



# TOWN OF FAIRFAX

## STAFF REPORT

### January 15, 2020

**TO:** Mayor and Town Council

**FROM:** Ben Berto, Director of Planning and Building Services *GT*

**SUBJECT:** Introduce and read by title only an Ordinance Incorporating the Requirement for a Hill Area Residential Development Overlay Zone Permit into the Multiple-family Residential – Senior-Residential Zone (Town Code Chapter 17.090), the Planned Development PDD District (Town Code Chapter 17.112), the Upland Residential UR-7 and UR-10 Zones (Town Code Chapter 17.124), the Single-family Residential Master Plan SF-RMP District (Town Code Chapter 17.116), and Amending the Hill Area Residential Development Overlay Zone (Town Code Chapter 17.072); Exempt from CEQA pursuant to CEQA Guidelines Sections 15060(c)(2), 15061(b)(3), 15378

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#### **RECOMMENDATION**

- 1) Conduct Public Hearing
- 2) Introduce and read by title only “An Ordinance of the Town Council of the Town of Fairfax Incorporating the Requirement for a Hill Area Residential Development Overlay Zone Permit into the Multiple-Family Residential-Senior-Residential Zone (Town Code Chapter 17.090), the Planned Development PDD District (Town Code Chapter 17.112), the Upland Residential UR-7 and UR-10 Zones (Town Code Chapter 17.124) and the Single-Family Residential Master Plan SF-RMP District (Town Code Chapter 17.116), and Amending the Hill Area Residential Development Overlay Zone (Town Code Chapter 17.072)”.

#### **BACKGROUND**

The Town Council asked the Planning Commission to consider including the Hill Area Residential Development Permit (HRD) requirements in the Planned Development District (PDD) zoning district. The Planning Commission (PC) discussed HRD-related zoning amendments at their August 15, September 19, and October 17, 2019 meetings. At the conclusion of their October hearing, the Commission voted to recommend a revised ordinance to the Town Council. The Council received an update on the PC’s recommendation regarding this matter at its November 6<sup>th</sup> Council meeting.

The HRD is an overlay zoning district. Rather than apply to a particular area in Town, it potentially applies to developments in any residential zoning district that is listed in the HRD chapter’s “Applicability” section. HRD provisions require additional submittal information (for example, a civil engineer’s report) and contain standards oriented towards minimizing adverse impacts from developments in hillside areas.

The Planning Commission is recommending the Town prepare an updated base map to use as the reference for applying HRD provisions. Staff has done so, providing two recommended digital base maps for Council consideration for adoption with the proposed zoning amendments. Staff will also provide a more detailed explanation of the maps during the staff presentation for this item.

## **DISCUSSION**

In its deliberations, the Planning Commission determined that it would be beneficial to include HRD provisions and requirements in several other residential zoning districts in which HRD provisions currently do not apply, as follows: SF-RMP (Single-Family Residential Master Plan) District, the UR-7 (Upland Residential 7-acre minimum) District, the UR-10 (Upland Residential 10-acre minimum) District, and the RM-S (Multiple-Family Residential Senior Residential) District. These additional zoning districts are therefore included in the proposed HRD zone "Applicability" Section 17.072.020.

The current HRD zone applicability Section 17.072.020 contains a several triggers for applying HRD requirements. The first is a dual trigger - 1) slope and grading ratios and 2) parcel must be shown in "Exhibit 3, Open Space Element of the Fairfax General Plan" ("Exhibit 3"). Another HRD applicability trigger is if a site falls within a landslide hazard area shown in the Exhibit 3 map.

During our research, staff and the PC found that the "Exhibit 3" map does not exist in the current General Plan. Staff researched the Open Space Element of the prior General Plan and was unable to find an "Exhibit 3" map in that General Plan either. The HRD zoning chapter referring to "Exhibit 3" has not been amended since 1973. The 1973-74 General Plan map Open Space Element, General Plan Study "Suitability for Open Space," prepared by Wallace McHarg Roberts and Todd ("1973-74 Map") may have been intended to be "Exhibit 3 map", but it isn't titled as such. This map is contained in *Attachment C*. Please note staff added the Town boundaries to the existing map.

