

ATTACHMENT A2

NEW LANGUAGE ONLY

Chapter 17.112: PDD Planned Development District Zone

Draft for Planning Commission Review, December 20 2018

KEY

Underline regular font – new text (additions)

Underline italic font – moved text (existing but was in different location)

~~Strike through~~ – existing text removed (deletions)

[BRACKETS & CAPS] – indicates features to be inserted or developed

.010 PURPOSE.

(A) The purposes of the PDD planned development district include the following:

- (1) Promote comprehensive and context-sensitive site planning and building design *density shall be set which is consistent with limitations imposed by site conditions including natural resources, topographic and geological conditions and by the level of public services and road conditions that can reasonably be provided;*
- (2) Allow appropriate flexibility and variation in siting of buildings, building types, and mixing land uses and activities;
- (3) Prevent loss of life, injuries, and property damage from geologic and hydrologic hazards;
- (4) Enhance appearance, livability and environmental performance of the community through the use of land and the design of facilities;
- (5) Conserve important and rare habitat including riparian zones, dominant features including ridgelines, and other noteworthy natural features including rock outcroppings;
- (6) Preserve and create public and private open space as an integral part of land development design;
- (7) Maintain land form that is natural in appearance and avoid conspicuous grading; and
- (8) Protect Fairfax scenic character, especially as viewed from the town's designated scenic corridors, Sir Francis Drake Boulevard and Bolinas Road.

(B) These purposes are to be ensured through the preparation and submission of high-quality comprehensive *and integrated* development drawings, narrative, and data that demonstrate the performance and appropriateness of site layout, design character, building features, landscape features, hardscape features, and infrastructure, as shall be determined by careful review of project submittals using the Town's approval process.

.010 GENERAL STANDARDS AND REQUIREMENTS.

(A) Applicability. *The following provisions shall apply in a planned development district, together with all other applicable provisions of the town zoning and subdivision ordinances.*

(1) All the provisions of this title are supplementary to all subdivision regulations of the town.

(2) An application for approval of a tentative subdivision map of lands zoned PDD shall not be accepted, except in conjunction with the concurrent filing of a precise development plan under [ADD SECTION NUMBER].

(3) No tentative subdivision map shall be approved prior to the approval of a precise development plan for the property covered by the tentative map. The tentative map and precise development plan applications shall be processed concurrently.

(4) Where conflict in regulation occurs, the regulations specified in this chapter or on a development plan approved pursuant to this chapter shall apply:

(5) Exceptions to standards may be granted by the Planning Commission and Town Council only in cases where these bodies find that the exceptions encourage a more desirable environment and are warranted in terms of the total proposed development or a unit thereof.

(B) Site Control. A planned development district project shall be comprised of a parcel or combined parcels that are owned, or its development controlled, by a single individual or legally constituted corporation or partnership.

(1) Evidence of site *control over the land* shall be submitted with the development application. In the case of property or combined properties in various ownerships, all parties owning and controlling property in the area to be developed shall become parties to a legal agreement binding them to abide as all conditions set forth by the Town for the approved project, with said conditions of approval to run with the land or portion thereof, as a condition of future use, sale or lease.

(C) Submittal Requirements. An application for a proposed PDD project shall be filed during business hours with the Town of Fairfax Department of Planning and Building. All reports and technical information provided by the applicant are subject to peer review by applicable topical specialists hired by the Town and paid for by the applicant. The application shall include the following:

(1) Land Ownership and Project Representation

a) land title(s), certificate(s) of subdivision, and any other legal documentation necessary to document all ownership interests in the project site, and to describe all covenants and conditions, easements, etc., affecting the site;

b) the signed application by either the sole project ownership or persons or entities with ownership interest, acknowledging participation in the PDD project and designating a project applicant with sole authority to submit project materials and represent the project as applicant;

c) the designated project applicant may be changed by written consent by the project ownership interest, effective not before the date noted by the project ownership interest and being filed with the Town;

- d) the name, phone number, email address, and street address for the designated project applicant shall be submitted, and shall be updated and filed with Town to remain current, by sole project ownership interest or project applicant duly authorized by sole project ownership interest;
- e) a list of project design and engineering consultants, who shall include the following fully qualified, licensed, and insured: civil engineer, geotechnical engineer, surveyor, hydrologist, architect, certified arborist, forester, and landscape architect;
- f) a filing fee and payment of Town project review fees;

(2) Existing Conditions

- g) a wet-signed survey map of project land, and land areas within 100 feet of boundaries, by a licensed civil engineer or surveyor, describing:
 - existing property lines, easements, and utility lines;
 - topography with contour lines showing vertical intervals of not more than five feet for undeveloped areas and two foot contours within 40 feet of any proposed development areas;
 - where any grading is proposed, contours clearly showing existing versus proposed grade.
 - roadways and paths;
 - structures and land uses (consistent with Chapter 17.008: Definitions);
 - heritage trees and species (consistent with Chapter 8.36: Trees), with a tree condition report by a certified consulting arborist of all such trees located within 30 feet of any development areas, including numbered tags to identify all such trees by species, size, and location, and whether/not tree(s) are proposed or recommended for removal;
 - the tree report shall be accompanied by a survey by a licensed surveyor clearly identifying all trees by species, size, and tag number that are located within 30 feet of any proposed development areas
 - seismic and geologic hazard area(s), as delineated and described by a qualified soils and geotechnical engineer, and development setbacks and construction standards that are needed for safety [REFERENCE APPLICABLE SECTION];
 - flood hazard areas and riparian zones, as delineated and described and mapped by a qualified hydrologist, and development setbacks that may be needed recommended for safety [REFERENCE APPLICABLE SECTION];
 - wildlife corridors for local fauna,
 - important and rare habitat area(s), as delineated and described by a qualified biologist, and recommending development setbacks that may be needed for habitat protection[REFERENCE APPLICABLE SECTION]; and
 - surveyed and delineated ridgeline scenic corridors as described on Visual Resources Map No. 9 (see Chapter 17.060: Ridgeline Development).
- h) survey cross sections of project land, in same locations as cross sections describing proposed grading [REFERENCE APPLICABLE SECTION];
- i) a vicinity map of the project area and land within not less than 300 feet from the project perimeter, describing same features as the survey of project land (described above), but generalized if detail is not available;
- j) a report by a qualified geotechnical engineer describing the seismic and geologic hazard area(s) delineated, including but not limited to:

- fault zones, land slides, landfill areas, expansive soils, and other unstable conditions;
 - areas with slopes: 30% or greater, 20% to 29%, 10% to 19%, and less than 10%;
 - thresholds of significance and/or rationale for delineated seismic and geologic hazard areas and recommended setbacks;
 - the location of rock outcroppings;
 - possible mitigation measures for potential impacts, as may be described in pertinent certified Environmental Impact Reports; and
 - reasons for discrepancies with the General Plan's Geology Soil Type map, Areas Susceptible to Earthquake Shaking map, and Areas Susceptible to Landslides map.
- k) a report by a qualified hydrologist and/or civil engineer mapping any flood hazard area(s), including:
- floodplains, as defined by a 1-percent annual storm event, and setbacks as may be needed for safety;
 - any other flood prone conditions extending downstream to the mainstem stream, including but not limited to localized flooding from undersized culverts or other inadequate storm drain infrastructure;
 - thresholds of significance and/or rationale for delineated flood hazard areas and recommended setbacks;
 - possible mitigation measures for potential impacts, (including any described in pertinent certified Environmental Impact Reports or other environmental review documents or other environmental review documents); and
 - rationales for any discrepancies with the General Plan's Floodplains map and the most recent FEMA flood insurance rate map(s).
- l) a report by a qualified biologist, which may be reviewed as to its adequacy by the Town or Town's consultant(s), describing:
- the important and rare habitat area(s) delineated, including a description of the associated ecosystem(s), flora, and fauna;
 - thresholds of significance and/or rationale for delineated habitat areas and recommended setbacks;
 - the location of heritage trees as defined in Fairfax Municipal Code;
 - any mitigation measures for potential environmental impacts, as described in any pertinent environmental documents; and
 - reasons for discrepancies with the General Plan's Wildlife Habitat & Diversity Map;

(3) Master Plan

- m) a master plan vision statement using written narrative, planning diagrams and project goals to describe development themes and design intentions;
- n) a master plan map of proposed project, describing, but not limited to, the following features;
- delineation of conditions that limit the location of development, as described above in Section C.2;
 - the configuration and size of proposed parcels and easements;
 - existing and proposed street improvements, showing curbs, sidewalks, and planting strips;

- existing and proposed utilities, showing water, sanitary sewer, storm drain, electricity, and gas services; and
 - the approximate location and size of building pads, off-street parking, and curb cuts;
- o) a master plan numeric summary of proposed project describing:
- the average slope of the total area;
 - the total site area;
 - total project-wide building site coverage, i.e. sum of all building footprints, and percent of site coverage;
 - total project-wide floor area, broken out by individual i.e. sum of floor area for all floors of every structure, and floor area ratio;
 - total project-wide number of non-residential buildings and their combined floor area, with subtotals provided for each different land use;
 - total project-wide residential floor area;
 - total project-wide number of primary residential dwelling units;
 - total project-wide accessory dwelling units (if any);
 - project-wide residential density calculations, with and without factoring accessory dwelling units; and
 - by-parcel: average slope, site area, building floor area, floor area ratio, building footprint, and site coverage, with subtotals for different land uses on same parcel,
- p) a master plan map showing streets, sidewalks, trails, private and public open space areas, with indication of geotechnical hazards, flood hazards, heritage trees, major rock outcroppings, and important habitat areas;
- q) proposed grading and drainage map, prepared by qualified civil engineer, showing 2-foot vertical contour intervals and describing:
- the location property lines, utility easements, and existing utilities,
 - the level of finished surface,
 - location and volumes of cut and fill by project element and location, showing estimated volume of each,
 - the type of earth or material to be moved,
 - the method, manner and equipment to be used in the accomplishment of the work,
 - graphic highlight indicating transitions between new contours and existing contours to remain,
 - the disposal of material of the site streets and building pads,
 - general direction of stormwater surface sheet flow and percent slope associated with each;
 - proposed watershed boundaries, with approximate stormwater volume for each watershed, assuming a 1-percent per annum storm event (100-year storm);
 - locations where stormwater would be concentrated, such as drainageways, springs & seeps, building downspouts, sump pump outlets,

- approximate stormwater conveyance locations with proposed method of conveyance, such as pipe, curb or other channel, contoured landform, or natural drainageway; and
 - a retention and erosion control plan, describing proposed features to protect the project site and each separate parcel.
- r) hydrologic calculations prepared by qualified hydrologist to demonstrate sufficiency of features described in prior section. These are to be peer reviewed as to their adequacy by Town's consultant;
- s) proposed grading cross sections:
- across the project site and perpendicular to slopes, with at least one perpendicular (two total) cross sections through every proposed building pad,
 - across transitions between new contours and existing contours to remain, calling out maximum depths of cut and fill,
 - across proposed street-right(s)-of-way and trails.

(4) Buildings and Site Features

- t) for each parcel, a site plan indicating:
- slope using contours 2-foot vertical contours within 40 feet of any proposed development areas, and 5-foot contours elsewhere;
 - maximum building footprint area, maximum building area (including accessory buildings), and maximum building envelopes (total area within which any development would occur);
 - proposed open space, both private and public, identified as to each;
 - on-site parking, driveway, patios, and other hardscapes, indicating the slope of each;
 - on-site drainage features;
 - schematic concept for landscaping, including the general location and character (groundcover, shrubs, trees) of new plantings, the location of existing heritage trees, and locations of any habitat areas with associated proposed setbacks;
- u) for each parcel, a cross section that depicts the aforementioned features, and also showing the maximum proposed vertical envelope for each building;
- v) for each parcel, a material and color palette for roofs, siding, fenestration, doors, and any exterior hardscape;
- w) for each street and publicly-accessible trail, dimensioned street cross sections showing curbs, sidewalks, planting strips, trees, and lighting;
- x) for each publicly-accessible street, trail and open space, dimensions and specifications for proposed trees and landscaping, street light poles and standards, typical furniture, play equipment, above grade utility boxes;
- y) drawings and specifications for signage, including project identity signage, and signage associated with streets, trails and open space.

