

**TOWN OF FAIRFAX
STAFF REPORT
Department of Planning and Building Services**

TO: Fairfax Planning Commission
DATE: January 19, 2017
FROM: Garrett Toy, Town Manager
Linda Neal, Principal Planner
LOCATION: Town wide
ZONING: All parcels identified as Housing Opportunity sites in the Housing Element and slated to be rezoned to PDD
ACTION: Recommend the Town Council Approve a Zoning Ordinance Text Amendment
APPLICANT: Town of Fairfax
CEQA STATUS: Addendum to Mitigated Negative Declaration (approved and adopted by Town Council Resolution No. 15-13 on May 27, 2015). Alternatively, the ordinance does not rise to the level of a 'project' as defined under CEQA, per CEQA Guidelines § 15378

OVERVIEW

The Town zoning ordinance includes a chapter devoted to the formation of Planned Development Districts (Fairfax Town Code 17.112). The process to create a new Planned Development District ('PDD') currently requires multiple visits to the Planning Commission and Town Council. In order to incentivize the production of certain types of affordable housing, the Town has adopted, in its General Plan, direction mandating that the PDD process be simplified for a very small subset of housing developments (currently, three sites). Staff has prepared an amendment to the existing PDD ordinance that would only apply to the three (3) specified opportunity project sites identified in the General Plan for affordable and/or workforce housing and presents it to the Planning Commission for its review and consideration. Staff asks the Commission to recommend that the Town Council adopt the ordinance amendment.

BACKGROUND

At its last meeting in December 2016, the Planning Commission held a public hearing to consider the Victory Village project, which proposes to build some 54 units of affordable senior housing at 2626 Sir Francis Drake Boulevard, a location that has been identified as Opportunity Site #1 in the Town's Housing Element. The Victory Village project includes the implementation of certain actions that have long been planned in Town land use planning documents, including the revision of the Town's Planned Development District ordinance to streamline the PDD process for certain housing sites.

At the December 2016 meeting, some members of the public expressed concern at the notion of the Victory Village project being considered in conjunction with the proposed changes to the PDD ordinance. Some Commissioners likewise had questions regarding the timing of bringing both actions forward simultaneously. Though this is legally acceptable, Town staff has heard the public's concerns and has thus elected to bring this PDD ordinance amendment to the Planning

Commission for its review and consideration in advance of consideration of the Victory Village project.

CONTEXT

Fairfax, like countless other communities across the nation, has a zoning ordinance that divides the town into different zoning districts and sets different permissible uses and development standards for each district. In many communities, including Fairfax, zoning districts are established that reflect a principal use for a given zone – e.g., residential, industrial, commercial – and are then refined to conditionally allow compatible but fundamentally different uses. For example, the RS-6 zone permits single family residences as a principal use and private stables and corrals as conditionally permitted uses.

Planned development districts are different than other zoning districts. The term refers to both the zoning classification ('PDD,' rather than, say 'RS-6'), as well as a method of development. Planned development districts, as a zoning classification, often allow a variety of uses, such as residential and commercial, for example, to co-exist within a single zoning district. While all projects seeking to develop as a PDD go through the PDD process, each project will ultimately have its own unique PDD zoning ordinance crafted to establish its permitted uses and development standards. Thus, while all parcels zoned RS-6 are governed by the same permitted uses and development standards, each separate PDD will have its own unique PDD ordinance setting forth its project-specific uses and development standards. This allows for the development of project-specific zoning regulations that reflect the balance struck between the mix of uses within the PDD, as well as the PDD's relationship to its neighbors and its place within the community.

Currently, any project seeking to develop as a PDD in Fairfax must develop a preliminary development plan, a master development plan, and a precise development plan. The master development plan is reviewed by the Planning Commission and recommended for approval to the Town Council, which has final approval authority. Then, within a year of approval of the master development plan, the applicant must submit a precise development plan to the Planning Commission, who then reviews and approves the master development plan to the Town Council for each unit or increment of the PDD.

The item before the Planning Commission tonight is a proposed amendment to the PDD ordinance that would allow a streamlined approval process only for those PDDs that are (1) identified as Opportunity Sites within the Housing Element, and that (2) are also slated for rezoning to PDD. Of the hundreds of parcels within the town of Fairfax, the sites that would qualify for this streamlined PDD process currently consist of three sites: 2626 Sir Francis Drake, 10 Olema, and the School Street plaza, per the 2015 Housing Element Update. It should be noted that the Town is also considering splitting the School Street site into PDD zoning on the back one acre where the 9 units could be accommodated and approximately .8 acres of CC zoning fronting Broadway.