The Open Space Element of Fairfax's prior General Plan contains several references to geology reports prepared by authors Theodore C. Smith, Salem J. Rice and Rudolph G. Strand. These authors subsequently produced a map entitled "Interpretation of the Relative Stability of Upland Slopes in the Upper Ross Valley and the Western Part of San Rafael Area Marin County, California" 1976 ("Salem Rice" Map). The Salem Rice Map continues to be in widespread use by planning departments throughout Marin. Staff currently uses both the Salem Rice Map along with 1973-74 Map to evaluate project locations. Furthermore, staff found a reference in a previous Open Space Element that recommended the Town should adopt the Salem Rice Map when completed.

The Planning Commission recommends that the Salem Rice Map be used as a baseline map for HRD applicability purposes. A digitized and georeferenced version of this map, with Town boundaries and streets shown, is contained in *Attachment D*. The Salem Rice Map is much easier to identify individual locations and properties than the 1973-74 Map.

The Planning Commission also recommended that the Town reference the General Plan Safety Element: Hazard Maps "Figure S-3 Areas Susceptible to Landslides" map to evaluate if a property is subject to the HRD requirements. Staff would use both the Salem Rice and Hazard Map to evaluate property locations.

The attached "Figure S-3 Areas Susceptible to Landslides" map (*Attachment E*) is a digital and corrected version of the map shown in the current General Plan Safety Element. "Figure S-3 Areas Susceptible to Landslides" (see pg. S-9 General Plan). By creating digital maps of the Salem Rice and Figure S-3 maps, staff and homeowners will now be able to quickly determine with complete accuracy whether or not their property lies within the HRD zone and is therefore subject to its provisions.

Also, in response to a public comment regarding street standards, this proposed amendment does not change current Town road standards in zoning districts nor does it affect the ability of the Town to impose current street standards for projects.

As stated above, staff will provide a more detailed analysis of the maps and data in the staff presentation for this matter.

#### **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.

#### **FISCAL IMPACT**

None at this time

#### **ATTACHMENTS**

- A. Proposed Ordinance
- B. PC resolution without exhibits
- C. 1973-1974 Map- Open Space Element General Plan Study Suitability for Open Space
- D. Salem Rice Map
- E. Safety Element: Hazard Maps Figure S-3 Areas Susceptible to Landslides

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX INCORPORATING THE REQUIREMENT FOR A HILL AREA RESIDENTIAL DEVELOPMENT OVERLAY ZONE PERMIT INTO THE MULTIPLE-FAMILY RESIDENTIAL-SENIOR-RESIDENTIAL ZONE (TOWN CODE CHAPTER 17.090), THE PLANNED DEVELOPMENT PDD DISTRICT (TOWN CODE CHAPTER 17.112), THE UPLAND RESIDENTIAL UR-7 AND UR-10 ZONES (TOWN CODE CHAPTER 17.124) AND THE SINGLE-FAMILY RESIDENTIAL MASTER PLAN SF-RMP DISTRICT (TOWN CODE CHAPTER 17.116), AND AMENDING THE HILL AREA RESIDENTIAL DEVELOPMENT OVERLAY ZONE (TOWN CODE CHAPTER 17.072)**

**WHEREAS**, the Town of Fairfax contains numerous heavily vegetated, steeply sloped hillside areas that are entirely or partially within landslide hazard 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**, Senate Bill 35 (the Housing Accountability Act), limits the Town's ability to require in depth technical studies and information until the building permit phase; 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

**WHEREAS**, the Planning Commission conducted duly noticed public hearings on August 15, September 19, and October 17, 2019 to consider the draft ordinance; and

**WHEREAS**, adoption of this Ordinance is consistent with and will further the following Fairfax General Plan goals, objectives, policies, and programs the Town's General Plan, as follows:

- 1) Land Use Element Goal LU-1: Preserve scenic and natural resources;

