



TOWN OF FAIRFAX

STAFF REPORT

November 21, 2019

TO: Planning Commission

FROM: Ben Berto, Director of Planning and Building Services

SUBJECT: Status update on Hill Area Residential Development Overlay Zone (HRD) permit zoning amendments and mapping

BACKGROUND

The Town Council asked the Planning Commission to consider including the HRD process in the Planned Development District (PDD) zoning district. In the course of the Planning Commission reviewing this amendment, it was determined that other residential zoning districts should also incorporate HRD requirements.

A final recommended change was to the triggers for HRD applicability. It was determined by staff that the criteria for HRD applicability were highly questionable, because among other things, it apparently referenced an Exhibit in the 1974 Fairfax General Plan which is no longer applicable since the adoption of the 2010-2030 Fairfax General Plan. Further, the names of the diagrams and exhibits is inconsistent between the HRD provisions and the 1974 General Plan.

Staff and (following discussion, the Commission) recommended adopting updated, accurately referenced maps.

When staff brought the proposed HRD amendments to the Town Council for discussion at their November 5 meeting, they requested additional clarification of the HRD criteria. Staff is providing that clarification first to your Commission.

DISCUSSION

Criteria for HRD Overlay Applicability

As noted in the staff report for the last meeting, the HRD applicability section (17.072.020) includes dual trigger of both slope versus grading amount and inclusion in one of the categories in Exhibit A, Open Space Element, General Plan Maps. The Exhibit A referenced doesn't exist under this name in either the 1974 General Plan or the existing General Plan. Another trigger referenced in the HRD applicability section, Exhibit 3 Landslide Stability Zone, also doesn't exist by this name in the 1974 General Plan or the existing General Plan. As such, these are problematic as the criteria for triggering HRD requirements.

The current General Plan Safety Element: Hazard Maps Figure S-3: Areas Susceptible to Landslides was determined by your Commission to function as the current, applicable General Plan's equivalent to the landslide exhibit referenced from the 1974 General Plan (see Attachment A copy of Figure S-3). In further researching Figure S-3, staff found that it was a pretty straight version of the Landslides layer in the Hazards and Geology Section of the MarinMap GIS platform (link follows):

<https://www.marinmap.org/Html5Viewer/Index.html?viewer=smmdataviewer>).

It should be noted that General Plan Figure S-3 "Many Landslides" zone appears to have been renamed from MarinMaps "Few Landslides" zone. Landslides". As can be seen from Figure S-3 (Attachment A), however, it is very difficult to determine the boundary of the "Many Landslides" zone.

Staff is working with the Town's GIS consultant to produce a more legible version of Figure S-3 to clearly show landslide zone boundaries and include parcel lines so it can be determined whether or not any property, or portions of any property, falls into a specific landslide hazard zone. A work-in progress version is included as Attachment B. The two Fairfax landslide zones in MarinMaps are titled as "Few Landslides" and "Mostly Landslides". Staff believes the Fairfax General Plan's re-labelling of "Few Landslides" to "Many Landslides" is appropriate, insofar as with only modest research, staff found 19 Fairfax parcels with known instability issues in the "Few Landslides" zone.

Staff intends to return to the Planning Commission with an updated version of Figure S-3 at a later date. For the sake of clarity, it will probably be best to have the Town adopt this S-3 diagram update as an amendment to the General Plan. Once adopted, this can be incorporated into the MarinMap GIS system as a Fairfax layer that will enable a system user to accurately determine whether or not a property falls within a landslide zone and therefore triggers HRD provisions. Staff can also include a version of this map on the Planning and Building webpages.

Another slope stability Figure recommended by the Planning Commission to be used as an HRD trigger in Section 17.072.020 is what is commonly referred to as the Salem Rice map, the full title of which is "Interpretation of the Relative Stability of Upland Slopes in the Upper Ross Valley and the Western Part of San Rafael Area Marin County, California, by Theodore C. Smith, Salem J. Rice and Rudolph G. Strand, 1976.