HISTORY

In 2008, the Fairfax Town Council established the Affordable Housing Committee to advise the Town Council on matters relating to affordable housing in Fairfax. The committee, made up of four community members and two members of the Town Council, was tasked with identifying suitable sites in Town for development. The Opportunity Sites outlined in the "Housing Opportunities" section of the 2015 Housing Element are the areas the Town designated as capable of hosting affordable housing. Three of these opportunity sites are slated to be rezoned

to PDDs to allow for their development in ways that are not accommodated by Fairfax's existing zoning regulations.

Several General Plan Land Use Element and Housing Element policies and programs address the development of the opportunity sites, including:

- *Policy LU-8.1.1: The Town of Fairfax shall facilitate the development of key housing opportunity sites to provide for the development of affordable housing as identified in the Housing Element.*
- *Program LU-8.1.1.3: Change the zoning designation for [Opportunity Site #2] 10 Olema (the former Mandarin Gardens restaurant site) from Limited Commercial to Planned Development District.*
- *Program LU-8.1.1.4: Change the zoning designation for [Opportunity Site #1] 2626 Sir Francis Drake (Christ Lutheran Church) from Residential UR-7 to Planned Development District.*
- *Program LU-8.1.1.5: Change the zoning designation for [Opportunity Site #4] the School Street Plaza area from Limited Commercial to Planned Development District; thereby making it possible to accommodate a mix of uses, including housing and/or a new school at the site.*
- *Program H-2.1.1.1: Rezone two acres of the Christ Lutheran Church property (upon approval of subdivision of the site) at 2626 Sir Francis Drake Boulevard from UR 7 du/acre (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.*
- *Program H-2.1.1.2: Rezone 10 Olema Road, the old "Mandarin Garden" restaurant site, from CL to PDD and thereby make it possible to accommodate a minimum of 22 units and a maximum of 23 units of workforce 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 in the PDD zone on two specific Opportunity Sites (e.g., this Site and two acres of the Christ Lutheran Church Site at 2626 Sir Francis Drake Boulevard only) 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 a PDD parcel from 5 acres to 1 acre.*
- *Program H-4.1.1.1: Rezone School Street Plaza from CL to PDD, thereby making it possible to accommodate a minimum of 9 units with a maximum of 10 units of housing. The maximum does not apply to any units granted under the State Density Bonus Law. Please note: The Town is also considering splitting the site into PDD zoning on the back one acre where the 9 units could be accommodated and approximately .8 acres of CC zoning fronting Broadway.*

- *Program H-4.1.1.5: Amend the PDD Zone Standards for Specified Opportunity Sites. Amend Chapter 17.112 of the Fairfax Town Code to:*
 - *Reduce the minimum acreage for a PDD from 5 acres to 1 acre for the Lutheran Church and 10 Olema Road opportunity sites.*
 - *Specify that the 10 Olema Road opportunity site and a maximum of 2 acres on the Christ Lutheran Church opportunity site shall be reserved for residential development only at a minimum of 20 units and a maximum of 21 units per acre. The maximum does not apply to any units granted under the State Density Bonus Law. This change may also require revisions to other sections of Chapter 17.112 including the purpose and residential density policy sections.*

Collectively, these policies and programs provide direction to make modifications to the PDD zoning ordinance found at Chapter 17.112 of the Town Code. The proposed changes would only apply to the housing opportunity sites that are slated to be rezoned PDD, and thus affect only a tiny fraction of the parcels in town.

Generally, the proposed ordinance changes would:

- Only apply to requested PDDs that are also identified as Opportunity Sites in the Housing Element.
- Implement Housing Element Program 2.1.1.1, which allows for the development of this PDD at a site that is less than five acres (which is the minimum otherwise required for development of a PDD by the existing Code language).
- Allow for the Town to set development standards particular to the PDD at issue, rather than simply imposing the standards applicable to the zoning district most similar in nature to the project.
- Acknowledge that the density of a given PDD will be set by the general plan (not set by the Planning Commission).
- Streamline the application submission and review process, such that the three-step preliminary development plan, master development plan, and precise development plan process is replaced by the submission of an application that is heard by the Planning Commission and decided by the Town Council. This is a process followed in many other communities and still provides the public with the opportunity to participate in the public hearings held to consider the project.

