

**TOWN OF FAIRFAX
STAFF REPORT**

To: Planning Commission

From: Jim Moore, Director of Planning & Building Services

Date: March 19, 2015

Subject: Consideration of an Ordinance Amending Town Code Chapter 17.008 ('Definitions') of the Town Code to Define "Emergency Shelters"; Amending Chapter 17.012 ('Zone Districts Established') to Establish a Public Domain (PD) Zoning District and Rezone Parcels to the PD Zoning District; Amending Chapter 17.100 ('CC Central Commercial Zoning District') to Allow Emergency Shelters as a Permitted Use; Adding Chapter 17.130 ('PD Public Domain Zoning District') to Create a Public Domain Zoning District that Includes Emergency Shelters as a Permitted Use; Adding a New Chapter 17.138 ('Regulations Applying in Multiple Zoning Districts') to Establish Emergency Shelter Standards; and Amending the Town of Fairfax Zoning Map Accordingly.

BACKGROUND

California Government Code § 65583(a)(4) generally requires that the housing element of each town or city identify a zoning district or districts where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit.

Recently, as part of the 2015 Housing Element update process underway, staff was advised by the State that not only must the Town adopt the updated 2015 Housing Element by May 31, 2015 in order for the Town to be on an eight (8) year cycle/period for the next required update (e.g., the Town will not have to revisit the Housing Element until eight years from now rather than four (4) year from now – avoiding extensive staff time and consultant costs), it must also pass an Emergency Shelter ordinance by May 31, 2015.

DISCUSSION

The 2010 Housing Element of the General Plan (amended in 2013 and 2014), contains Program H-2.1.6.1 ('Identify, Rezone, and Provide Appropriate Standards for Homeless Shelters'), whereby the Town pledged to implement the requirements of Government Code § 65583(a)(4) by "[a]mend[ing] the Town Code to allow the development of emergency shelters as a permanent, non-conditional use in the Central Commercial (CC) and Public Domain (PD) zones in the Town". Likewise, the 2010 – 2030 General Plan's Land Use Element includes Figure LU-1 ('Fairfax General Plan Map') and Figure LU-2 ('Fairfax Zoning'), both of which include a Public Domain (PD) zoning district.

ORDINANCE NO. ____

AMENDING TOWN CODE TITLE 17 (ZONING), CHAPTERS 17.08 ('DEFINITIONS'), 17.012 ('ZONE DISTRICTS ESTABLISHED'), 17.052 ('OFF-STREET PARKING AND LOADING REQUIREMENTS'), AND 17.100 ('CC CENTRAL COMMERCIAL ZONING DISTRICT'), AND ADDING NEW CHAPTERS 17.130 ('PD PUBLIC DOMAIN ZONING DISTRICT') AND 17.138 ('REGULATIONS APPLYING IN MULTIPLE ZONING DISTRICTS'), AND AMENDING THE TOWN ZONING MAP

WHEREAS, California Government Code § 65300 requires all towns and cities within the State of California to adopt a general plan; and

WHEREAS, a general plan consists of seven mandatory elements, including a housing element; and

WHEREAS, California Government Code § 65583(a)(4) generally requires that the housing element of each town or city identify a zoning district or districts where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit; and

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

WHEREAS, the Housing Element of the General Plan contains Program H-2.1.6.1 ('Identify, Rezone, and Provide Appropriate Standards for Homeless Shelters'), whereby the Town pledged to implement the requirements of Government Code § 65583(a)(4) by "[a]mend[ing] the Town Code to allow the development of emergency shelters as a permanent, non-conditional use in the Central Commercial (CC) and Public Domain (PD) zones in the Town;" and

WHEREAS, the General Plan includes Figure LU-1 ('Fairfax General Plan Map') and Figure LU-2 ('Fairfax Zoning'), both of which include a Public Domain (PD) zoning district; and

WHEREAS, neither the existing Zoning Ordinance, found at Title 17 of the Fairfax Town Code, nor the existing Zoning Map of the Town of Fairfax, include a Public Domain zoning district; and

WHEREAS, California Government Code § 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 proposed amendment to the Zoning Ordinance and Zoning Map of the Fairfax Town Code in order to implement the General Plan and state law requirements set forth above.

EXHIBIT # A

The Town Council of the Town of Fairfax does ordain as follows:

SECTION 1: Fairfax Town Code, Title 17 ('Zoning'), Chapter 17.008 ('Definitions), Section 17.008.002 ('Definitions) is amended to include the following definition, which shall be placed in alphabetical order within said Section:

"EMERGENCY SHELTER. As set forth in California Health and Safety Code Section 50801, 'emergency shelter' means housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay."