(5) Financial Feasibility and Planning

- a)z) a proposed financing plan for capital costs and on-going maintenance and repair costs, associated with streets, trails, infrastructure, open space, and all off-site improvements, whether publicly owned or not, such as through use of financing districts, subdivision improvement agreement, and homeowners association;

b)aa) Copies of legal documents required by the Planning Commission for dedication or reservation for group or private open space, or for the creation of a non-profit homes association shall also be submitted.

bb) traffic analysis that identifies potential off-site traffic impacts, recommends transportation demand management measures to avoid or minimize such impacts, and recommended mitigations for unavoidable negative impacts; and

cc) photo simulations that show project as seen from locations identified in the Town General Plan's Visual Resources Map Figure OS-1 as scenic highways and view and vista points, including Sir Francis Drake Boulevard and Bolinas Road, in locations where the project will be visible.

(D) The applicant shall, at the time of filing the preliminary development plan, pay a filing fee in accordance with a schedule of fees adopted by resolution of the Town Council.

.020 PRINCIPAL USES AND STRUCTURES

[TO BE DEVELOPED)

.030 CONDITIONAL USES AND STRUCTURES

[TO BE DEVELOPED)

.040 ACCESSORY USES AND STRUCTURES

[TO BE DEVELOPED)

.050 SITE REQUIREMENTS

(A) Minimum Project Area. No planned development district shall be for less than five acres of contiguous land, except for PDD properties that designated as PDD by the Town of Fairfax Zoning Map, or as may be amended by an ordinance adopted by the Town Council after a recommendation by the Planning Commission, in accordance with §§ 17.004.030 through 17.004.120 of this title.

(B) Publicly-Accessible Open Space & Trails. At least 90% of a PDD project overall site area shall be permanently dedicated as either private, public, or publicly-accessible open space. At least 10% of PDD project site area shall be dedicated as publicly-accessible open space. Within publicly-accessible open space, at least one trail shall be provided, connecting to at least one publicly-accessible point. Where possible, the trail shall connect to two publicly-accessible points. The trail easement shall have a width of least 30' and no part of this minimum width shall infringe on important or rare habitat areas.

(C) Residential Density & Maximum Floor Area. Maximum residential Density of overall development on each original (pre-development) parcel shall be a function of lot slope, as set forth in the following table. Maximum residential size shall also be as set forth in the following table.

Average Slope	Maximum Residential Density	Maximum Total Development Floor Area for Corresponding Lot
30% and greater	1 unit / 10 acres	3,500 square feet
20% to 29.9%	1 unit / 5 acres	
10% to 19.9%	1 unit / 2 acres	

(D) Maximum Commercial Intensity. When compared with the total commercial development site area, the total commercial floor area shall not exceed a floor area ratio of [INSERT APPROPRIATE F.A.R.]

(E) Geotechnical & Flood Hazards. Structures shall not be placed in locations that are potentially hazardous to life and property.

(a) Based on analysis by a qualified geotechnical engineer and/or civil engineer, improvements shall not be placed in the following locations, unless mitigated (as provided below):

- floodplains or other flood prone areas,
- fault zones,
- areas vulnerable to damage by land slide areas,
- areas of unconsolidated fill,
- expansive soils, and/or
- other identified hazardous locations.

(b) The review process (including environmental review) may recommend mitigations for hazardous conditions. In such cases, the Town retains sole discretion as to whether or not to accept the mitigations and any associated development.

(F) Heritage Trees & Rock Outcroppings. Heritage trees, as defined by Fairfax Municipal Code, shall not be removed or otherwise adversely affected, and rock outcroppings that have a footprint of greater than 200 square feet shall be protected from development, unless demonstrated to be necessary for reasonable street alignments and/or grading, as may be recommended by Applicant's engineer(s), peer reviewed by Town's engineering consultant, and with final determination made by the Town.

(G) Important & Rare Habitat. Based on analysis by a qualified biologist, structures shall not be placed within areas delineated as having important and rare habitat area(s), nor within recommended setback areas

(H) Grading & Drainage. Grading and drainage shall conform with other provisions of the Municipal Code, including but not limited to Chapters 8,32, 12.20, and requirements set forth in this Section.

(a) Based on analysis by a qualified geotechnical engineer and qualified hydrologist, and verified by Town geotechnical and hydrological consultants, grading and drainage plans shall not:

- risk human injury or property damage,

- degrade important or rare habitat,
- degrade water quality to unacceptable levels,
- cause unacceptable levels of erosion especially within riparian corridors, or
- increase potential for downstream flooding.

(b) Retaining walls shall not exceed 5 feet in vertical height, except if they are part of a building envelope.

(c) New contours, and transitions between new contours and existing contours to remain, may not transition more than 1 percent within a 2-foot horizontal distance. The toe of an altered slope, whether cut or fill, shall not be made within ten feet of a property line, except where necessary for site access.

(d) The project site, and each separate parcel, shall maintain zero-net new stormwater runoff from a 1% per annum storm event (100-year storm). No net new runoff shall be flow into existing riparian channels.

(e) Run-off from roofs and other structural features shall be detained, retained, and reinfiltreated using one or more of the following:

- green roofs,
- flow through planters,
- rain barrels and cisterns,
- swales (underlain by permeable soils or engineered basins), and
- rain gardens underlain by permeable soils or engineered basins.