Amending the PDD provisions to include a streamlined process for these sites will not result in a PDD approval for any particular project, including the proposed Victory Village project. That project will still have to go through the PDD process and seek to have its own unique PDD ordinance approved and adopted.

CEQA

By adoption of Resolution No. 15-13 on May 27, 2015, the Town Council approved and adopted an addendum to the Mitigated Negative Declaration that was adopted in conjunction with the 2012 adoption of the General Plan, which was completed in compliance with the California Environmental Quality Act ('CEQA,' codified at Public Resources Code § 21000, et seq., and as

further governed by the CEQA Guidelines, found at 14 C.C.R. § 15000, et seq.). The addendum fully analyzed any environmental impacts of this proposed zoning ordinance amendment. Alternatively, the ordinance revision to Chapter 17.112 is not a project requiring review under CEQA. CEQA requires environmental review only of 'projects' as defined in CEQA, and CEQA Guidelines § 15378 provides that 'projects' are only those actions which have the 'potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.' Since, pursuant to § 15378(b)(2) the ordinance revision consists only of the implementation of policies and procedures already adopted in the General Plan and will not result in any direct or indirect physical change in the environment, the ordinance revision is not a 'project' subject to CEQA review. (See *Northwood Homes Inc. v. Town of Moraga* (1989) 216 Cal.App.3d 1197.)

RECOMMENDATION

1. Open the Public Hearing and take testimony.
2. Close the Public Hearing.
3. Adopt Resolution No. 17-01 recommending the Town Council adopt an Ordinance of the Town Council of the Town of Fairfax Amending Fairfax Code Chapter 17.112.

ATTACHMENTS

1. Planning Commission Resolution No. 17-01 Recommending Town Council Adoption of Ordinance No. _____, Amending the Fairfax Town Code Chapter 17.112.

RESOLUTION NO. 17-01

**A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF FAIRFAX
RECOMMENDING THE TOWN COUNCIL ADOPT ORDINANCE NO. ____
AMENDING FAIRFAX TOWN CODE CHAPTER 17.112
(‘PLANNED DEVELOPMENT DISTRICT ZONE’)**

WHEREAS, on April 4, 2012, the Town Council of the Town of Fairfax adopted the 2010-2030 Fairfax General Plan (the ‘General Plan’); and

WHEREAS, the Land Use Element of the General Plan provides the following direction:

- Program LU-8.1.1.3: “[c]hange the zoning designation for [Opportunity Site #2] 10 Olema (the former Mandarin Gardens restaurant site) from Limited Commercial to Planned Development District.”
- Program LU-8.1.1.4: “[c]hange the zoning designation for [Opportunity Site #1] 2626 Sir Francis Drake (Christ Lutheran Church) from Residential UR-7 to Planned Development District.”
- Program LU-8.1.1.5: “[c]hange the zoning designation for [Opportunity Site #4] the School Street Plaza area from Limited Commercial to Planned Development District; thereby making it possible to accommodate a mix of uses, including housing and/or a new school at the site.”

WHEREAS, in May 2015, the Town Council of the Town of Fairfax adopted an updated Housing Element to the General Plan, which Housing Element provides the following direction:

- Program H-2.1.1.1: “[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 du/acre (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.

- Program H-2.1.1.2: “[r]ezone 10 Olema Road, the old “Mandarin Garden” restaurant site, from CL to PDD and thereby make it possible to accommodate a minimum of 22 units and a maximum of 23 units of workforce 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 in the PDD zone on two specific Opportunity Sites (e.g., this Site and two acres of the Christ Lutheran Church Site at 2626 Sir Francis Drake Boulevard only) 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 a PDD parcel from 5 acres to 1 acre.”
- Program H-4.1.1.1: “[r]ezone School Street Plaza from CL to PDD, thereby making it possible to accommodate a minimum of 9 units with a maximum of 10 units of housing. The maximum does not apply to any units granted under the State Density Bonus Law. Please note: The Town is also considering splitting the site into PDD zoning on the back one acre where the 9 units could be accommodated and approximately .8 acres of CC zoning fronting Broadway.”
- Program H-4.1.1.5: “[a]mend the PDD Zone Standards for Specified Opportunity Sites. Amend Chapter 17.112 of the Fairfax Town Code to:
 - Reduce the minimum acreage for a PDD from 5 acres to 1 acre for the Lutheran Church and 10 Olema Road opportunity sites.
 - Specify that the 10 Olema Road opportunity site and a maximum of 2 acres on the Christ Lutheran Church opportunity site shall be reserved for residential development only at a minimum of 20 units and a maximum of 21 units per acre. The maximum does not apply to any units granted under the State Density Bonus Law. This change may also require revisions to other sections of Chapter 17.112 including the purpose and residential density policy sections.