SECTION 2: Fairfax Town Code, Title 17 ('Zoning'), Chapter 17.012 ('Zone Districts Established'), Section 17.012.010 ('Established') is amended to add a Subsection (N) to read as follows:

"(N) PD public domain"

SECTION 3: Fairfax Town Code, Title 17 ('Zoning'), Chapter 17.012 ('Zone Districts Established'), Section 17.012.040 ('Boundaries; Generally'), is amended to read as follows:

"Each of the zones designated in §§ 17.012.050 through 17.012.170 shall have included within it the land area specified."

SECTION 4: Fairfax Town Code, Title 17 ('Zoning'), Chapter 17.012 ('Zone Districts Established'), Section 17.012.070 ('Boundaries; RD 5.5-7 Zone') is amended as follows:

The table entries that previously read:

<i>Book</i>	<i>Page, Block</i>	<i>Parcels</i>
"1	10, 2	All parcels
1	10, 3	All parcels"

shall now be amended to provide:

<i>Book</i>	<i>Page, Block</i>	<i>Parcels</i>
"1	10, 2	All parcels except 01, 02, 03, 06, 11, and 12
1	10, 3	All parcels except 01, 02, and 03"

The remainder of the table within Section 17.012.070 shall remain unchanged.

SECTION 5: Fairfax Town Code, Title 17 ('Zoning'), Chapter 17.012 ('Zone Districts Established'), Section 17.012.080 ('Boundaries; RM Zone') is amended as follows:

The table entry that previously read:

<i>Book</i>	<i>Page, Block</i>	<i>Parcels</i>
"1	13, 1	09, 47"

is hereby deleted.

The remainder of the table within Section 17.012.080 shall remain unchanged.

SECTION 6: Fairfax Town Code, Title 17 ('Zoning'), Chapter 17.012 ('Zone Districts Established') is amended to add a new Section 17.012.170 ('Boundaries; PD Zone') to read as follows:

"§ 17.012.170 BOUNDARIES; PD ZONE.

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

<i>Book</i>	<i>Page, Block</i>	<i>Parcels</i>
1	13, 1	09, 47
2	11, 2	07
2	11, 4	01 through 05, inclusive
2	11, 3	04, 05, 06
2	11, 5	11, 12, 18, 19
2	10, 2	01, 02, 03, 06, 11, 12
2	10, 3	01, 02, 03

Notwithstanding any other provision to the contrary within this Title, in case of any discrepancy between the designation of land on the official Town Zoning Map as lying within the PD zone and the designation of land as set forth in this section, the Zoning Map shall control."

SECTION 7: Fairfax Town Code, Title 17 ('Zoning'), Chapter 17.052 ('Off-Street Parking and Loading Requirements'), Section 17.052.030 ('Required Parking Spaces') is amended to add a new Subsection (O) as follows:

- "(O) Public or governmental uses: three spaces for the first 500 square feet of gross floor area and one space for each additional 500 square feet thereafter, and 1 additional space for every 500 square feet of outdoor storage area. The Town Council may grant exceptions to this standard per Section 17.052.020 above. No use of land or structure existing within the PD zone as of May 31, 2015 shall be deemed to be nonconforming solely because of the lack of off-street parking or loading facilities required by this section.

SECTION 8: Fairfax Town Code, Title 17 ('Zoning'), Chapter 17.100 ('CC Central Commercial Zoning District'), Section 17.100.040 ('Principal Permitted Uses and Structures'), Subsection (A) is hereby amended to add, in alphabetical order, the following new principal permitted use and structure:

“(27) Emergency shelters, subject to compliance with Chapter 17.138 of this title”

All principal permitted uses and structures listed thereafter within Section 17.100.040(A) shall be renumbered accordingly.

SECTION 9: Fairfax Town Code, Title 17 ('Zoning') is amended to add a new Chapter 17.130 ('PD Public Domain Zone') to read as follows:

“CHAPTER 17.130 PD Public Domain Zone

- 17.130.010 Generally
- 17.130.020 Principal permitted uses and structures
- 17.130.030 Conditional uses and structures
- 17.130.035 Procedure for Planning Director Use Determination
- 17.130.040 Accessory uses and structures
- 17.130.050 Uses prohibited
- 17.130.060 Building site requirements
- 17.130.070 Height regulations
- 17.130.080 Yards
- 17.130.090 Signs
- 17.130.100 Off-street parking
- 17.130.110 Traffic impact permit

§ 17.130.010 GENERALLY.