- 2) Land Use Element Objective LU-1.2: Limit development on hillside and ridgeline parcels to preserve and enhance the scenic qualities of the Town;
- 3) Land Use Element Policy LU-1.2.2: New or renewed development in Visually Significant Areas shall be designed and sited to have the least visual impact as seen from the majority of the Town;
- 4) Land Use Element Policy LU-4.1.4: New and renewed development shall be designed to minimize runoff in a manner that does not cause undue hardship on neighboring properties;
- 5) Land Use Element Goal LU-5: Manage future growth while preserving the area's natural resources;
- 6) Land Use Goal LU-7: Preserve community and neighborhood character;
- 7) Land Use Objective LU-7.1: Preserve and enhance the community's small-town scale and character;
- 8) Land Use Element Policy LU-7.1.6: New and renewed residential development outside of the Town Center Area should be compatible with, and subordinate to, the topography, wildlife corridors and habitat, natural vegetation pattern, hydrology, and geotechnical characteristics of the area;
- 9) Land Use Element Objective LU-7.2: Preserve, maintain, and enhance in a sustainable manner, the existing character, scale, and quality of life in Fairfax's residential neighborhoods;
- 10) Land Use Element Policy LU-7.2.1: New and renewed development shall be compatible with the general character and scale of structures in the vicinity;
- 11) Land Use Element Policy LU-7.2.2: To the extent feasible natural features including the existing grade, mature trees, and vegetation shall be preserved for new and renewed development;
- 12) Open Space Element Objective: OS-3.2 Preserve the visual appeal of the natural landscape in the Fairfax Planning Area;
- 13) Open Space Policy OS-3.2.2: Discourage development of any man-made structure on the ridgelines and within the ridge zones within the Fairfax Planning Area;
- 14) Open Space Element Policy OS-3.2.3: Prevent development from blocking or impairing existing views of Visually Significant Areas identified in Figure OS-1;

- 15) Open Space Element Program OS-3.2.3.1: Review development applications to ensure that views of Visually Significant Areas are not negatively impacted;
- 16) Conservation Element Objective CON-5.1: Conserve soils and minimize erosion;
- 17) Safety Element Goal S-1: Minimize risks due to geologic hazards;
- 18) Safety Element Objective S-1.1: Protect life and property from risks associated with seismic activity and geologic conditions;
- 19) Safety Element Policy S-1.1.1: Development and land use decisions will be made using the best available geotechnical information;
- 20) Safety Element Program S-1.1.1.1: Require geotechnical analyses for all new development and substantial improvement proposals;
- 21) Safety Element Policy S-2.1.1: Development and land use decisions will be made using the best available hydrological and flood hazard information;
- 22) Safety Element Policy S-2.1.4: Ensure that new developments or substantial improvements are designed to reduce or eliminate future flood damage; and
- 23) Safety Element Program S-2.1.4.1: Require that lots and rights-of-way are laid out for the provision of approved sewer and drainage facilities, providing on-site detention facilities whenever practicable. Design criteria for hillside development should be calculated based on saturated soils.

**WHEREAS**, the Town Council conducted a duly noticed public hearing on January 15, 2020 to consider the draft ordinance, heard the presentation of a staff report, and received public comment on the matter;

**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 categories as shown on the General Plan Safety Element 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 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 "Multiple Landslides" landslide hazard zone as shown on 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 \_\_\_\_\_ 2020, and duly adopted at the next regular meeting of the Town Council on the \_ day of \_\_\_\_\_, 2020, by the following vote, to wit:

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

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RENEE GODDARD, Mayor

**ATTEST:**

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Michele Gardner, Town Clerk

RESOLUTION NO. 2019-19

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 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

**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**, Senate Bill 35 (the Housing Accountability Act), limits the Town's ability to require in depth technical studies and information until the building permit phase; 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

**WHEREAS**, staff has prepared such an ordinance, a true and correct copy of which is attached hereto as **Attachment A** (the "proposed Ordinance"), which, if adopted, will amend the Town's zoning ordinance, found at Title 17 of the Town Code; and

**WHEREAS**, in accordance with the State Planning and Zoning Law, the Planning Commission is tasked with considering whether any proposed amendment to the Town's zoning ordinance would be in conformance with the terms of the Town's General Plan, and the Planning Commission has determined that the proposed Ordinance would, in fact, conform to the Town's General Plan on the basis of the following:

The proposed Ordinance will incorporate the HRD Permit process into all residential zoning districts in the Town, thereby ensuring that all residential development projects in the hillside areas are subject to the same requirements. This Ordinance is consistent with and will further the following Fairfax General Plan goals, objectives, policies, and programs:

Land Use Element Goal LU-1: Preserve scenic and natural resources;

Land Use Element Objective LU-1.2: Limit development on hillside and ridgeline parcels to preserve and enhance the scenic qualities of the Town;

Land Use Element Policy LU-1.2.2: New or renewed development in Visually Significant Areas shall be designed and sited to have the least visual impact as seen from the majority of the Town;

Land Use Element Policy LU-4.1.4: New and renewed development shall be designed to minimize runoff in a manner that does not cause undue hardship on neighboring properties;

Land Use Element Goal LU-5: Manage future growth while preserving the area's natural resources;

Land Use Goal LU-7: Preserve community and neighborhood character;

Land Use Objective LU-7.1: Preserve and enhance the community's small-town scale and character;

Land Use Element Policy LU-7.1.6: New and renewed residential development outside of the Town Center Area should be compatible with, and subordinate to, the topography, wildlife corridors and habitat, natural vegetation pattern, hydrology, and geotechnical characteristics of the area;

Land Use Element Objective LU-7.2: Preserve, maintain, and enhance in a sustainable manner, the existing character, scale, and quality of life in Fairfax's residential neighborhoods;

Land Use Element Policy LU-7.2.1: New and renewed development shall be compatible with the general character and scale of structures in the vicinity;

Land Use Element Policy LU-7.2.2: To the extent feasible natural features including the existing grade, mature trees, and vegetation shall be preserved for new and renewed development;

Open Space Element Objective: OS-3.2 Preserve the visual appeal of the natural landscape in the Fairfax Planning Area;

Open Space Policy OS-3.2.2: Discourage development of any man-made structure on the ridgelines and within the ridge zones within the Fairfax Planning Area;

Open Space Element Policy OS-3.2.3: Prevent development from blocking or impairing existing views of Visually Significant Areas identified in Figure OS-1;

Open Space Element Program OS-3.2.3.1: Review development applications to ensure that views of Visually Significant Areas are not negatively impacted;

Conservation Element Objective CON-5.1: Conserve soils and minimize erosion;

Safety Element Goal S-1: Minimize risks due to geologic hazards;

Safety Element Objective S-1.1: Protect life and property from risks associated with seismic activity and geologic conditions;

Safety Element Policy S-1.1.1: Development and land use decisions will be made using the best available geotechnical information;

Safety Element Program S-1.1.1.1: Require geotechnical analyses for all new development and substantial improvement proposals;

Safety Element Policy S-2.1.1: Development and land use decisions will be made using the best available hydrological and flood hazard information;

Safety Element Policy S-2.1.4: Ensure that new developments or substantial improvements are designed to reduce or eliminate future flood damage; and,

Safety Element Program S-2.1.4.1: Require that lots and rights-of-way are laid out for the provision of approved sewer and drainage facilities, providing on-site detention facilities whenever practicable. Design criteria for hillside development should be calculated based on saturated soils.

**WHEREAS**, 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.

**WHEREAS**, the Planning Commission has conducted duly-noticed public hearings to consider the draft ordinance on August 15, 2019 and September 19, 2019, hear the presentation of staff reports, and receive public comment on the matter.

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

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

**SECTION 2.** The Planning Commission has reviewed the draft ordinance attached hereto as **Attachment A** 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 amend Title 17 of the Fairfax Town Code as set forth in **Attachment A** hereto to incorporate the HRD Permit process into all residential zoning districts in the Town to 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.

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 17th day of October 2019 by the following vote, to wit:

AYES: Fragoso, Gonzalez-Parber, Kehrlein, Newton, Rodriguez, Swift

NOES:

ABSENT: Green

ABSTAIN:

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Cindy Swift, Chair

Attest:

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Ben Berto, Planning Director