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 a proposed ordinance (attached hereto and incorporated herein as **Exhibit 1**) to amend the Town’s zoning ordinance, which is found at Title 17 of the Fairfax Town Code, in order to implement the General Plan directives set forth above; and

WHEREAS, by adoption of Resolution No. 15-13 on May 27, 2015, the Town Council approved and adopted an addendum to the Mitigated Negative Declaration that was adopted in conjunction with the 2012 adoption of the General Plan, which was completed in compliance with the California Environmental Quality Act ('CEQA,' codified at Public Resources Code § 21000, et seq., and as further governed by the CEQA Guidelines, found at 14 C.C.R. § 15000, et seq.). The addendum fully analyzed any environmental impacts of this proposed zoning ordinance amendment. Alternatively, the ordinance revision to Chapter 17.112 is not a project requiring review under CEQA. CEQA requires environmental review only of 'projects' as defined in CEQA, and CEQA Guidelines § 15378 provides that 'projects' are only those actions which have the 'potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.' Since, pursuant to § 15378(b)(2) the ordinance revision consists only of the implementation of policies and procedures already adopted in the General Plan and will not result in any direct or indirect physical change in the environment, the ordinance revision is not a 'project' subject to CEQA review (*see Northwood Homes Inc. v. Town of Moraga* (1989) 216 Cal.App.3d 1197); and

WHEREAS, the Planning Commission has conducted a duly-noticed public hearing to consider the draft ordinance, hear the presentation of a staff report, and receive public comment on the matter.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the Town of Fairfax as follows:

SECTION 1. The recitals set forth above are adopted as further findings of the Planning Commission.

SECTION 2. The Planning Commission has reviewed the draft ordinance attached hereto as **Exhibit 1** and finds that it is consistent with the Town General Plan policies and programs set forth above, as it amends the Planned Development District ordinance to allow a PDD approval process for housing opportunity sites of less than five acres, implements the densities of these sites as they are established in the General Plan, and otherwise streamlines the PDD approval process for housing opportunity sites in order to remove governmental constraints to their development.

SECTION 3. The Planning Commission hereby recommends that the Town Council adopt **Exhibit 1** hereto in order to amend Chapter 17.112 of the Fairfax Town Code ('Planned Development District Zone').

The forgoing Resolution was duly passed and adopted at a regular meeting of the Planning Commission of the Town of Fairfax held in said Town on the ____th day of _____ 2017 by the following vote, to wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

Norma Fragoso, Chair

Attest:

Linda Neal, Principal Planner

Exhibit 1

Draft Ordinance No. _____

ORDINANCE NO. _____

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX
AMENDING FAIRFAX TOWN CODE CHAPTER 17.112**

WHEREAS, the Town of Fairfax has duly adopted a town zoning ordinance, found at Title 17 of the Fairfax Town Code; and

WHEREAS, among other things, Title 17 of the Fairfax Town Code identifies the zoning designations applicable to parcels within the Town and sets forth the standards and processes applicable to the development of parcels within the Planned Development district; and

WHEREAS, all towns and cities within the State of California are required by law to adopt a general plan; and

WHEREAS, in 2012, the Town of Fairfax adopted the 2010-2030 Fairfax General Plan (the 'General Plan'), which has been updated through the adoption of the 2015-2023 Housing Element Update (the 'Housing Element'); and

WHEREAS, Program LU-8.1.1.3 of the Land Use Element directs the Town to "[c]hange the zoning designation for [Opportunity Site #2] 10 Olema (the former Mandarin Gardens restaurant site) from Limited Commercial to Planned Development District," and

WHEREAS, Program LU-8.1.1.4 of the Land Use Element directs the Town to "[c]hange the zoning designation for [Opportunity Site #1] 2626 Sir Francis Drake (Christ Lutheran Church) from Residential UR-7 to Planned Development District;" and

WHEREAS, Program LU-8.1.1.5 of the Land Use Element directs the Town to "[c]hange the zoning designation for [Opportunity Site #4] the School Street Plaza area from Limited Commercial to Planned Development District; thereby making it possible to accommodate a mix of uses, including housing and/or a new school at the site;" and

WHEREAS, Program H-2.1.1.1 of the Housing Element directs:

Rezone two acres of the Christ Lutheran Church property (upon approval of subdivision of the site) at 2626 Sir Francis Drake Boulevard from UR 7 du/acre (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.