(A) No premises in the PD open area zone may be used for any purpose or in any manner except as set forth in this chapter.

(B) All structures, physical improvements and exterior physical modification of building are subject to design review unless the Planning Director makes a determination that the improvements are minor in nature.

§ 17.130.020 PRINCIPAL PERMITTED USES AND STRUCTURES.

Uses within the PD zone are restricted to the following:

- (A) Public or governmental buildings and facilities, including maintenance or corporation yards;
- (B) Public parking areas;
- (C) Public schools and preschools;
- (D) Public parks, playgrounds and recreation areas;
- (E) Museums, libraries, and cultural institutions;
- (F) Emergency shelters, subject to compliance with Chapter 17.138 of this title; and
- (G) Hospitals.

§ 17.130.030 CONDITIONAL USES AND STRUCTURES.

The following uses are permitted upon the securing of a use permit in each case, which use permit if granted shall prescribe conditions as are necessary to assure the public health, safety, and welfare are preserved:

- (A) Other uses determined by the Planning Commission as equivalent to those listed in § 17.130.020, but requiring regulation of location, extent or operation because of some unique characteristic; and
- (B) Private schools, day care centers or nurseries.

§ 17.130.035 PROCEDURE FOR PLANNING DIRECTOR USE DETERMINATION.

- (A) Uses not specifically listed in §§ 17.130.020 and 17.130.030 are specifically prohibited unless a use determination by the Planning Director is made which finds the use not specifically listed is similar to another use permitted or conditionally permitted within the Public Domain zone.
- (B) The criteria utilized by the Planning Director to determine if a proposed use is sufficiently similar to a permitted use as described in § 17.130.020 or 17.130.030, and can be processed as such is as follows:
 - (1) The proposed use must be consistent with the General Plan; and
 - (2) The proposed use must serve a public function and closely approximate a use described in § 17.130.020 or § 17.130.030 relative to the type of service provided;

§ 17.130.040 ACCESSORY USES AND STRUCTURES

Accessory uses and structures allowed in the PD zone shall consist of those activities which are characteristic of and usually found in connection with a principal use on the same premises and which are subordinate to, dependent on and economically and operationally integrated into the principal use, including but not limited to the following:

- (A) Parking garages and lots;
- (B) Storage for principal uses;
- (C) Offices for principal uses; and
- (D) Signs.

§ 17.130.050 USES PROHIBITED.

All uses of land unless set forth in §§ 17.130.020, 17.130.030, or 17.130.040 are specifically prohibited.

§ 17.130.060 BUILDING SITE REQUIREMENTS.

No building site requirements apply in the PD zone.

§ 17.130.070 HEIGHT REGULATIONS.

Except as otherwise permitted by variance, no structure within the PD district shall be higher than 28.5 feet above natural grade, nor contain more than two stories.

§ 17.130.080 YARDS.

No yard requirements apply in the PD zone, except that if a parcel within the PD zone is immediately adjacent to a parcel bearing a zoning designation allowing residential dwelling units as a permitted use, such parcel within the PD zone shall be deemed to have a setback along the shared property line identical to the setback required by such adjacent zone.

§ 17.130.090 SIGNS.

No signs shall be established or maintained in the PD zone except as authorized or allowed under the provisions of Chapter 17.064 of this title. Town owned facilities and properties are exempted from this provision.

§ 17.130.100 OFF-STREET PARKING.

- (A) Off-street parking spaces and facilities shall be provided in the PD zone as required or allowed by the provision of Chapter 17.052 of this title.
- (B) Off-street parking requirements for uses allowed in the PD zone but not listed in Chapter 17.052 of this title shall be determined on a case-by-case basis utilizing the information provided in the traffic study required by Chapter 17.056 of this title.

§ 17.130.110 TRAFFIC IMPACT PERMIT.

The provisions of the traffic impact permit, Chapter 17.056 of this title, are applicable to properties in the PD zone with the exception of Town owned facilities and properties”

SECTION 10: Fairfax Town Code, Title 17 (‘Zoning’) is amended to add a new Chapter 17.138 (‘Regulations Applying in Multiple Zoning Districts’) to read as follows:

“ARTICLE I. EMERGENCY HOMELESS SHELTERS

§ 17.138.010 EMERGENCY HOMELESS SHELTER STANDARDS.