Staff is again working with our GIS specialist to achieve a fully georeferenced version of this map. A preliminary version of this is attached to this report (see Attachment C). As can be seen, this already has been digitized and partially GIS layered with Town streets.

The Salem Rice diagram will function in conjunction with the slope/grading ratios as an HRD trigger.

Other HRD-related topics

Several questions were raised at the public hearings on the HRD amendments. The first is whether these should be incorporated into every residential zoning district. A concern was that this would somehow weaken current provisions, for example, eliminate the requirement that every residential property have street frontage. As explained to the Town Council, the HRD provisions are in addition to current zoning district requirements. Far from weakening current zoning requirements, in some zoning districts (for example PDD), HRD requirements will function as the bulk of the Town's 'objective development standards'. The Commission is aware that the State has eliminated requirements in the review of residential development projects that aren't 'objective standards'.

Another issue that was raised is that the updated diagrams to be used in the amended HRD regulations are inadequate to replace the diagrams referenced in the current code. Staff has already outlined in this report and the HRD report for the October 17 Planning Commission meeting the problems with the diagrams supposedly referenced in the current code, including the fundamental issues of what the diagrams supposedly are.

Staff has included a copy of the "Suitability for Open Space" diagram (see Attachment D) which is on file at Town Hall and which may be the apocryphal Figure A of the Open Space Element in the former General Plan. As can be seen, it would be very challenging to use that diagram to determine what basis should be used as a trigger for HRD requirements for a particular property.

CONCLUSION

Staff is providing this update of the mapping efforts associated to the HRD zoning amendments to the Commission so that they and other interested person can be satisfied that the proposed amendments serve the Town's interests in ensuring that new development addresses potential slope stability issues.

ATTACHMENTS

- Attachment A – Copy of existing General Plan Figure S-3.
- Attachment B – Copy of MarinMap based General Plan Figure S-3
- Attachment C – Copy of Salem Rice Map with Town street layer
- Attachment D – Copy of "Suitability for Open Space" diagram
- Attachment E - Planning Commission recommended HRD zoning amendment Ordinance