(f) Run-off from driveways, patios, sidewalks, and other hardscape surface materials shall be retained, detained, and reinfiltreated through use of one or more of the following:

- permeable pavers (underlain by permeable soils or engineered basins),
- rain gardens (underlain by permeable soils or engineered basins)),
- vegetated swales (underlain by permeable soils or engineered basins).

(g) Erosion standards [TO BE DEVELOPED].

(l) Streets & Utilities. Streets and utilities shall comply with standards standards for improvements as governed by applicable ordinances and laws of the Town, and as required by governing utility districts. Streets shall be privately owned and maintained, unless dedicated to the Town by mutual agreement between the developer and the Town.

a) Private streets shall conform to Code Section 12.16: Private Roads.

b) Streets dedicated to Town shall conform to standards and conditions set by City Manager, in response to safety, geotechnical, habitat, and other factors.

c) On-street parking, which may be on one side or both sides of the street, shall be provided according to the following minimum standards:

- two (2) on-street parking spaces in front of every single-family residential parcel;
- one (1) on-street parking space per dwelling unit in front of multifamily parcels;
- one (1) on-street parking space per 1,000 square feet of leasable commercial space; and

d) On-street parking spaces may be reduced at the discretion of the City Manager to avoid: geotechnical hazards, important or rare habitat, rock outcroppings, or other site constraints.

e) On-street parking spaces shall be 8 feet wide and 22 feet in length.

f) *All electrical and telephone facilities, fire alarm conduits, street light wiring, electric conduits or facilities, and utility boxes shall be placed underground by the developer, unless determined to be infeasible by utility service in consultation with the Town, and at the recommendation of a qualified engineer.*

g) *Utilities, including electric and telephone facilities, shall be installed in accordance with standard specifications of the utility services serving the project site.*

(l) Phasing. Applicant shall submit plans for each separate phase of development, with clear by-phase description of parcels, grading, streets, utilities, building footprints, driveways and parking, and publicly-accessible open space.

.060 BUILDING HEIGHTS AND SETBACKS

[TO BE DEVELOPED. COMPARISON TABLE FOLLOWS FOR REFERENCE]:

Designation	Slope	Site/Lot Area (minimum)	Site/Lot Width (minimum)	Front & Rear Yards (minimum)		Side Yards (minimum)		Building Height (maximum)
				combined	each	combined	each	
UR-10 Upland Res	10% and less	435,600 sf	60 ft	25 ft	6 ft	15 ft	5 ft	28.5 ft & 2 st
	over 10%	"	"	35 ft	6 & 12 ft	20 ft	5 ft	28.5 ft & 2 st (uphill) 35' & 3 st (down hill)
UR-7 Upland Res	10% and less	304,920 sf	"	<i>see above (slope 10% & less)</i>				
	over 10%	"	"	<i>see above (slope over 10%)</i>				
RS-7.5 SF Medium	10% and less	7,500 sf	75 ft	30 ft	10 ft	20 ft	10 ft	<i>see above (slope 10% & less)</i>
	over 10%	<i>by formula</i>	<i>by formula</i>	40 ft	6 & 15 ft	25 ft	10 ft	<i>see above (slope over 10%)</i>

.070 PARCEL-SPECIFIC SITE IMPROVEMENTS

(A) On-Site Parking. Each separate parcel created shall conform to Chapter 17.052: Off-Street Parking and Loading Requirements. The following requirements shall apply to each separate parcel:

- a) the combined width of parking garages that face a street may not exceed 50% of a building's width as seen from the street;
- b) the combined width of surface parking area(s), minus parts of parking area(s) behind buildings as seen from the street, shall not exceed half of parcel's street-facing property line;
- c) surface parking areas shall include at least one tree per eight (8) parking spaces, rounded;
- d) surface parking areas that are not behind building(s) as seen from street, shall be screened from street shrubs, or a wall or fence 30 to 42 inches in height; and
- (e) driveway curb cuts shall not exceed a width of 25 feet.

(B) On-Site Landscaping. New plants shall be listed among either: the "Common Plant Communities of the SF Bay Area" within the "Bay-Friendly Landscape Guidelines: Sustainable Practices for the Landscape Professional," or the "Marin County Plan Lists." New plants shall not be allowed if listed on Marin County Fire Department's "Do Not Plant List." The location of plantings shall be consistent with Cal Fire "defensible space" guidelines.

(C) Fences and Walls. The following wall and fence materials are not allowed:

- chain link (prohibited in front and corner side yards; allowed along interior lot lines, or if completely covered by planting);
- corrugated metal;
- plastic materials (except for color wire); and
- synthetic materials unless indiscernible from and ages like natural material it simulates.

With the exception of landscaped areas around the immediate vicinity (25 feet) of any residential structures, any additional fencing shall be a maximum height of 4 feet, shall be of welded wire, and shall have minimum openings of 6 inches, to facilitate the passage of wildlife.

(D) On-Site Stormwater Management. [TO BE DEVELOPED]

.080 PROJECT AND BUILDING SIGNS.

[TO BE DEVELOPED]

.090 RESERVED

.100 TRAFFIC IMPACT PERMITS

PDD projects shall conform to Chapter 17.056: Traffic Impact Permits

ATTACHMENT A3

EXISTING ZONING LANGUAGE

Chapter 17.112: PDD Planned Development District Zone

For Planning Commission Review, December 20 2018

.010 PURPOSE.

(A) The purposes of the PDD planned development district include the following:

- (1) To encourage development of parcels sufficiently large as to permit comprehensive site planning and building design;
- (2) To provide a more flexible regulatory procedure by which the basic public purposes of this title may be accomplished;
- (3) To encourage variation in siting of buildings and the appropriate mixing of several land uses, activities and dwelling types;
- (4) To enhance the appearance and livability of the community through encouragement of creative approaches to the use of land and the design of facilities;
- (5) To conserve natural features; and
- (6) To promise and create public and private open space as an integral part of land development design.

(B) These purposes are to be ensured through the preparation and submission of comprehensive development plans showing proper site layout, design character and integration with the surroundings; and through the Planning Commission's careful review of the plans.