Each emergency homeless shelter shall comply with the following standards:

(A) Number of beds. An individual emergency homeless shelter shall have no more than 20 beds.

(B) Off-street parking. An emergency homeless shelter shall comply with all applicable provisions of the Off-Street Parking and Loading provisions applicable to the zoning district in which the shelter is located.

(C) Entrance lobby/intake area. The intake area of an emergency homeless shelter shall be a minimum of 100 square feet, located entirely within the building. The entrance to the

intake area shall not be located directly facing a public street. Hours of client intake shall be posted. Clients shall not be allowed to form a queue outside the facility.

(D) On-site management. The operator of an emergency homeless shelter shall be qualified to operate the facility. An on-site staff person shall be designated as a neighborhood liaison to respond to, and address, any questions or concerns from surrounding residents regarding facility operations. “Good behavior” and “good neighbor” policies shall be submitted for review and approval of the Planning Director prior to commencement of facility operations and shall be implemented and enforced at all times by on-site management. Such policies shall include, but not be limited to, prohibition of use or possession of controlled substances by residents; rules concerning the use or possession of alcohol; curfew; prohibition of loitering; and any other provisions necessary to ensure compatibility with surrounding uses. Clients shall be screened for compatibility with shelter resources and for compliance with applicable state and federal laws. Individuals who do not meet the screening criteria shall not be accepted into the facility.

(E) Once the Town’s local need for providing emergency homeless shelters is satisfied (based on the most current homeless census data), a conditional use permit is required for any additional beds or emergency homeless shelters in any district.

(F) Length of stay. No individual or family shall reside in an emergency homeless shelter for more than 180 consecutive days. A minimum of 60 days shall be required between stays. The operator of the emergency homeless shelter shall maintain adequate documentation to demonstrate compliance with this provision.

(G) External lighting. The emergency homeless shelter shall provide external lighting in accordance with California Building Code in order to maintain a safe and secure environment. Exterior lighting shall be shielded and directed towards the ground and away from surrounding properties.

(H) On-site security. Security measures shall be sufficient to protect clients and neighbors. On-site security shall be provided during the hours when the emergency homeless shelter is in operation and at all times when clients are present on site.

In the event that at least five external, verified complaints concerning unlawful activities at the facility have been received over a 30-day period by the police department, the facility shall be required to provide additional on-site security staff to the satisfaction of the Chief of Police and the Director of Planning and Building Services.

(I) Town, county and state requirements. An emergency homeless shelter shall obtain and maintain in good standing required licenses, permits, and approvals from Town, county and state agencies or departments and demonstrate compliance with applicable building and fire codes. An emergency homeless shelter shall comply with all county and state health and safety requirements for food, medical and other supportive services provided on site.

(J) Hours of operation. An operational emergency homeless shelter shall remain open 24 hours a day, seven days a week.

(K) Smoking ordinance. Emergency homeless shelters shall comply with the provisions of Section 8.44.070 of Title 8 of this code (Prohibition of Smoking In Certain Unenclosed Public Places).

(L) Design review. New construction and/or significant exterior alterations to an existing site or building are subject to design review by the Planning Commission to ensure substantial conformance with the Town's design guidelines.

(M) Emergency homeless shelter fees. Prior to issuance of a building permit for any emergency homeless shelter, any fees or exactions authorized by law, that are applicable to residential development, and that are determined by the Town to be essential to provide necessary public services and facilities for the emergency homeless shelter, shall be paid by the operator of the emergency shelter to the Town and/or to other applicable public agencies. In the event that the operation of the facility results in a need for additional police and public safety services or resources to ensure the public health, safety and welfare of the community, the operator may be required to reimburse the Town for any documented costs incurred for providing such additional services and/or resources.”

SECTION 11: The Town Zoning Map, as maintained by the Town, shall be amended in conformance with this Ordinance.

SECTION 12: The Town Council finds that this Ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the California Environmental Quality Act (CEQA) guidelines, because there is no possibility that it will create a significant effect on the environment.

SECTION 13: This ordinance shall be in full force and effect thirty days from and after its final passage and adoption.

