



TOWN OF FAIRFAX

STAFF REPORT

September 19, 2019

TO: Planning Commission

FROM: Ben Berto, Director of Planning and Building Services
Kara Spencer, Assistant Planner

SUBJECT: Ordinance Amendments to include Hill Area Residential Development permit requirements for proposed projects in the Planned Development (PDD), Upland Residential (UR), and the Single-family Residential Master Plan (SF-RMP) zoning districts

BACKGROUND

The Town Council asked the Planning Commission to consider including the Hill Area Residential Development Permit process in the Planned Development (PDD) District (Town Code Chapter 17.112). In investigating other potentially applicable residential zoning districts, staff determined that the Single-Family Residential Master Plan (SF-RMP) District (Town Code Chapter 17.116), and the Upland Residential (UR) District (Town Code Chapter 17.124) were not currently potentially subject to HRD requirements. The Commission discussed this subject at their August 15, 2019 meeting and asked staff to conduct additional research and provide supplemental information for further consideration. This report and the attached documents address those requests.

DISCUSSION

Overall, the Planning Commission supported including the Hill Area Residential Development Permit process for the PDD District, the SF-RMP District, and the UR District. Staff's draft regulations (Attachments A and B) reflect this.

During the course of the discussion regarding this topic, the Commissioners raised several questions as discussed further below.

HRD Overlay Applicability

Many of the Commissioner's questions focused on the criteria for determining which properties are subject to the Hill Area Residential Development Overlay Zone. Specifically, Commissioner Newton referred to Section 17.072.020, Applicability. This section addresses the characteristics that must be present for a property to fall into the Hill Area Residential Development (HRD) Overlay Zone. More specifically, Section 17.072.020(A) states that properties zoned RS-6, RS-7.5, RD 5.5-7, RM or SF-RMP fall within the HRD overlay zone if the slope of the property is in one of the categories shown as Exhibit A of the Open Space Element, General Plan Maps and development of the lot requires a specific amount of excavation/fill. The corresponding slope and excavation/fill amounts are identified in Sections

17.072.020(A)(1), (2), (3), and (4). In addition, Section 17.072.020(B) states that properties zoned RS-6, RS-7.5, RD 5.5-7, RM or SF-RMP fall within the HRD overlay zone if the property falls within a landslide hazard zone as shown on Exhibit 3, Open Space Element of the Fairfax General Plan.

The maps referred to (Exhibit A and Exhibit 3 of the Open Space Element, General Plan Maps) in Sections 17.072.020(A) and (B) are from the previous General Plan that has been superseded by the Town's currently adopted 2010-2030 General Plan, which was adopted after the HRD Overlay Zone was adopted in 1973. Thus because of this, staff recommends that the reference to the maps from the previous (and therefore inapplicable) General Plan be omitted from Sections 17.072.020(A) and (B) and replaced by a reference to the Rice, Salem J., Smith, Theodore C. and Strand, Rudolph G. *Interpretation of the Relative Stability of Upland Slopes in the Upper Ross Valley and the Western Part of San Rafael Area Marin County, California*. [map]. Scale 1:12,000. Place of publication not given: State of California, The Resources Agency, Department of Conservation, California Division of Mines and Geology, 1976., (commonly referred to as the Salem-Howes Slope Stability map) as indicated in Attachment A.

Commissioner Newton also asked about Section 17.072.020(D). This section states that properties zoned RS-6, RS-7.5, RD 5.5-7, RM, or SF-RMP are subject to the HRD permit process if they don't meet the minimum building site requirements defined in Chapters 17.076 through 17.088. Chapters 17.076 through 17.088 stipulate that if a property zoned RS-7.5, RS-6, RD 5.5-7 or RM doesn't meet the minimum building site requirements, a use permit or an HRD permit must be granted prior to any use, occupancy, or physical improvement of or on a building site. Thus, the language in Section 17.072.020(D) conflicts with the language in Chapters 17.076 through 17.088, as it requires any property zoned RS-7.5, RS-6, RD 5.5-7, and RM to go through the HRD permit process if it doesn't meet the minimum building site requirements; it does not offer the less onerous option of obtaining development approval through the Conditional Use permit process if other qualifying criteria can be met.