.020 GENERAL REQUIREMENTS FOR A PLANNED DEVELOPMENT.

(A) Five acres or more may be considered a planned development for purposes of this chapter, provided the property is owned, or its development controlled, by a single individual or legally constituted corporation or partnership.

(B) In the case of property in various ownerships, all parties owning and controlling property in the area to be developed shall become parties to a legal agreement binding them to abide by the planned development plan, as approved, with the agreement to run with the land as a condition of future use, sale or lease.

(C) The development shall be initiated and completed by the applicant, or joint applicants, as the case may be.

(D)

(1) Unless otherwise provided in the approval of the Planning Commission, the developer may divide and transfer units of the development.

(2) The transferee shall complete the development and shall use and maintain it, in strict accordance with the development plan as approved by the Planning Commission and Town Council.

(E)

- (1) All the provisions of this title are supplementary to all subdivision regulations of the town.
- (2) An application for approval of a tentative subdivision map of lands zoned PDD shall not be accepted, except in conjunction with the concurrent filing of a precise development plan under § 17.112.120.
- (3) No tentative subdivision map shall be approved prior to the approval of a precise development plan for the property covered by the tentative map. The tentative map and precise development plan applications shall be processed concurrently.

.030 GENERAL STANDARDS AND REQUIREMENTS.

(A) The following provisions shall apply in a planned development district, 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) No planned development district shall include less than five acres of contiguous land unless the Planning Commission and Town Council find that property of less than five acres is suitable as a planned development district by virtue of its unique historical character, topography, landscaping features or other special characteristics as may be determined by the Planning Commission.
- (2) A planned development district shall be established by an ordinance adopted by the Town Council after a recommendation by the Planning Commission, in accordance with §§ 17.004.030 through 17.004.120 of this title. Whenever a planned development district has been established, its boundary shall be indicated on the zoning maps of the town.
- (3) Where contiguous properties proposed for a planned development in accordance with the provisions of this chapter are under separate ownership, written consent of all participating property owners shall be filed with the Planning Director before any application for a planned development can be accepted by the town.
- (4) 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), or by standards which the Planning Commission shall by resolution from time to time adopt.
- (5) 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.
- (6) 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.

(B) Standards for public improvements shall be governed by applicable ordinances and laws of the town.

(C) Exceptions to standards adopted by the Planning Commission may be granted by the Planning Commission and Town Council only in cases where these bodies find that the exceptions encourage a more desirable environment and are warranted in terms of the total proposed development or a unit thereof.

.040 RESIDENTIAL DENSITY POLICY.

(A) *Conformance to the general plan.* All projects must conform to the adopted General Plan or to any accepted specific plan applicable to the area under consideration.

(B) *Density limitations.* A density shall be set which is consistent with limitations imposed by site conditions including natural resources, topographic and geological conditions and by the level of public services and road conditions that can reasonably be provided.

(C) *Planning Commission determination.* The Planning Commission shall consider the following criteria in setting density.

(1) Extent of lands which are hazardous to life and property due to soils, geological, seismic or hydrological factors unless the hazards can be mitigated by minor modifications to existing land forms and vegetation. These determinations must be based on the analysis of a licensed engineering geologist and/or civil engineer specializing in soils problems and hydrologist;

(2) The number of safe building sites which exist on the property;

(3) The cumulative impact of the development on existing circulation and drainage systems.

(D) Gross acreage calculation.

(1) Density shall be set for gross acreage. Hazardous lands may be excluded from the building area, but will be included in the calculation of gross density per acre.

(2) In cases where a portion of the property falls within two different categories in the General Plan, the Planning Commission shall determine an aggregate density based on the percentage of gross acreage in each category.

.050 PRELIMINARY DEVELOPMENT PLAN.

(A)

(1) Approval, in principle, of the preliminary development plan shall be limited to the general acceptability and intensity of land use proposed and their interrelationship and shall not be construed to endorse precise location of uses, configuration of parcels or engineering feasibility.

(2) A preliminary development plan and text shall be prepared by or under the direction of a licensed architect or a licensed building engineer, a registered landscape architect or, in the case of an area in excess of 20 acres, by a team including a licensed architect or licensed building engineer, a registered landscape architect and a qualified urban planner. (A qualified urban planner shall be defined as a planner holding an associate or full membership in the American Institute of Planners or a planner authorized by the state's Planning Advisory Committee to work on comprehensive general plan programs in the state of California.)

(3) It shall include the following information presented in a general schematic fashion: a preliminary development plan of the entire proposed development showing land uses and general configuration of parcels or lots, traffic circulation, streets, driveways, sidewalks and pedestrianways and off-street parking.

(B) The applicant shall, at the time of filing the preliminary development plan, pay a filing fee in accordance with a schedule of fees adopted by resolution of the Town Council.

.060 MASTER DEVELOPMENT PLAN.

(A)

(1) Within one year of the approval of the preliminary development plan by the Planning Commission, or extension by the Planning Commission, the applicant shall submit ten copies of a master development plan, conforming in all major respects with the approved preliminary development plan.

(2) The preliminary development plan shall expire and be of no further effect or benefit if a master development plan is not submitted within the one-year period or if an extension is not approved.

(B) The final plan shall include all elements included in the preliminary development plan, plus the following.

(1) Survey of the property showing existing features including trees, structures, streets, easements, utility lines, land uses, existing zoning and existing ownerships; (The information also to be provided for the surrounding area within 100 feet of the proposed development.)

(2) Master plans for street improvements, water, sewerage, flood control, draining facilities and public utilities;

(3) Site, building and landscaping plans and elevations in a detail sufficient to fully illustrate the proposal;

(4) Grading plans;

(5) Character, general design and location of signs, street lighting and street furniture;

(6) Description of design principles for buildings and streetscapes;

(7) Tabulation of land uses;

(8) Tabulation of number of dwelling units by type for each increment of the total master plan and the estimated population per increment;

(9) Proposed standards for height, open space, building, intensity and public improvements; and

(10) Engineering and economic feasibility studies as necessary.

