ('Boundaries; PDD Zone), is hereby deleted in its entirety and shall be replaced as follows:

"There is included within the PDD zone the following real property shown and designated upon the Assessor's books on file in the office of the County Assessor, County of Marin, State of California, on August 1, 1969, and more specifically designated as follows:

<i>Book</i>	<i>Page, Block</i>	<i>Parcels</i>
1	16, 0	01, 02, 03
1	18, 3	09
1	22, 1	06
1	27, 1	14, 16
174	05, 0	60
174	06, 0	21, 25
174	11, 1	All parcels
174	11, 2	All parcels
174	06, 0	15, 23, 24

SECTION 5. Fairfax Town Code Title 17 ('Zoning'), Chapter 12 ('Zone Districts Established'), Section 160 ('Boundaries; UR Zone), is hereby deleted in its entirety and shall be replaced as follows:

"(A) There is included within the UR zone the following real property shown and designated upon the Assessor's books on file in the office of the County Assessor, County of Marin, State of California, on July 1, 1991, and more specifically designated as follows:

<i>Book</i>	<i>Page, Block</i>	<i>Parcels</i>	<i>Zone</i>
174	07, 0	50	UR 7
1	15, 0	12	UR 10
1	16, 0	09	UR 10
1	25, 1	31	UR 10
2	18, 1	03	UR 10
2	18, 1	04	UR 10

2	18, 1	05	UR 10
2	18, 1	06	UR 10
2	18, 1	12	UR 10
2	18, 1	15	UR 10
2	18, 1	17	UR 10
2	18, 1	20	UR 10
2	18, 1	21	UR 10
2	07, 1	01	UR 7
2	07, 1	03	UR 7
2	07, 1	04	UR 7

(B) In addition to the parcels identified in subsection (A) above, there is also included within the UR zone all that real property shown and designated UR upon the official Zoning Map of the Town of Fairfax. Notwithstanding any other provision to the contrary within this title, in case of any discrepancy between the designation of land on the official Town Zoning Map as lying within the UR zone and the designation of land as set forth in this section, the Zoning Map shall control.”

SECTION 6. A new Fairfax Town Code Title 17 ('Zoning'), Chapter 12 ('Zone Districts Established'), Section 180 ('Boundaries; RM-S Zone'), is hereby adopted and shall read as follows:

“There is included within the RM-S zone all that real property shown and designated RM-S upon the official Zoning Map of the Town of Fairfax.”

SECTION 7. A new Fairfax Town Code Title 17 ('Zoning'), Chapter 090 ('RM-S Multi-Family Residential - Senior'), is hereby added to provide as follows:

“CHAPTER 17.090: RM-S MULTIPLE-FAMILY RESIDENTIAL – SENIOR - RESIDENTIAL ZONE

Section

- 17.090.010 Generally
- 17.090.020 Principal permitted uses and structures
- 17.090.030 Conditional uses and structures
- 17.090.040 Accessory uses and structures
- 17.090.050 Design review required.
- 17.090.060 Building site requirements
- 17.090.070 Height regulations
- 17.090.080 Yards
- 17.090.090 Signs
- 17.090.100 Off-street parking
- 17.090.110 Traffic impact permit

- 17.090.120 Variances
- 17.090.130 Additional Regulations
- 17.090.140 Severability

§ 17.090.010 GENERALLY.

The RM-S residential zone is intended to create use and development standards for senior residential housing in a way that preserves and enhances its surroundings; recognizes the requirements of state and federal housing laws (including the Federal Fair Housing Act [42 U.S.C. Sections 3601-3631], the California Fair Employment and Housing Act [California Government Code Sections 12900-12995], and the California Unruh Civil Rights Act [California Civil Code Sections 51-53]); and to encourage the development of senior housing. No premises in the RM-S senior residential zone may be used for any purpose or in any manner, except as set forth in this chapter.