Staff recommends taking Section 17.072.020(D) out of the code; refer to Attachment A. This is because the purpose of the HRD overlay zone is essentially to minimize the environmental effects of development on the hillsides, as stated in Section 17.020.010. Therefore, properties zoned RS-6, RS-7.5, RD 5.5-7, and RM that are essentially flat, not on hillsides, and do not require extensive grading, should not be subject to the requirements of the HRD permitting process if they do not meet the minimum building site requirements. In practical terms, the Town adequately addresses development on these types of properties through the Conditional Use Permit process. Removing Section 17.072.020(D) would eliminate an inconsistency and help streamline and clarify the code.

Refer to Attachment B for the entire redlined Hill Area Residential Development ordinance changes.

Map of Zones Affected by Proposed Ordinance Changes

Commissioner Newton requested a map indicting the Planned Development (PDD), Upland Residential (UR), and the Single-family Residential Master Plan (SF-RMP) zoning districts that would be affected by the proposed ordinance amendments. This map is included as Attachment C to this staff report.

Five Acre Trigger for the PDD Zone

Chair Swift asked staff to report back on the five-acre trigger in the PDD zone. The PDD zone was initially adopted in 1973. At that time, it appears that all of the sites considered for re-zoning into the PDD zone exceeded five acres in size.

Cheat Sheet

Commissioner Fragoso asked for a “cheat sheet” on the submittal requirements for the PDD application and the HRD application. The table included in Attachment C compares all the development permit application requirements for an HRD application and a PDD application.

As can be seen from the table, the phased submittal requirements for projects on PDD-zoned properties runs counter to the State’s new streamlined project submittal requirements, wherein any information required for a project must be stipulated as required for initial submittal. If not, it cannot be required later. Including HRD submittal requirements for PDD-zoned parcels allows additional project submittal information to be required at the time of initial submittal.

CONCLUSION

Staff hopes the information provided satisfies the Commission’s direction and concerns, and the Commission can direct staff to finalize the proposed amendments. An affirmative vote of five of the Commission’s members is required to do so.

RECOMMENDATION

Staff recommends that the Planning Commission direct staff to finalize amendments to the HRD overlay, PDD, SF-RMP, and UR zones and prepare a draft resolution and ordinance for the Commission’s review at the October 17, 2019 Planning Commission meeting.

ATTACHMENTS

- Attachment A – Redlined Chapter 17.072 Hill Area Residential Development Overlay Zone based on comments from 8/15/19 Planning Commission Meeting
- Attachment B – Entire redlined Hill Area Residential Development ordinance changes
- Attachment C – Map of Zones Affected by Proposed Ordinance Changes
- Attachment D – Table comparing submittal requirements for PDD and HRD permits

[HILL AREA RESIDENTIAL DEVELOPMENT OVERLAY ZONE, Chapter 17.072]

§ 17.072.020 APPLICABILITY.

Properties zoned RS-6, RS-7.5, RD 5.5-7, RM, PDD, UR, or SF-RMP fall into the HRD overlay zone if they have any of the following characteristics:

(A) The slope of the property is in one of the following categories as shown on ~~Exhibit A of the Open Space Element, General Plan Maps,~~ and development of the lot requires movement of more than the corresponding amount of excavation and/or fill or replacement of earth with foundation materials:

- (1) Zero to five percent slope: 200 cubic yards.
- (2) Five to 15 percent slope: 200 cubic yards.
- (3) Fifteen to 30 percent slope: 100 cubic yards.
- (4) Thirty-one percent slope: 50 cubic yards.

(B) The property falls within a landslide hazard zone as shown on ~~Exhibit 3, Open Space Element of the Fairfax General Plan~~ the California Division of Mines and Geology Map, "Interpretation of the Relative Stability of Upland Slopes in the Upper Ross Valley and the Western Part of San Rafael Area Marin County, California," Rice, Salem J., Smith, Theodore C. and Strand, Rudolph G., 1976;

(C) Access to the property is via a private or public undeveloped roadway; and (An undeveloped roadway is an unpaved or paper road which must be improved.)