(C) Copies of legal documents required by the Planning Commission for dedication or reservation for group or private open space, or for the creation of a non-profit homes association shall also be submitted.

(D) The applicant shall submit evidence that he or she has sufficient control over the land to execute the proposed plan.

(E) The final plan shall be prepared by or under the direction of a licensed architect, and a registered landscape architect, or in the case of an area in excess of 20 acres, by a team including an architect, landscape architect, qualified urban planner and registered civil engineer or licensed land surveyor.

(F) The applicant shall, at the time of filing the master development plan, pay a filing fee in accordance with a schedule of fees adopted by resolution of the Town Council.

.070 MASTER DEVELOPMENT PLAN; TOWN ENGINEER'S REPORT.

(A) Upon receipt of the master development plan by the Planning Commission, the Planning Commission shall forward the development plan and original application to the Town Engineer for review, coordination with other affected town departments and public agencies, and approval of public improvements including streets, sewers and drainage.

(B) The Planning Commission shall not act finally on an application until it has first received a report from the Town Engineer, which report shall be returned to the Planning Commission within 30 days.

.080 MASTER DEVELOPMENT PLAN; FINAL PLANNING COMMISSION ACTION.

Upon receipt of the master 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 the preliminary development plan and all applicable criteria and standards, the Planning Commission may recommend approval subject to specified modifications and conditions. When the Planning Commission finds the proposed plan of development does not conform to the preliminary development plan or 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.

.090 MASTER DEVELOPMENT PLAN; APPROVAL CRITERIA, STANDARDS AND PROCEDURES.

Before recommending approval, the Planning Commission shall find that the proposed development conforms to the following criteria and to such other criteria as may be applicable to planned developments within the area in which the proposed development is located:

(A) The location and design of the proposed development shall be consistent with the goals and policies of the Fairfax General Plan and with any other applicable plans or policies adopted by the Town Council.

(B) The proposed location shall allow the development to be well integrated with its surroundings.

(C) All vehicular traffic generated by the development must be accommodated safely and without causing undue congestion upon adjoining streets.

(D) The proposed location and design shall allow residents and business establishments to be adequately serviced by existing or proposed public facilities and services. In appropriate circumstances, the Planning Commission may require that suitable areas for schools, parks and playgrounds, pedestrianways or public open spaces be dedicated for public use, or reserved by deed covenant for the common use of all residents, establishments or operations in the development.

- (E) The overall design of the proposed planned development shall produce an attractive healthful, efficient and stable environment for living, shopping or working.
- (F) The development shall be well integrated with its settings, shall not require excessive earth-moving or grading, or destruction of desirable natural features, nor be visually obstructive or disharmonious with surrounding areas and facilities, and shall not substantially harm major views from adjacent properties.
- (G) The uses proposed shall have a beneficial effect not obtainable under existing zoning regulations. Any departure from existing ordinance requirements shall be warranted by the design and the amenities incorporated in the development plan in accord with adopted policy of the Planning Commission and Town Council.
- (H) Demonstration shall be made that each individual unit of development, and total development, can exist as an independent unit capable of creating an environment of sustained desirability and stability.

.100 MASTER DEVELOPMENT PLAN; TOWN COUNCIL ACTION.

(A)

- (1) 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 master development plan.
- (2) In overruling a Planning Commission recommendation for denial, the Town Council shall make the findings listed in § 17.112.090.

(B) Approval of the master development plan shall be by ordinance.

(C) Approval of the master plan shall include, but not be limited to the following stipulations.

- (1) The development, maintenance and use of the property included in the master 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 master development plan.
- (2) Approval of the master development plan shall not be interpreted as waiving compliance with other provisions of this code.

(3)

- (a) The approved master 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 master development plan ordinance.
- (b) An agreement by the owner or owners agreeing to be bound by the conditions and regulations imposed by the Town Council shall be deposited with the Town Clerk prior to final

adoption of the ordinance, to be held and recorded by the town cleric only after the effective date of the 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.

.110 MASTER DEVELOPMENT PLAN; MODIFICATION OF PLAN.

Minor changes to an approved master development plan may be approved by the Planning Commission, provided the change is consistent with the purposes and character of the master development plan. The changes shall not change the densities heretofore established, nor the boundaries of the subject property, nor any use as shown on the approved master development plan, nor the location or amounts of land devoted to specific land uses. All modifications or amendments to an approved plan other than minor changes shall be processed as an original application and shall be subject to all applicable substantive and procedural requirements of the planned development procedure; provided that, the filing fee therefor shall be one-half the fee charged for filing an original application.

.120 PRECISE DEVELOPMENT PLAN; APPLICATION.

(A)

(1) Within one year following approval of the master development plan, the applicant shall submit to the Planning Commission an application for approval of a precise development plan for the first increment.

(2) Precise plan approval, valid for one year, shall be secured for each unit or increment of a planned development district as delineated on the master development plan.

(3) No development, improvement or building construction within any unit of the planned development area covered by the master development plan shall be commenced until the Planning Commission has approved a precise development plan for that unit.

(4) Precise plans shall set forth in detail specific features of each increment of development.

(5) They shall conform to the master development plan, and be prepared by a team including a licensed architect or a licensed building designer and registered landscape architect, and a registered civil engineer or licensed land surveyor, and shall consist of:

(a) A topographic map of sufficient detail to show all cut and fill banks, precise drainage and flood control and boundary survey data;

(b) Detailed site plan, showing buildings, area utilization and traffic and pedestrian circulation; location, widths, grades and types of improvements proposed for all streets, parking areas, driveways, walkways, trails, utilities and other public improvements; building heights and dimensions of space between buildings and distances from property lines and rights-of-way;

- (c) A precise landscaping plan;
- (d) A map showing division of the land for the sale of individual property, if any;
- (e) Location and dimensions of public or semipublic areas, including, but not limited to schools, parks, playgrounds and parking areas,
- (f) A statement setting forth a program for installation and continued maintenance of parking areas, lighting, courts, public and private grounds, landscaping, streets, utilities, parks, playgrounds or public or semi-public community buildings and facilities; and
- (g) Information necessary for evaluation and assignment of fire zone designations, including type of construction, where found necessary by the Planning Commission.