§ 17.090.020 PRINCIPAL PERMITTED USES AND STRUCTURES.

(A) Permitted uses in the RM-S zone are multiple dwellings and apartments for the exclusive use and occupancy of residents who can establish eligible occupancy, as defined herein, at a density of not more than 10 dwelling units per acre, or as may otherwise be established in the Fairfax General Plan.

(B) For purposes of this chapter, the following definitions shall apply:

(1) "Eligible occupancy" requires that the persons commencing any occupancy of a dwelling unit in the RM-S zone include a senior citizen who intends to reside in the unit as his or her primary residence on a permanent basis. The residency of any onsite staff shall comply with the state and federal laws identified in Section 17.090.010 above.

(2) "Senior citizen" has the meaning set forth in California Civil Code Section 51.3(b)(1).

§ 17.090.030 CONDITIONAL USES AND STRUCTURES.

There shall be no conditional uses or structures in the RM-S zone.

§ 17.090.040 ACCESSORY USES AND STRUCTURES.

Accessory uses and structures in the RM-S zone are as follows:

(A) Cabanas, greenhouses, patios, lath houses, tool sheds, playhouses, barbecue pits, fences, walkways, hedges and similar improvements and appurtenances; and

(B) Private garages, parking spaces, swimming pools, shared community rooms and bicycle storage facilities for the exclusive use of the residents of the premises and their guests.

§ 17.090.050 DESIGN REVIEW.

All structures, physical improvements and exterior modifications or building in the RM-S zone are subject to design review, unless specifically exempted in each instance by the Planning Commission or by other provisions of this chapter.

§ 17.090.060 BUILDING SITE REQUIREMENTS.

Building site requirements in the RM-S zone are as follows.

(A) A use permit or hill area residential development permit (HRD) must be first secured for any use, occupancy or physical improvement of or on a building site failing to meet the following requirements:

(1) Minimum area of 87,120 square feet, and a minimum width of 60 feet with a slope of 15 percent or less;

(2) The minimum building site area shall be increased by 600 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 eight feet for each 600 square feet of additional area required, so that a building site having a slope of 15 percent shall have a minimum area of 10,500 square feet and a minimum width of 100 feet;

(3) Building sites having a slope of more than 15 percent shall increase in area above 10,500 square feet and a minimum width above 100 feet, at the rate of 1,200 square feet of area and five feet of width for each one percent increase in slope;

(4) No building site with an area of more than 130,680 square feet shall be permitted to be rezoned to the RM-S zone.

(B) Each building site containing three or more dwelling units shall contain not less than 300 square feet of open space for each dwelling unit. The open space shall conform to the following standards:

(1) None of the following shall be counted as a part of the open space required by this section: required yards or setbacks from a property line; separations required between buildings containing dwelling units; an access area or other space required by any other ordinance of the town, such as a building code or safety code (parking areas and driveways); any area less than ten feet in width;

(2) The following shall be counted as a part of the open space required by this section: patios and balconies with a minimum dimension of ten feet which serve individual dwelling units; courtyards or other open spaces, uncovered swimming pools, tennis courts and similar recreation areas;

(3) Any area or space which qualifies as a part of the open space required by this section shall continue to be counted as such if it is landscaped. At least 80 percent of the open space provided must have a finished grade of no more than ten percent.

§ 17.090.070 HEIGHT REGULATIONS.

Height regulations in the RM-S zone are as follows:

(A) (1) Except as otherwise permitted by variance, no building or structure occupied by a principal use on a lot having a slope of ten percent or less shall exceed a height of 28.5 feet nor contain more than two stories.

(2) On lots having a slope in excess of ten percent, no building or structure occupied by a principal use and situated on the downhill side of the street upon which it has its primary frontage shall exceed 35 feet in height, and if situated on the uphill side of the street, no building shall exceed 28.5 feet in height. Regardless of slope, no building shall exceed three stories.