TOWN OF FAIRFAX SAFETY ELEMENT: HAZARD MAPS

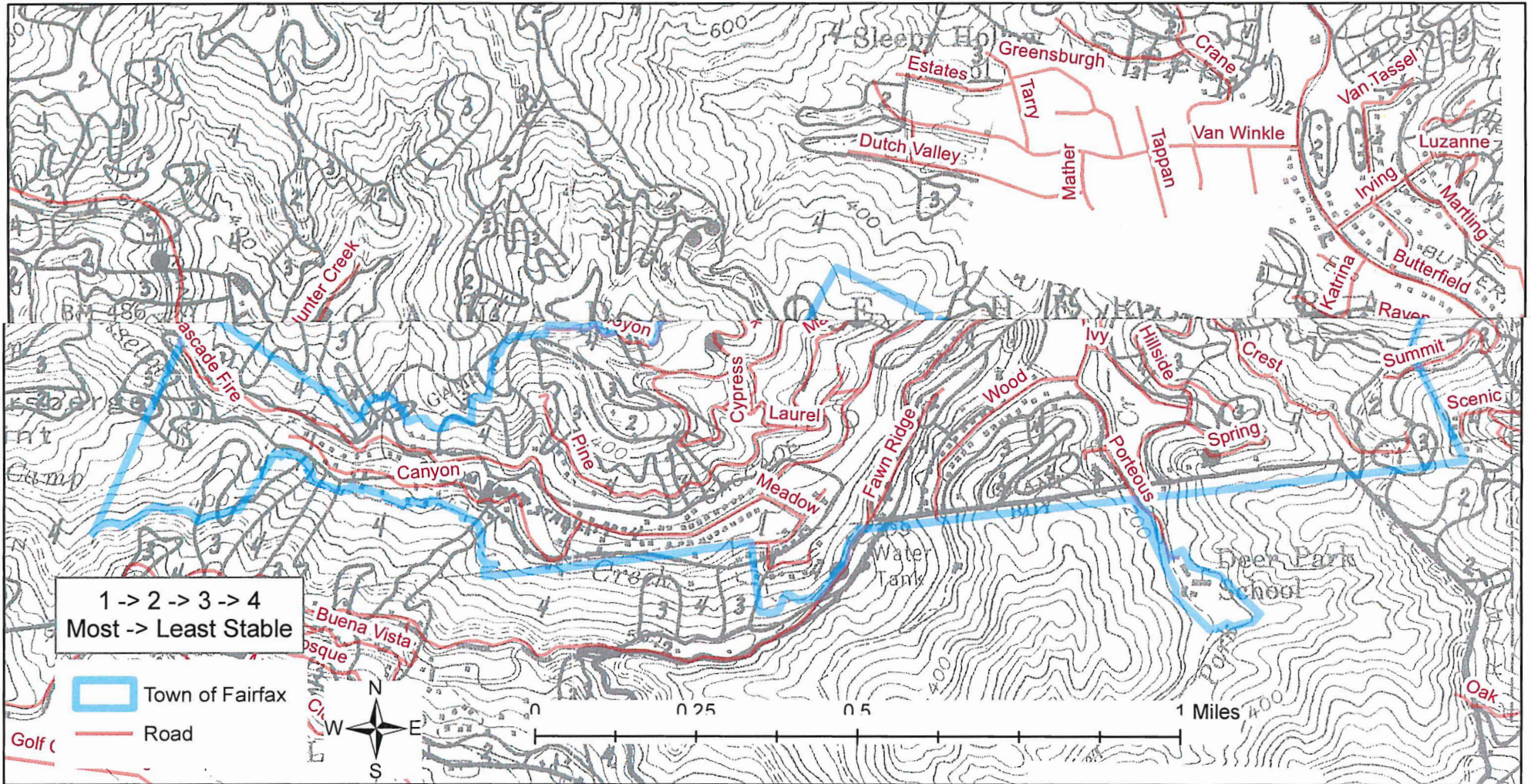


Figure S-3 Areas Susceptible to Landslides

TOWN OF FAIRFAX Landslide Susceptibility














Fairfax Zoning Ordinance Chapter 17.072.020 (DRAFT) October 29, 2019

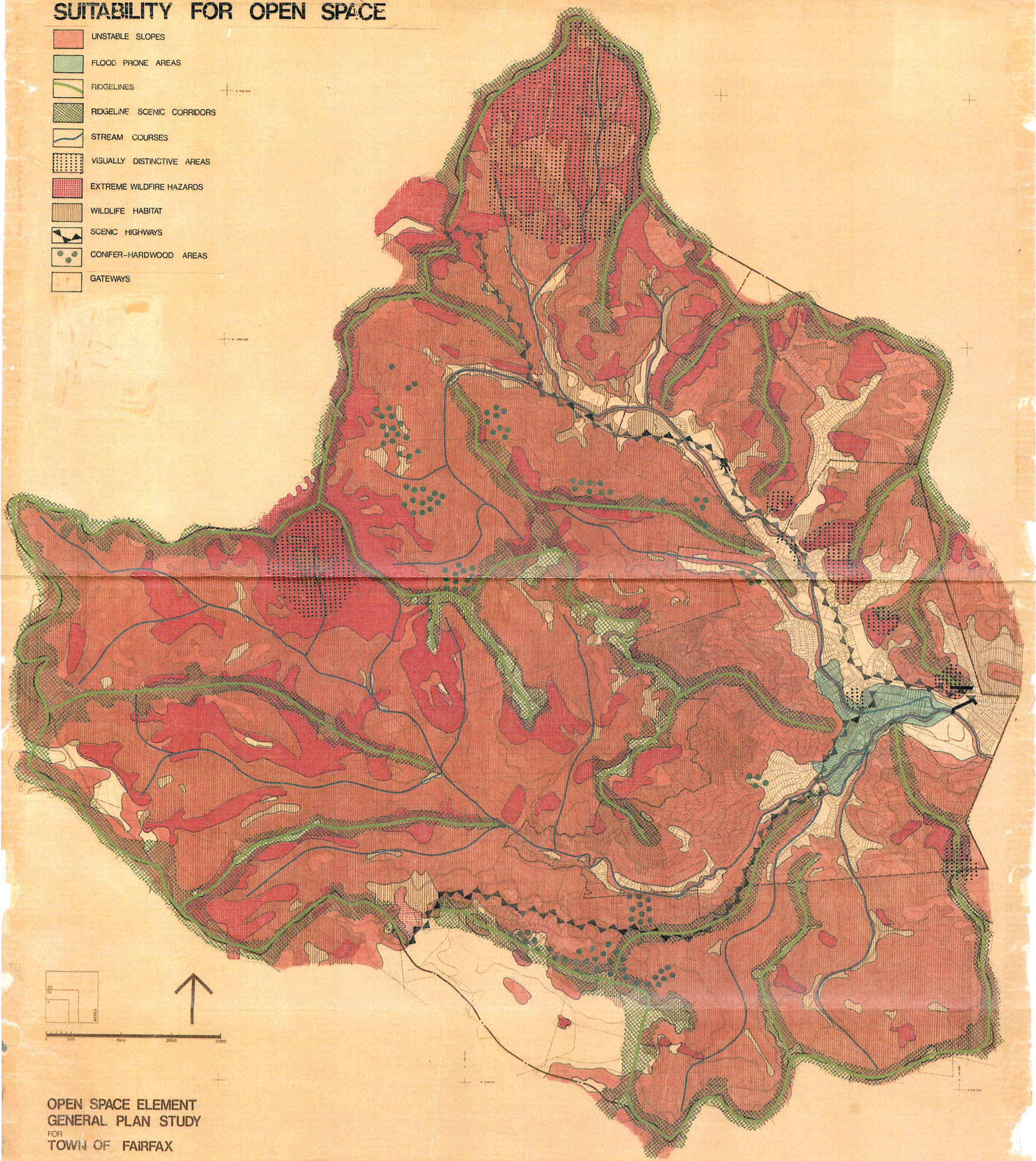


TOWN OF FAIRFAX
 Based on "Interpretation of the Relative Stability of Upland Slopes"
 By Salem Rice, et al, 1976

ATTACHMENT C
 Date: 10/29/2019

SUITABILITY FOR OPEN SPACE

-  UNSTABLE SLOPES
-  FLOOD PRONE AREAS
-  RIDGELINES
-  RIDGELINE SCENIC CORRIDORS
-  STREAM COURSES
-  VISUALLY DISTINCTIVE AREAS
-  EXTREME WILDFIRE HAZARDS
-  WILDLIFE HABITAT
-  SCENIC HIGHWAYS
-  CONIFER-HARDWOOD AREAS
-  GATEWAYS



OPEN SPACE ELEMENT
GENERAL PLAN STUDY
FOR
TOWN OF FAIRFAX
PREPARED BY
WALLACE MCHARG ROBERTS AND TODD

ORDINANCE NO. ____

**AN ORDINANCE OF THE
TOWN COUNCIL OF THE TOWN OF FAIRFAX AMENDING AND REVISING
CHAPTER 17.072 (“HILL AREA RESIDENTIAL DEVELOPMENT OVERLAY ZONE”),
CHAPTER 17.090 (“RM-S MULTIPLE-FAMILY RESIDENTIAL ZONE – SENIOR –
RESIDENTIAL ZONE”), CHAPTER 17.112 (“PDD PLANNED DEVELOPMENT
DISTRICT ZONE”), CHAPTER 17.116 (“SF-RMP SINGLE-FAMILY RESIDENTIAL
MASTER PLANNED DISTRICT”), AND CHAPTER 17.124 (“UR UPLAND
RESIDENTIAL ZONE”).**