WHEREAS, Program H-2.1.1.2 of the Housing Element directs:

Rezone 10 Olema Road, the old “Mandarin Garden” restaurant site, from CL to PDD and thereby make it possible to accommodate a minimum of 22 units and a maximum of 23 units of workforce 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 in the PDD zone on two specific Opportunity Sites (e.g., this Site and two acres of the Christ Lutheran Church Site at 2626 Sir Francis Drake Boulevard only) 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 a PDD parcel from 5 acres to 1 acre.

WHEREAS, Program H-4.1.1.1 of the Housing Element directs:

Rezone School Street Plaza from CL to PDD, thereby making it possible to accommodate a minimum of 9 units with a maximum of 10 units of housing. The maximum does not apply to any units granted under the State Density Bonus Law. Please note: The Town is also considering splitting the site into PDD zoning on the back one acre where the 9 units could be accommodated and approximately .8 acres of CC zoning fronting Broadway.

WHEREAS, Program H-4.1.1.5 of the Housing Element directs:

Amend the PDD Zone Standards for Specified Opportunity Sites. Amend Chapter 17.112 of the Fairfax Town Code to:

- Reduce the minimum acreage for a PDD from 5 acres to 1 acre for the Lutheran Church and 10 Olema Road opportunity sites.
- Specify that the 10 Olema Road opportunity site and a maximum of 2 acres on the Christ Lutheran Church opportunity site shall be reserved for residential development only at a minimum of 20 units and a maximum of 21 units per acre. The maximum does not apply to any units granted under the State Density Bonus Law. This change may

also require revisions to other sections of Chapter 17.112 including the purpose and residential density policy sections.

WHEREAS, the Housing Element was subject to review under the California Environmental Quality Act ("CEQA") (Pub. Res. Code, § 21000 et seq.) and the State CEQA Guidelines (Cal. Code Regs, tit. 14 § 15000 et seq.), through the preparation and adoption of an addendum to the Mitigated Negative Declaration that was adopted in conjunction with the 2012 adoption of the General Plan (Town Council Resolution No. 15-13); 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

WHEREAS, on January 19, 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. ____, the Planning Commission recommended the Town Council approve the zoning ordinance amendments set forth herein; 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. Fairfax Town Code Title 17 ('Zoning'), Chapter 112 ('PDD Planned Development District Zone'), Section 165 ('Planned Developments on Opportunity Sites'), is hereby added to provide as follows:

"§ 17.112.165 PLANNED DEVELOPMENTS ON OPPORTUNITY SITES.

(A) Notwithstanding Sections 17.112.020-17.112.160, any site identified as an Opportunity Site and directed to be zoned PDD by the Housing Element of the Town of Fairfax ("Qualifying Sites") shall be subject to the approval processes and substantive standards of this Section 17.112.165.

(B) General Requirements. Any Qualifying Site may be rezoned PDD, provided it is at least one acre in size, and developed as a Planned Development pursuant to this Section 17.112.165.

(C) General Standards. The following provisions shall apply in a planned development district on a Qualifying Site, together with all other applicable provisions of the town zoning and subdivision ordinances. Where conflict in regulation occurs, the regulations specified in this chapter or on a development plan approved pursuant to this chapter shall apply:

- (1) A planned development district shall be established by an ordinance adopted by the Town Council after a recommendation by the Planning Commission, as set forth herein. Whenever a planned development district has been established, its boundary shall be indicated on the Zoning Map of the town.
- (2) Standards for area, coverage, light and air orientation, site planning, density, yard requirements, open spaces, parking and screening shall be governed by the standards of the residential, commercial or industrial zoning district(s) most similar in nature and function to the proposed planned development district (PDD) use(s), with such deviations as may be approved by the Town Council. All standards adopted shall conform to the Fairfax General Plan.
- (3) All electrical and telephone facilities, fire alarm conduits, street light wiring and other wiring conduits or facilities shall be placed underground by the developer. Electric and telephone facilities shall be installed in accordance with standard specifications of the serving utilities.
- (4) Principally permitted, conditionally permitted, and accessory uses allowed at Qualifying Sites subject to this Section 17.112.165 shall conform to any specific requirements set forth in the General Plan for the Opportunity Site and must be compatible with the site and surrounding uses.
 - (a) Within any planned development district, no proposed use or structure that constitutes a formula business or formula restaurant, as those terms are defined in § 17.040.210, shall be approved or allowed to operate without first obtaining a use permit in compliance with Article II of Chapter 17.040.
- (5) Standards for public improvements shall be governed by applicable ordinances and laws of the town.

(D) Density. Density shall be as established by the General Plan.

(E) Application.

- (1) An applicant seeking approval of a planned development plan shall submit an application which shall be subject to review by the Planning Commission.

- (a) Upon receipt of the planned development plan in proper form, the Planning Commission, after giving notice pursuant to the provisions of § 17.004.070 of this title, shall hold a public hearing thereon. After the hearing, and after examining the plan for conformity to all applicable criteria and standards, the Planning Commission may recommend approval subject to specified modifications and conditions.
 - (b) Before recommending approval, the Planning Commission shall make the findings set forth in § 17.112.090 of this chapter.
 - (c) If the Planning Commission finds the proposed plan of development does not meet all applicable criteria and standards, it shall recommend denial of the application, giving its reasons therefor. The Planning Commission may permit the applicant to revise and resubmit the plan within 60 days following its action recommending denial.
- (2) The Town Council shall, after giving of public notice and the holding of a hearing as provided in § 17.112.080 of this chapter, approve or deny the planned development plan.
- (a) Approval of the planned development plan shall be by ordinance.
 - (b) Before approving any proposed planned development plan, the Town Council shall make the findings set forth in § 17.112.090 of this chapter. If the Town Council finds the proposed plan of development does not meet all applicable criteria and standards, it shall deny the application, giving its reasons therefor.
 - (c) Approval of the planned development plan shall include, but not be limited to the following stipulations.
 - (1) The development, maintenance and use of the property included in the planned development plan shall be carried on in conformance with the approved plan drawings and documents; the developer shall substantially adhere to the state of development schedule submitted as part of the planned development plan.
 - (2) Approval of the planned development plan shall not be interpreted as waiving compliance with other provisions of this code.
 - (3) The approved plan development plan drawings and documents shall be filed in the office of the Town Clerk after written authorization for the filing has been secured from the owner or owners of the lands in question and prior to the second reading of the ordinance establishing the planned development district. The authorization shall be construed to constitute

the owner's acceptance of the provisions set forth in the planned development plan ordinance.

- (4) No land shall be used or developed, and no building shall be constructed, maintained or used other than for the purpose specified on the approved master development plan drawings and documents, as filed.

SECTION 2. 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 3. Compliance with the California Environmental Quality Act. By adoption of Resolution No. 15-13 on May 27, 2015, the Town Council approved and adopted an addendum to the Mitigated Negative Declaration that was adopted in conjunction with the 2012 adoption of the General Plan, which was completed in compliance with the California Environmental Quality Act ('CEQA,' codified at Public Resources Code § 21000, et seq., and as further governed by the CEQA Guidelines, found at 14 C.C.R. § 15000, et seq.). The addendum fully analyzed any environmental impacts of this proposed zoning ordinance amendment. Alternatively, the ordinance revision to Chapter 17.112 is not a project requiring review under CEQA. CEQA requires environmental review only of 'projects' as defined in CEQA, and CEQA Guidelines § 15378 provides that 'projects' are only those actions which have the 'potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.' Since, pursuant to § 15378(b)(2) the ordinance revision consists only of the implementation of policies and procedures already adopted in the General Plan and will not result in any direct or indirect physical change in the environment, the ordinance revision is not a 'project' subject to CEQA review. (See *Northwood Homes Inc. v. Town of Moraga* (1989) 216 Cal.App.3d 1197.)

SECTION 4. 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 5. 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:

_____, Mayor

Attest:

Michele Gardner, Town Clerk

Date