(B) Except as otherwise permitted by variance or by the provisions of § 17.052.020 of this title, no accessory building or structure on any lot shall exceed fifteen feet in height nor contain more than one story; provided that handrails required by the Uniform Building Code shall not be included in measuring height.

§ 17.090.080 YARDS.

Except as otherwise permitted by variance, each building site in the RM-S zone shall have yards as follows:

(A) A front and rear yard having a combined depth of not less than 40 feet, but neither yard having a depth of less than ten feet;

(B) Two side yards having a combined width of not less than 25 feet, but neither yard having a width of less than ten feet; and

(C) On all corner lots, all street frontage of any corner lot shall have a yard setback of ten feet.

§ 17.090.090 SIGNS.

No signs shall be established or maintained in the RM-S senior residential zone, except as authorized or allowed under the provisions of Chapter 17.064 of this title.

§ 17.090.100 OFF-STREET PARKING.

Off-street parking spaces and facilities in the RM-S zone shall be provided as required or allowed by the provisions of Chapter 17.052 of this title.

§ 17.090.110 TRAFFIC IMPACT PERMIT.

The provisions of the traffic impact permit, Chapter 17.056, are applicable to properties in the RM-S zone.

§ 17.090.120 VARIANCES.

The Planning Commission may require, as a condition of a variance approved and issued under the provisions of this section, a reduction of building height, lot coverage, floor area ratio, parking, or buildable area, or any combination thereof, when the reduction is found necessary to protect adjoining property from adverse or detrimental effect, or to prevent the variance from constituting a grant of special privilege."

§ 17.090.130 ADDITIONAL REGULATIONS.

- (A) To the extent that specific physical features and services are required for a project, property and/or units in the RM-S zone to meet federal and/or state requirements, the project operator shall construct, maintain, repair and provide such physical features and services, as applicable.
- (B) All advertising and publications shall disclose the status of any project within the RM-S zone as senior housing.
- (C) The project operator shall submit a report annually to the Town which contains a certification or recertification of the occupant eligibility for each unit, copies of the advertising published regarding the project, the current form of lease/rental agreement with its attachments, and such other documents as may be reasonably requested by the Town.
- (D) Unless otherwise prohibited by state or federal law, the project operator shall prohibit any person who has not been determined to be an eligible occupant based on the annual report from continuing to rent or occupy a unit and shall cause any such person to vacate any unit so rented or occupied. Unless otherwise prohibited by state or federal law, when a unit is completely vacated, for any reason whatsoever, the unit shall then again be rented or otherwise made available only to eligible occupants.
- (E) All leases and/or rental agreements shall provide for the enforcement of this chapter, state and federal senior citizen housing development requirements and the project's written rules regarding these restrictions.
- (F) Projects within the RM-S zone must be restricted to eligible occupants and qualify as "housing for older person" under the Federal Fair Housing Act, and "senior citizen housing" under the Unruh Civil Rights Act, and be subject to federal and state housing laws forbidding discrimination based on familial status.
- (G) All projects operating within the RM-S zone shall permit temporary residency, as a guest of an eligible occupant, by a person less than 55 years of age for a period of not less than 60 days in an year, unless otherwise permitted or required under applicable law.
- (H) All projects operating within the RM-S zone must conform to the applicable requirements of the Federal Fair Housing Act (42 U.S.C. Sections 3601-3631), the California Fair Employment

and Housing Act (California Government Code Sections 12900-12995), and the California Unruh Civil Rights Act (California Civil Code Sections 51-53). In the event of any conflict between the provisions of said laws and this Ordinance, said laws shall prevail.

§ 17.090.140 SEVERABILITY.

If any section, division, paragraph, sentence, clause or phrase of this chapter is for any reason held to be unconstitutional or invalid, such a decision shall not affect the validity of the remaining portion of the chapter. The Town Council hereby declares that it would have passed each section, division, paragraph, sentence, clause or phrase of this chapter irrespective of the unconstitutionality or invalidity of any section, division, subsection, paragraph, sentence, clause or phrase of this chapter.”