~~—(D) The property does not meet the minimum building site requirements defined in Chapters 17.076 through 17.088 of this code.~~

[PDD PLANNED DEVELOPMENT DISTRICT ZONE, Chapter 17.112]

17.112.020 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.

(F) Any project proposed on a property zoned PDD or proposed for rezoning to PDD, where any portion of the project site meets one or more of the categories contained in the Hill Area Residential Development Overlay Zone applicability Town Code Section § 17.072.020, (A)(1) through (4), (B) and (C), shall also be subject to obtaining a Hill Area residential Development Permit from the Planning Commission. The Hill Area Residential Development Permit application shall be processed concurrently with the Planned Development District application and any associated applications. Required HRD development permit application submittal information shall be provided at the time of the initial PDD application submittal.

[UR UPLAND RESIDENTIAL ZONE, Chapter 17.124]

§ 17.124.010 GENERALLY.

(A) Each UR upland residential zoning district established shall also include a numerical factor indicating required minimum parcel size in acres. Thus, UR 10 means Upland Residential, ten-acre minimum parcel size.

(B) No premises in the UR upland residential zone may be used for any purpose or in any manner, except as set forth in this chapter.

(C) All structures, physical improvements and exterior physical modification of a building are subject to design review.

(D) All structures, physical improvements and modifications involving soil or drainage modifications that fall into any of the categories listed in Town Code 17.072.020 are subject to the Hill Area Residential Development permit requirements.

[SF-RMP SINGLE-FAMILY RESIDENTIAL MASTER PLANNED DISTRICT, Chapter 17.116]

17.116.020 GENERALLY.

(A) No real property zoned SF-RMP shall be divided so as to create a parcel of less than ten contiguous acres unless and until the subdivision is permitted under a planned development which has been approved pursuant to this chapter.

(B) All structures, physical improvements and modifications involving soil or drainage modifications that fall into any of the categories listed in Town Code 17.072.020 are subject to the Hill Area Residential Development permit requirements.

[HILL AREA RESIDENTIAL DEVELOPMENT OVERLAY ZONE, Chapter 17.072]

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Properties zoned RS-6, RS-7.5, RD 5.5-7, RM, ~~PDD~~, UR, or SF-RMP fall into the HRD overlay zone if they have any of the following characteristics:

(A) The slope of the property is in one of the following categories ~~as shown on Exhibit A of the Open Space Element, General Plan Maps,~~ and development of the lot requires movement of more than the corresponding amount of excavation and/or fill or replacement of earth with foundation materials:

- (1) Zero to five percent slope: 200 cubic yards.
- (2) Five to 15 percent slope: 200 cubic yards.
- (3) Fifteen to 30 percent slope: 100 cubic yards.
- (4) Thirty-one percent slope: 50 cubic yards.

(B) The property falls within a landslide hazard zone as shown on ~~Exhibit 3, Open Space Element of the Fairfax General Plan~~ the California Division of Mines and Geology Map, "Interpretation of the Relative Stability of Upland Slopes in the Upper Ross Valley and the Western Part of San Rafael Area Marin County, California," Rice, Salem J., Smith, Theodore C. and Strand, Rudolph G., 1976;

(C) Access to the property is via a private or public undeveloped roadway; and (An undeveloped roadway is an unpaved or paper road which must be improved.)

~~(D) The property does not meet the minimum building site requirements defined in Chapters 17.076 through 17.088 of this code.~~

[PDD PLANNED DEVELOPMENT DISTRICT ZONE, Chapter 17.112]

17.112.020 GENERAL REQUIREMENTS FOR A PLANNED DEVELOPMENT.

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(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.

(F) Any project proposed on a property zoned PDD or proposed for rezoning to PDD, where any portion of the project site meets one or more of the categories contained in the Hill Area Residential Development Overlay Zone applicability Town Code Section § 17.072.020, (A)(1) through (4), (B) and (C), shall also be subject to obtaining a Hill Area residential Development Permit from the Planning Commission. The Hill Area Residential Development Permit application shall be processed concurrently with the Planned Development District application and any associated applications. Required HRD development permit application submittal information shall be provided at the time of the initial PDD application submittal.