WHEREAS, the Town of Fairfax contains numerous heavily vegetated, steeply sloped hillside areas that are entirely or partially within landslide hazard zones ~~and Wildland Urban Interface (WUI) Zones~~, and serve as watershed areas; and,

WHEREAS, the Hill Area Residential Development (HRD) Permit is a procedural tool used by the Town to ensure that potential environmental effects associated with residential development in the hillsides are addressed early in the planning phase by requiring in depth geotechnical surveys and soils reports, hydrology surveys and reports, preliminary drainage plans, and tree removal and protection plans that otherwise may be required during later phases of a project; and,

WHEREAS, the HRD Permit process is not a requirement in all residential zoning districts in Town; and,

WHEREAS, incorporating the HRD Permit process into all residential zoning districts in the Town would ensure that all residential development projects in the hillside areas are subject to the same requirements, which are necessary in the planning phase for the Town to adequately evaluate residential hillside development and ensure that it is safe, compatible with other hillside development, and minimizes potential environmental effects; and,

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

SECTION 1: Section 17.072.020 (“APPLICABILITY”) of the Fairfax Municipal Code, Chapter 17.072 (“Hill Area Residential Development Overlay Zone”) is revised to read as follows:

“§ 17.072.020. APPLICABILITY.

Properties zoned RS-6, RS-7.5, RD 5.5-7, RM, RM-S, PDD, SF-RMP, UR-7, UR-10, 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~~ category 3 or 4 ~~ies as shown on the General Plan Safety Element Figure S-3: Areas Susceptible to Landslides and/or on 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 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 “Mostly Landslides” or “Many Landslides” Areas Susceptible to Landslides ~~landslide hazard zone~~ as shown on the General Plan Safety Element: Hazard Maps Figure S-3: Areas Susceptible to Landslides and/or 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.)”

SECTION 2: Section 17.090.010 (“Generally”) of Chapter 17.090 (“RM-S Multiple-family Residential – Senior – Residential Zone”) of the Fairfax Municipal Code is revised as follows:

“§ 17.090.010 GENERALLY.

(A) The RM-S residential zone is intended to create use and development standards for senior residential housing in a way that preserves and enhances its surroundings; recognizes the requirements of state and federal housing laws (including the Federal Fair Housing Act [42 U.S.C. §§ 3601-3631], the California Fair Employment and Housing Act [Cal. Gov’t Code §§ 12900-12995], and the California Unruh Civil Rights Act [Cal. Civil Code §§ 51-53]); and to encourage the development of senior housing. No premises in the RM-S senior residential zone may be used for any purpose or in any manner, except as set forth in this chapter.

(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.”

SECTION 3: The following shall be inserted in Chapter 17.112 (“PDD Planned Development District Zone”) of the Fairfax Municipal Code at the end Section 17.112.020 (“General Requirements for a Planned Development”) as follows:

“(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.”

SECTION 4: Section 17.116.020 (“Division of Property”) of Chapter 17.116 (“SF-RMP Single-family Residential Master Planned District”) of the Fairfax Municipal Code is revised as follows:

“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.”

SECTION 5: The following shall be inserted in Chapter 17.124 (“UR Upland Residential Zone”) of the Fairfax Municipal Code at the end Section 17.124.010 (“Generally”) as follows:

“17.124.010 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.

(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.”

SECTION 6. CEQA. 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 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 on the environment, or a reasonably foreseeable indirect physical change in the environment; and

SECTION 7. 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; and

SECTION 8. Effective Date and Posting. This Ordinance shall become 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.

The foregoing Ordinance was introduced at a regular meeting of the Town Council of the Town of Fairfax on the __ day of _____ 2019, and duly adopted at the next regular meeting of the Town Council on the _ day of _____, 2019, by the following vote, to wit:

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

BARBARA COLER, Mayor

ATTEST:

Hannah Politzer, Deputy Town Clerk