SECTION 8. The Director of Planning and Building Services is hereby directed to make changes to the Zoning Map of the Town of Fairfax as amended by this ordinance and as demonstrated in Exhibit ‘A’ attached hereto and incorporated herein.

SECTION 9. Compliance with the California Environmental Quality Act. By adoption of Resolution No. _____ on _____, 2017, the Town Council, as the decision-making body for the Project, has approved and adopted a Final MND and Initial Study and Mitigation Monitoring Program for the Project (which specifically contemplated the adoption of this Ordinance), were completed in compliance with CEQA and the State CEQA Guidelines. The Final MND and Initial Study and Mitigation and Monitoring Program for the Project fully analyzed any environmental impacts of this Ordinance.

SECTION 10. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remainder of this Ordinance. The Town Council hereby declares that it would have adopted this Ordinance, and each and every section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional, provided, however, that if any decision of a court of competent jurisdiction invalidates the increase of the water service charges set forth in this Ordinance, then the water service charges in effect on the date of adoption shall continue in existence.

SECTION 11. This Ordinance shall be effective 30 days following its adoption by the Town Council. Copies of this Ordinance shall, within fifteen days after its passage and adoption, be posted in three public places in the Town of Fairfax, to wit: 1. Bulletin Board, Town Hall Offices; 2. Bulletin Board, Fairfax Post Office; and 3. Bulletin Board, Fairfax Women’s Club Building, located at 46 Park.

The foregoing Ordinance was introduced at a regular meeting of the Town Council on the ____ day of _____, 2017, and duly adopted at the next regular meeting of the Town Council on the ____ day of _____, 2017, by the following vote, to wit:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

John Reed, Mayor

Attest:

Michele Gardner, Town Clerk

Date

Exhibit

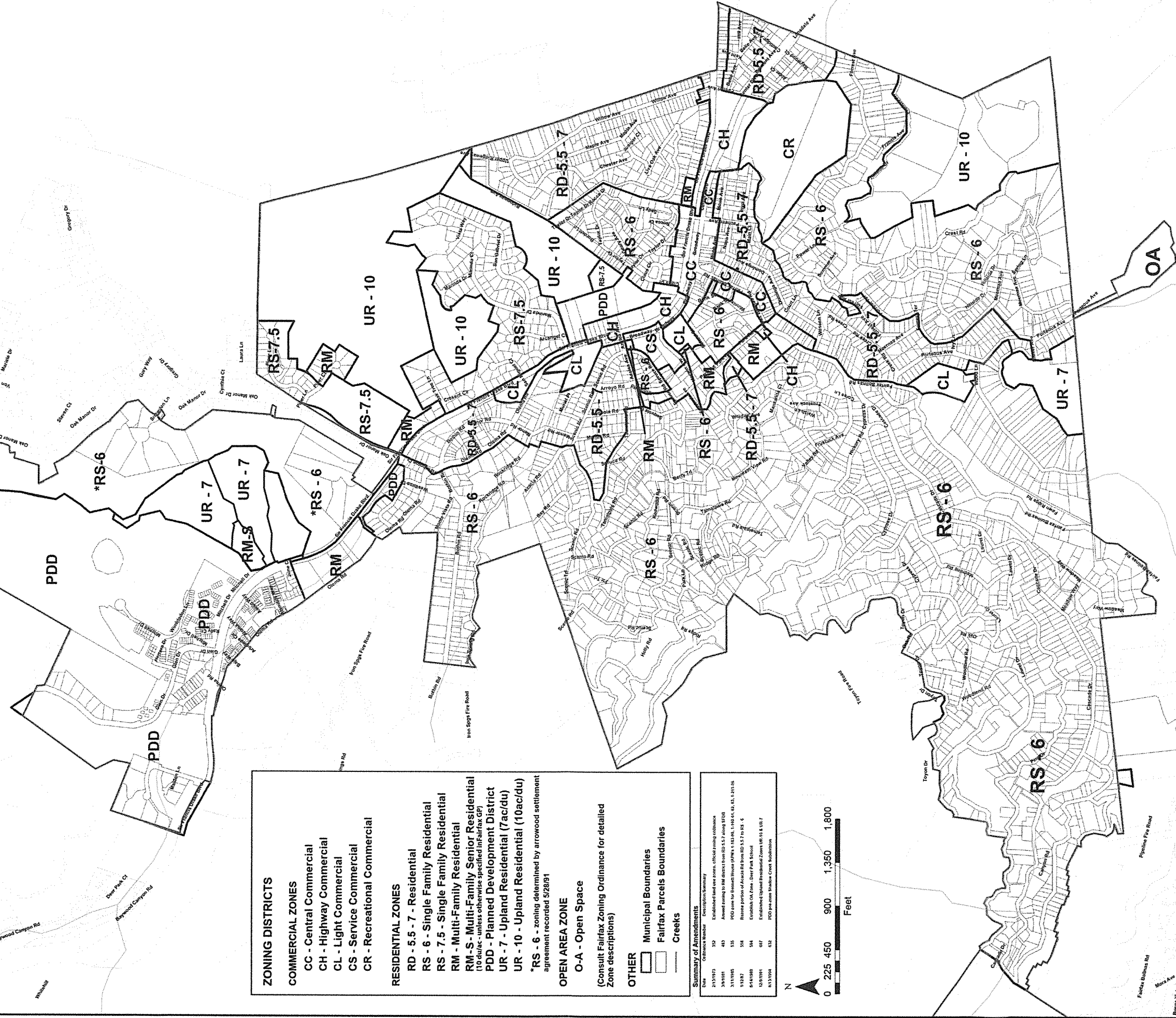
A – Revised zoning map

TOWN OF FAIRFAX Zoning Map

Deer Creek C



TOWN OF FAIRFAX
142 BOLINAS ROAD, FAIRFAX, CALIFORNIA 94930
(415) 453-1584 / FAX (415) 453-1618



ZONING DISTRICTS

COMMERCIAL ZONES
 CC - Central Commercial
 CH - Highway Commercial
 CL - Light Commercial
 CS - Service Commercial
 CR - Recreational Commercial

RESIDENTIAL ZONES
 RD - 5.5 - 7 - Residential
 RS - 6 - Single Family Residential
 RS - 7.5 - Single Family Residential
 RM - Multi-Family Residential
 RM - S - Multi-Family Senior Residential (10 du/lot - unless otherwise specified in Fairfax CRP)
 PDD - Planned Development District
 UR - 7 - Upland Residential (7ac/du)
 UR - 10 - Upland Residential (10ac/du)

*RS - 6 - zoning determined by arrowwood settlement agreement recorded 5/28/91

OPEN AREA ZONE
 O-A - Open Space

(Consult Fairfax Zoning Ordinance for detailed Zone descriptions)

OTHER
 Municipal Boundaries
 Fairfax Parcels Boundaries
 Creeks

Summary of Amendments

Date	Ordinance Number	Developer/Summary
9/15/97	302	Established land use zones, official zoning ordinance
3/30/01	403	Amended zoning to add districts RD-5.5, UR-10, UR-7
1/13/04	535	PDU Code for Affordable Housing (APRH), 1.10.04.01, 1.10.04.02, 1.10.04.03, 1.10.04.04, 1.10.04.05
1/13/07	584	Revised portion of Affordable Housing (APRH) 1.10.04.01, 1.10.04.02, 1.10.04.03, 1.10.04.04, 1.10.04.05
5/14/08	584	Established CR - Deer Park School
10/18/09	687	Established Upland Residential Zones UR-7 & UR-10
8/13/09	632	PDU pre-construction Code Substitution