[UR UPLAND RESIDENTIAL ZONE, Chapter 17.124]

§ 17.124.010 GENERALLY.

(A) Each UR upland residential zoning district established shall also include a numerical factor indicating required minimum parcel size in acres. Thus, UR 10 means Upland Residential, ten-acre minimum parcel size.

(B) No premises in the UR upland residential zone may be used for any purpose or in any manner, except as set forth in this chapter.

(C) All structures, physical improvements and exterior physical modification of a building are subject to design review.

(D) All structures, physical improvements and modifications involving soil or drainage modifications that fall into any of the categories listed in Town Code 17.072.020 are subject to the Hill Area Residential Development permit requirements.

[SF-RMP SINGLE-FAMILY RESIDENTIAL MASTER PLANNED DISTRICT, Chapter 17.116]

17.116.020 GENERALLY.

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|(A) No real property zoned SF-RMP shall be divided so as to create a parcel of less than ten contiguous acres unless and until the subdivision is permitted under a planned development which has been approved pursuant to this chapter.

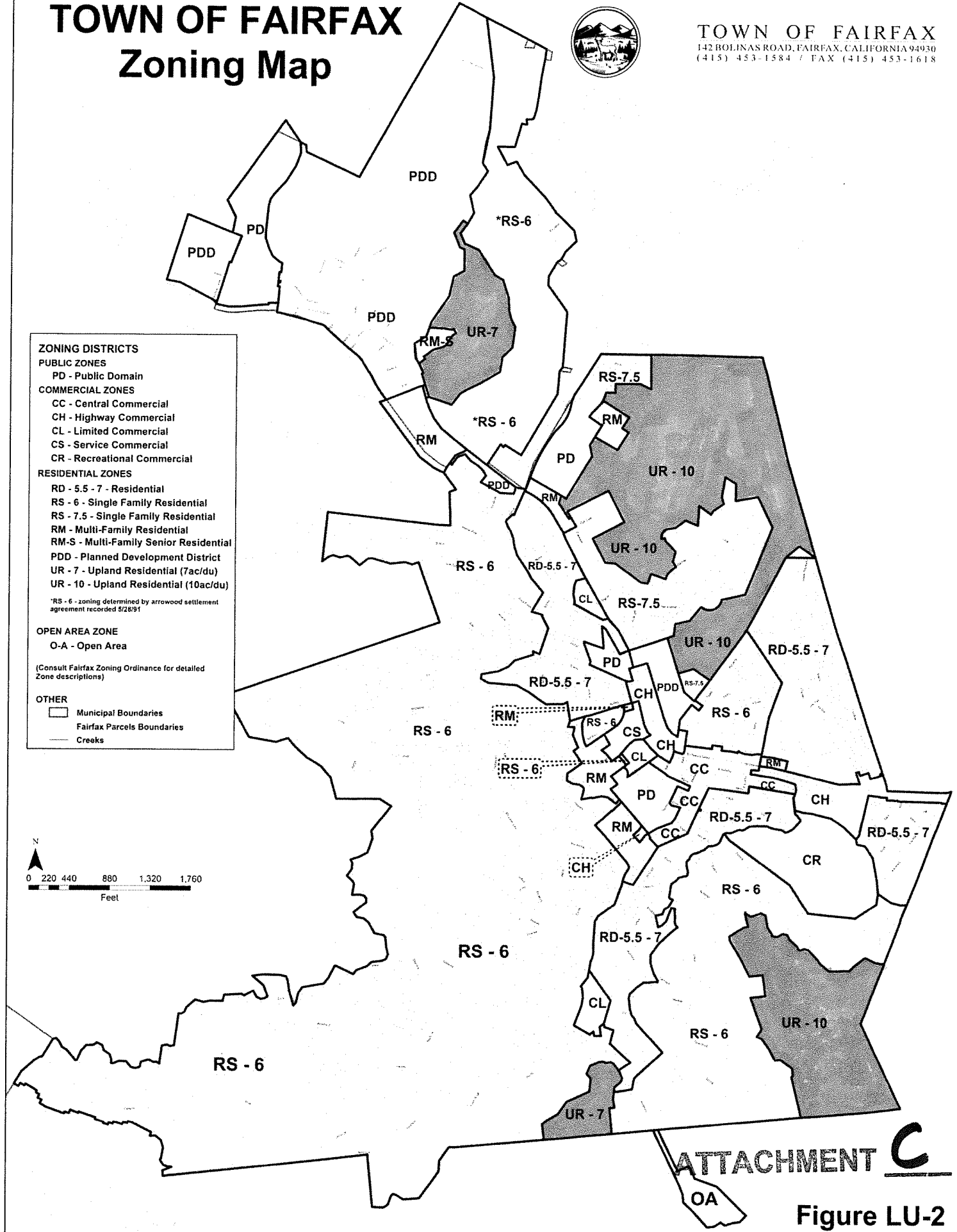
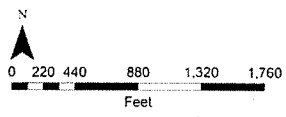
|(B) All structures, physical improvements and modifications involving soil or drainage modifications that fall into any of the categories listed in Town Code 17.072.020 are subject to the Hill Area Residential Development permit requirements.