SECTION 14: Copies of the foregoing ordinance shall, within fifteen days after its final passage and adoption, be posted in three public places in the Town of Fairfax, which places are designated for that purpose:

1. Bulletin Board, Town Hall offices, located at 142 Bolinas Road, Fairfax;
2. Bulletin Board, Fairfax Post Office, located at 773 Center Boulevard, Fairfax; and
3. Bulletin Board, Fairfax Women's Club building, located at 46 Park Road, Fairfax;

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The foregoing ordinance was duly and regularly introduced at a regular meeting of the Fairfax Town Council, held in said Town on the ____ day of _____, 2015, and thereafter adopted at a regular meeting of the Town Council, held in said Town on the ____ day of _____, 2015, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Barbara Coler, Mayor

Attest:

Michele Gardener, Deputy Town Clerk

Date

TOWN OF FAIRFAX Zoning Map



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

ZONING DISTRICTS

PUBLIC ZONES

PD - Public Domain

COMMERCIAL ZONES

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

RESIDENTIAL ZONES

RD - 5.5 - 7 - Residential
RS - 6 - Single Family Residential
RS - 7.5 - Single Family Residential
RM - Multi-Family Residential
PDD - Planned Development District
UR - 7 - Upland Residential (7ac/du)
UR - 10 - Upland Residential (10ac/du)

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

OPEN AREA ZONE

O-A - Open Space

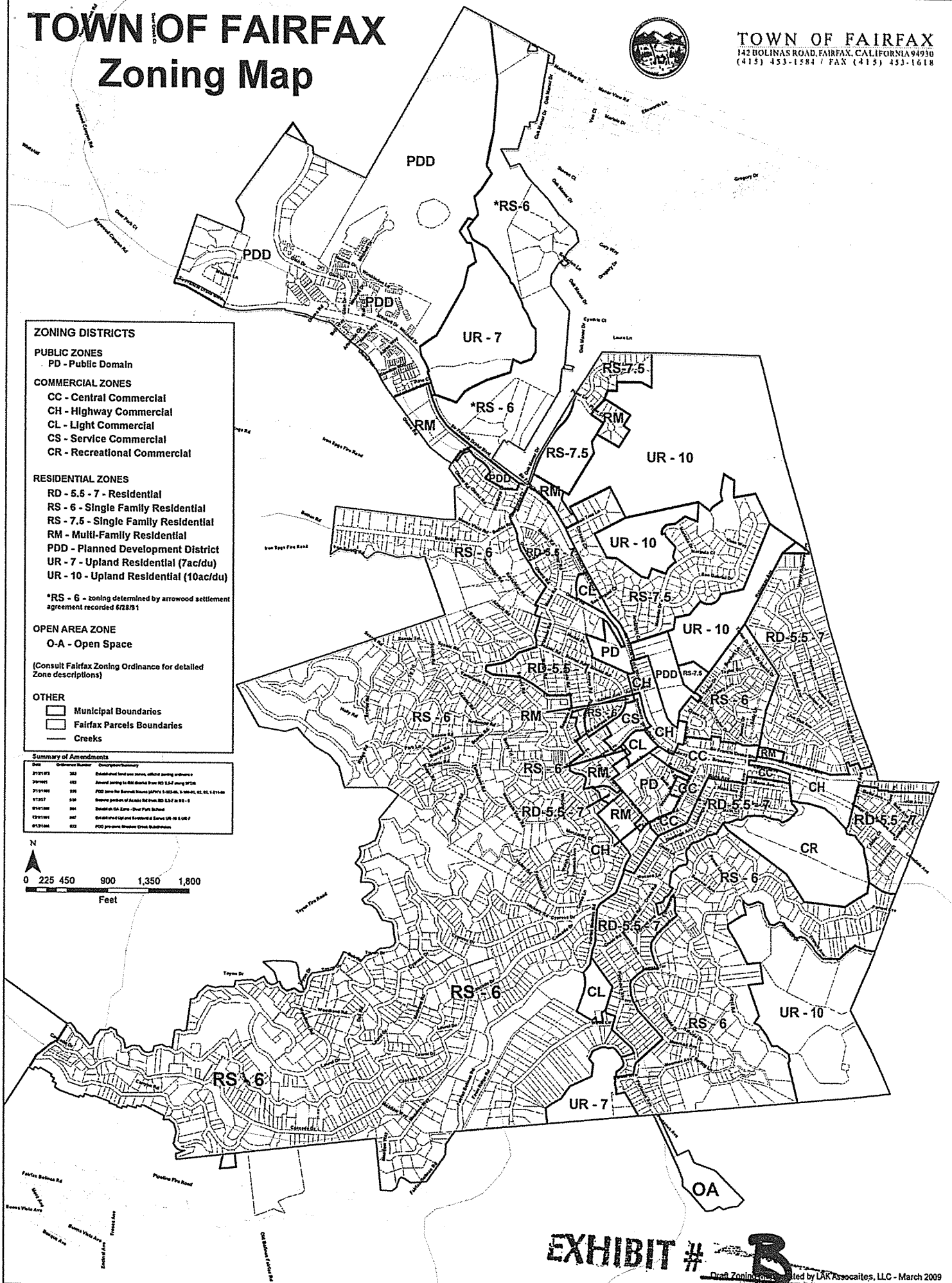
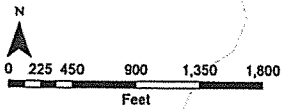
(Consult Fairfax Zoning Ordinance for detailed Zone descriptions)