(B) Within 45 days following receipt of the application for precise development plan approval, and after public hearing noticed in the manner set forth in § 17.004.070 of this title, the Planning Commission shall approve or disapprove of the proposed precise development plan and shall notify the applicant of its action. Appeal may be made to the Town Council by the applicant in accordance with § 17.112.170 of this chapter.

(C) The applicant shall, at the time of filing the precise plan, pay a filing fee in accordance with a schedule of fees adopted by resolution of the Town Council.

.130 PRECISE DEVELOPMENT PLAN; OPEN SPACE DEDICATION AND MAINTENANCE.

(A) The Planning Commission may as a condition of approval require that suitable areas for schools, parks and playgrounds be set aside, unproved, and dedicated for public use, or be reserved for the owners, residents and establishments in the development by deed restrictions.

(B)

(1) Whenever group or common open space is provided, whether required or not, the Planning Commission may, as a condition of approval, require that an incorporated nonprofit homeowners' association be established prior to any sale of land or facilities for the purpose of maintaining the open space.

(2) The association may also undertake other legal and proper functions. Agreements and covenants running with the land shall include provisions for automatic membership and charges to be levied for carrying out of the specified functions and administrative expenses.

(3) The association shall be responsible for levying, collecting and disbursing funds and for enforcement of the agreements.

(4) The agreements and covenants shall operate for a minimum of 20 years with a provision for automatic extension, except upon a majority vote for termination, upon which occasion the mutually owned properties will automatically go to public ownership.

(5) The town shall be a party of interest in any such development and may by mandatory injunction enforce the provisions in this section.

(C) To assure that open space shall be available for the entire developed planned development district, public sites and development rights to required open spaces shall be dedicated in advance of development. In any event, whether a subdivision map is required or not, dedication of public sites and development rights to required open spaces for the entire district shall be made before the building permit is issued.

(D) Other dedications for street, utility, flood control, rights-of-way and/or easements and other public purposes, may also be required before the issuance of the first building permit.

.140 PRECISE DEVELOPMENT PLAN; PERFORMANCE BOND.

(A) As a condition precedent to approval of any precise development plan, the Town Council shall require the applicant to furnish a completion bond, or the cash equivalent, in an amount deemed sufficient by the Town Engineer to cover the cost of public improvements, common areas, incidental expenses, and to cover replacement and repair of existing streets and other improvements damaged in the development of the unit.

(B) All public improvements shall be constructed in accordance with the standard specifications of the town.

.150 FINAL SUBDIVISION MAP.

(A)

(1) No precise development plan or tentative map shall be approved under this chapter until the planned development district zoning has become effective.

(2) Disapproval of any precise development plan shall also constitute disapproval of any application for a tentative subdivision map for the property covered by the precise development plan.

(B) No building permit shall be issued until a final subdivision map, if required, has been recorded for the area covered by the precise development plan, or any approved stage thereof, in compliance with the town's subdivision regulations.

.160 TERM OF APPROVALS.

(A) If the applicant fails to submit a precise development plan for the first increment within one year of approval of the master development plan by the Town Council, or fails to record a final subdivision map to effectuate an approved precise development plan and/or fails to initiate development within two years after the precise plan approval, then actions taken by the Planning Commission and Town Council shall be rendered null and void.

(B) The failure shall be grounds for reversion to acreage of any recorded final subdivision map. The time limits may be extended upon mutual agreement by the Town Council and the applicant.

.170 APPEALS.

(A) Within ten days following the date of a decision by the Planning Commission upon an application for approval of a precise development plan, or for approval of any modification or amendment of any authorized plan, or any condition imposed therein, an appeal may be taken to the Town Council by the applicant or the owner.

(B)

(1) An appeal shall be made upon the form prescribed and shall be filed with the Town Clerk. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Planning Commission, or wherein the decision is not supported by the evidence in the record.

(2) Upon receipt of the appeal, the Town Council shall set the time for consideration thereof. The Town Clerk shall notify the Secretary of the Planning Commission of the receipt of the appeal and of the time and place set for consideration thereby by the Council; and the town clerk shall, not less than five days prior to the date set for the hearing upon the appeal, give written notice to the applicant and to the adverse party or parties, or to the attorney, spokesperson or representative of the party or parties, of the time and place of the hearing on the appeal.

(3) The Town Council may approve, modify or reverse a Planning Commission decision. The decision of the Council shall be final.

.180 TRAFFIC IMPACT PERMIT.

The provisions of the traffic impact permit, Chapter 17.056 of this title, are applicable to properties in the PDD zoning district.

RESOLUTION NO. 2018-24

**A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF FAIRFAX
RECOMMENDING THE TOWN COUNCIL ADOPT ORDINANCE NO. ____ ENTITLED
“AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX
AMENDING CHAPTER 17.112 PDD PLANNED DEVELOPMENT DISTRICT ZONE
OF THE FAIRFAX MUNICIPAL CODE” AND MAKING CEQA FINDINGS OF
EXEMPTION**

WHEREAS, the State of California has recently passed legislation (collectively referred to as the Housing Accountability Act and Senate Bill 35) intended to ensure greater predictability in local jurisdictional review of housing developments; and

WHEREAS, the new State law severely limits the ability of local jurisdictions to deny or reduce the density of housing developments where objective development standards are lacking; and

WHEREAS, the purpose of this resolution is to make a recommendation to the Town Council to adopt an Ordinance update the Town's Municipal Code to apply objective development standards to the review of housing development projects in the PDD zone in accordance with State law; and

WHEREAS, the Town's current regulations governing development in the Planned Development District Zone Chapter 17.112 have not been amended in several decades and lack objective development standards, and