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 - Limited Commercial
CS - Service Commercial
CR - Recreational Commercial
- RESIDENTIAL ZONES**
RD - 5.5 - 7 - Residential
RS - 6 - Single Family Residential
RS - 7.5 - Single Family Residential
RM - Multi-Family Residential
RM-S - Multi-Family Senior Residential
PDD - Planned Development District
UR - 7 - Upland Residential (7ac/du)
UR - 10 - Upland Residential (10ac/du)
- *RS - 6 - zoning determined by arrowwood settlement agreement recorded 5/28/91
- OPEN AREA ZONE**
O-A - Open Area
- (Consult Fairfax Zoning Ordinance for detailed Zone descriptions)
- OTHER**
 Municipal Boundaries
 Fairfax Parcels Boundaries
 Creeks



ATTACHMENT C

Figure LU-2

PPD Development Permit Requirements				HRD Development Permit Application Requirements
General Requirements	Preliminary Development Plan	Master Development Plan	Precise Development Plan	
Minimum five, contiguous acres	Prepared by a licensed professional or, in the case of an area in excess of 20 acres, by a team of licensed professionals	All the elements included in the preliminary development plan	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.	Topographical and boundary survey signed by a licensed surveyor
Most similar zoning districts apply	A preliminary development plan showing land uses and general configuration of parcels or lots, traffic circulation, streets, driveways, sidewalks and pedestrian ways and off-street parking	Survey of the property showing existing features	Precise plans shall set forth in detail specific features of each increment of development.	Site plan
Undergrounding electrical and utilities		Master plans for street improvements, water, sewerage, flood control, draining facilities and public utilities	Shall conform to the master development plan and be prepared by a team of licensed professionals	Fairfax Tree Committee report and permit
Formula business require a use permit		Detailed site, building and landscaping plans and elevations	Shall include a topographic map of sufficient detail to show all cut and fill banks, precise drainage and flood control and boundary survey data	Report by a registered civil engineer specializing in soils and foundations
Average slope of 30 or greater; 1 du/ac; 20-29.9% 1 du/5ac; 10 to 19.9% 1 du/2acres		Grading plans	Shall provide a 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	A grading and erosion control plan
Traffic Impact Permit required		Shows character, general design and location of signs, street lighting and street furniture	Shall include a precise landscaping plan	Elevations, floor plans and roof plans

					adjacent off-site improvements
			Must show adequate public facilities and services		
			Overall design should be attractive healthful, efficient and stable environment for living, shopping or working		
			Well integrated with its settings		
			Shall not require excessive earth-moving or grading, or destruction of desirable natural features		
			Shall not be visually obstructive or disharmonious with surrounding areas and facilities, and shall not substantially harm major views from adjacent properties		
			Uses 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.		
			Demonstration shall be made that each individual unit of development, and the total development, can exist as an independent unit capable of creating an environment of sustained desirability and stability.		