OTHER

▭ Municipal Boundaries
▭ Fairfax Parcels Boundaries
— Creeks

Summary of Amendments

Date	Ordinance Number	Description/Summary
3/21/97	303	Established land use zones, which zoning ordinance
2/9/98	303	Amend zoning to the District Zone RS 5.5-7 along 97th
1/11/99	306	PDD zone for Barrett House (APNs 5-023-06, 5-040-01, 02, 03, 1, 2, 11, 12, 13)
1/11/99	306	Remove portion of District RD from RD 5.5-7 to RS - 6
8/14/99	304	Established Oak Grove (Oak Park School)
12/19/99	407	Established Upland Residential of Zone UR 10 to 6-UR-7
8/12/00	422	PDD process Shaver Creek Subdivision



RESOLUTION NO. 15-10

A RESOLUTION OF THE TOWN OF FAIRFAX PLANNING COMMISSION RECOMMENDING THAT THE TOWN COUNCIL ADOPT AN ORDINANCE ESTABLISHING A PUBLIC DOMAIN ZONING DISTRICT, ALLOW EMERGENCY SHELTERS IN THE CENTRAL COMMERCIAL AND PUBLIC DOMAIN ZONING DISTRICTS, AND AMEND THE ZONING MAP

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

WHEREAS, the Town Council subsequently amended the Housing Element, one of the mandatory elements of the General Plan; and

WHEREAS, the Housing Element of the General Plan currently contains Program H-2.1.6.1 ('Identify, Rezone, and Provide Appropriate Standards for Homeless Shelters'), whereby the Town pledged to implement the requirements of Government Code § 65583(a)(4) by "[a]mend[ing] the Town Code to allow the development of emergency shelters as a permanent, non-conditional use in the Central Commercial (CC) and Public Domain (PD) zones in the Town;" and

WHEREAS, the General Plan includes Figure LU-1 ('Fairfax General Plan Map') and Figure LU-2 ('Fairfax Zoning'), both of which include a Public Domain (PD) zoning district; and

WHEREAS, California Government Code § 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 Ordinance No. ____, a true and correct copy of which is attached hereto, to make amendments to the Zoning Ordinance and Zoning Map of the Fairfax Town Code in order to implement the General Plan and state law requirements set forth above; and

WHEREAS, California Government Code § 65854 provides that the Planning Commission shall hold a public hearing on any proposed zoning ordinance amendment; and

WHEREAS, California Government Code § 65855 states that, after the hearing, the Planning Commission shall render its decision in the form of a written recommendation to the Town Council, including in such recommendation the reasons for the recommendation, as well as the relationship of the proposed ordinance or amendment to the general plan.

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

SECTION 1. The Planning Commission has reviewed proposed Ordinance No. ____ and finds that it conforms to the Fairfax 2010-2030 General Plan, inasmuch as it will amend the Town Code to (a) allow the development of emergency shelters as a permanent, non-conditional use in the Central Commercial (CC) and Public Domain (PD) zones in the Town, thus implementing Housing Element Program H-2.1.6.1, and (b) establish and rezone certain parcels to be included in a new PD zoning district, as shown on General Plan Land Use Figures LU-1 and LU-2.

EXHIBIT # C

SECTION 2. The Planning Commission also finds that the adoption of Ordinance No. ___ has no possibility that it will create a significant effect on the environment and is therefore exempt from the requirements of the California Environmental Quality Act ('CEQA,' California Public Resources Code § 21000, et seq.) pursuant to Section 15061(b)(3) of the CEQA Guidelines (14 California Code of Regulations § 15000, et seq.).

SECTION 3. In light of the foregoing, the Planning Commission recommends that the Town Council adopt Ordinance No. _____.

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 19th day of March 2015 by the following vote, to wit:

AYES:

NOES:

ABSENT:

Phil Green, Chair

Attest:

Jim Moore, Planning Director