WHEREAS, the Town wishes to continue to effectively govern the density of housing development and determine whether or not housing development is consistent with the Fairfax General Plan and local regulations; and

WHEREAS, adoption of the proposed Ordinance is consistent with the Town's General Plan, which provides goals, policies, and programs to preserve the environment, protect against hazards, and retain protect Fairfax's small-Town character, aesthetics and environmental characteristics while also allowing for residential development; and

WHEREAS, the adoption of the proposed Ordinance is exempt from the California Environmental Quality Act (“CEQA”). Adoption of this Ordinance will enact only minor changes in land use regulations, will not authorize any new development, and it can be seen with certainty that its adoption will not have a significant effect on the environment because it will not allow for housing development at densities that exceed what was previously allowed in the PDD regulations, and the proposed Ordinance does not constitute a “project” within the meaning of the California Environmental Quality Act of 1970 (CEQA) Guidelines Section 15060(c)(2) and 15061(b)(3) because there is no potential that the regulations result in a direct or reasonably foreseeable indirect physical change in the environment, and CEQA Guidelines Section 15378 because they have no

potential for either a direct physical change to the environment, or a reasonably foreseeable indirect physical change in the environment. Moreover, the regulations are exempt from CEQA pursuant to CEQA Guidelines Section 15305, which exempts minor alterations in land use limitations; and

WHEREAS, the Planning Commission has conducted a duly-noticed public hearing to consider the draft ordinance, heard the presentation of a staff report, and received 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 Attachment 1 and finds that it is consistent with the Town General Plan, as set forth above.

SECTION 3. The Planning Commission hereby recommends that the Town Council adopt Attachment 1 amending Chapter 17.112 PDD 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 20th day of December 2018 by the following vote, to wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

Mimi Newton, Chair

Attest:

Ben Berto, Secretary

ORDINANCE NO. XX

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX
AMENDING CHAPTER 17.112 PDD PLANNED DEVELOPMENT DISTRICT ZONE
OF THE FAIRFAX MUNICIPAL CODE**

WHEREAS, this Ordinance is adopted as follows:

- 1) The State of California has recently passed legislation (collectively referred to as the Housing Accountability Act and Senate Bill 35) intended to ensure greater predictability in local jurisdictional review of housing developments.
- 2) The State law severely limits the ability of local jurisdictions to regulate the density of, or to deny applications for, housing development absent reliance on specific, objective development standards.
- 3) The purpose of this Ordinance is to update the Town's Municipal Code to apply objective development standards to the review of housing development projects in the PDD zone.
- 4) The Town's current regulations governing development in the Planned Development District Zone Chapter 17.112 have not been amended in several decades and lack objective development standards.
- 5) The Town wishes to continue to effectively govern the density of housing development and determine whether or not housing development is consistent with the Fairfax General Plan and local regulations; and

WHEREAS, adoption of this Ordinance is consistent with the Town's General Plan, which provides goals, policies, and programs to preserve the environment, protect against hazards, and retain protect Fairfax's small-Town character, aesthetics and environmental characteristics while also allowing for residential development; and

WHEREAS, the Planning Commission conducted a duly-noticed public hearing on December 20, 2018 to consider the draft ordinance; and

WHEREAS, the Town Council has conducted a duly-noticed public hearing to consider the draft ordinance, heard the presentation of a staff report, and received public comment on the matter.

NOW, THEREFORE,

Section 1. The Fairfax Municipal Code is hereby amended as follows: Revisions to Chapter, Chapter 17.112 of the Fairfax Municipal Code, are hereby enacted as set forth in Exhibit A to this Ordinance, which is hereby incorporated as though set forth in full herein. The recitals set forth above are adopted as further findings of the Town Council.

Section 2. Adoption of the proposed Ordinance is exempt from the California Environmental Quality Act ("CEQA"). Adoption of this Ordinance will enact only minor changes in land use regulations, and it can be seen with certainty that its adoption will not have a significant effect on the environment because it will not allow for housing development at densities that exceed what was previously allowed in the PDD regulations, and the proposed Ordinance does not constitute a "project" within the meaning of the California Environmental Quality Act of 1970 (CEQA) Guidelines Section 15060(c)(2) and 15061(b)(3) because there is no potential that the regulations result in a direct or reasonably foreseeable indirect physical change in the environment, and CEQA Guidelines Section 15378 because they have no potential for either a direct physical change to the environment, or a reasonably foreseeable indirect physical change in the environment. Moreover, the regulations are exempt from CEQA pursuant to CEQA Guidelines Section 15305, which exempts minor alterations in land use limitations; and

Section 3. Severability. If any section, subsection, sentence, clause, phrase, or word of this Ordinance is, for any reason, deemed or held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, or preempted by legislative enactment, such decision or legislation shall not affect the validity of the remaining portions of this Ordinance. The Town Council of the Town of Fairfax hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or word thereof, regardless of the fact that any one or more sections, subsections, clauses, phrases, or word might subsequently be declared invalid or unconstitutional or preempted by subsequent legislation.

Section 4. Effective Date. 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; 3. Bulletin Board, Fairfax Women's Club building.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Fairfax on the ___th day of _____, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Barbara Coler, Mayor

ATTEST:

Michele Gardner, Town Clerk

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2
3
4

**Exhibit A
ORDINANCE**

**Amended Chapter 17.112
PDD PLANNED DEVELOPMENT DISTRICT ZONE**

5 §17.112.040 (B) Residential Density ~~limitations~~. A Maximum residential density shall be a
6 function of average slope, as set forth in the following table: ~~which is consistent with~~
7 ~~limitations imposed by site conditions including natural resources, topographic and~~
8 ~~geological conditions and by the level of public services and road conditions that can~~
9 ~~reasonably be provided.~~

10

Average Slope	Maximum Residential Density
30% and greater	1 dwelling unit / 10 acres
20 to 29.9%	1 dwelling unit / 5 acres
10 to 19.9%	1 dwelling unit / 2 acres

11
12