



TOWN OF FAIRFAX

STAFF REPORT

July 29, 2021

TO: Planning Commission

FROM: Ben Berto, Director of Planning and Building Services

SUBJECT: Objective Design and Development Standards

BACKGROUND

The Planning Commission discussed Objective Design and Development Standards (ODDS) at four meetings in 2020, and at a special meeting workshop on May 27. The Planning Commission ODDS subcommittee has also met several times, most recently on July 8.

The basic motivation for a local ODDS regulations is because the State of California in response to the ongoing housing shortage, has eliminated most local government's ability to discretionarily review multifamily housing projects. The stated rationale for this State override is to spur housing development. The variety of new State laws has reduced local governmental review of multifamily development projects to whether the projects comply with adopted Objective Design and Development Standards.

Perhaps recognizing the burden that elimination of local review has placed on jurisdictions, the State created grant funding opportunities for creating ODDS, which eleven Marin jurisdictions including Fairfax secured to develop their ODDS. Staff thanks the lead of the County of Marin, specifically Community Development Agency staffers Jillian Zieger and Leelee Thomas, for their important leadership and coordination efforts to make this happen.

The intent locally is that the overall collaborative ODDS toolkit would be subsequently winnowed down/edited to be specific to Fairfax. The overall draft toolkit was reviewed by the Planning Commission on May 27, 2021 (see attached copy of minutes).

After review of ODDS, the Town will determine whether or not (and what version) to adopt ODDS. Fairfax places emphasis on comprehensively discussing any important topics. Staff continues to urge getting ODDS adopted locally soon. Delays in doing so will continue to expose the Town to State-mandated processing of multifamily projects, which means local review is limited to whether the project complies with the few objective standards currently in the Zoning Ordinance – for example, height limit and building setbacks.

Even these few Town objective standards are not sacrosanct. Under current State Density Bonus laws, a housing developer can demand exceptions to up to four local zoning standards

(including building height and setbacks). For a thorough overview of how State laws supersede local government housing regulations, please refer to the Town Attorney's Town Council presentation on April 7, 2021 (link to bbk powerpoint presentation follows): <https://storage.googleapis.com/proudcity/fairfaxca/uploads/2021/04/Housing-Legislative-Update-PowerPoint-4-7-21.pdf>

The ODDS work includes an historical component – the architectural historian hired by the Town has been working with the Town and Opticos. to incorporate historical aspects as appropriate. Mr. Yarbrough will be present at the meeting.

The Commission's special meeting on May 27 was the Commission's first review of the overall ODDS toolkit, and was facilitated by Opticos, including a powerpoint presentation (link to meeting follows: <https://www.townoffairfax.org/meetings/planning-commission-special-meeting-may-27-2021/> . Due to budgetary constraints, Opticos will not be present at the current meeting.

DISCUSSION

The draft amended toolkit is graphics laden and still lengthy enough (298 pages) that it is not feasible to attach a paper copy of it to this staff report. Please refer to the following dropbox link for the full document: and related zoning districts:

<https://www.dropbox.com/sh/s2rmpinjhs4kvd1/AADks45JXcVypQIZwBhIVaJOa?dl=0>

One of the functionality benefits of this electronic format is any Chapter of the toolkit is accessible from the Table of Contents by clicking on the desired Chapter. Staff cautions that the size of even the low-res version is such that it takes a few moments to open, and a few minutes to download, so be prepared to wait initially. Staff is working on obtaining a black-and-white version for printing, and will provide this version for Commissioners who request it.

The amended draft ODDS toolkit has been modified for Fairfax, based on comments received from the Commission ODDS subcommittee, the Planning Commission, and staff (see attached minutes of May 27, 2021 PC workshop).

The intent of this toolkit is to be applicable to the properties shown in the attached diagrams (see attachments A-C), on which multifamily development could theoretically be applied for at some time in the future. It is noted that some of the properties shown on the diagram have very limited potential applicability. However, consistent with PC ODDS subcommittee discussion, the intent is to apply the ODDS prophylactically to avoid being caught unprepared with future multifamily development.

Toolkit comments

The Quick Code Guide, Preamble, and Chapter 1 of the toolkit provide an overview of how to use the toolkit, Highlighted chapters and changes from the original draft are discussed below.

Zones

A primary change made to the amended toolkit from the version the Commission previously review is a reduction in the number of zones, so that those listed are only those which are applicable to Fairfax. As shown in Chapter 3, the four zones currently proposed are:

T3 Edge Neighborhood

T4 Suburban Neighborhood

T4 Suburban Neighborhood - Option

T4 Main Street

Reasons for the proposed reduced number of zones is to reflect that the highest intensity zones - the T5 zones in the original draft – reflected the type of development present in San Rafael, not Fairfax. Staff further evaluated the potential for density bonus-mandated increases and determined that the zones' regulations

Zone standards

Staff recommends that Commissioners focus on the four zones' standards that would be applied to the involved properties. These have been adjusted from the first draft to reflect the Town's current standards. For example, the basic maximum building height is 28.5 feet, consistent with the Town's zoning regulations.

The standards in each of the zones also lists the maximum height attainable with a density bonus. The consultant's and staff have discussed the effect of density bonus height increases on the ODDS, and believe that any additional height demanded via a density bonus would be captured by the design standards in each of the ODDS zones.

Two SN4 zones are proposed - T4 Suburban Neighborhood and T4 Suburban Neighborhood Open. The reason for this is the SN4 Suburban Neighborhood Open is basically a direct overlay of the Town's current CH Highway Commercial zone, and retains the prohibition of housing on the first floor of buildings.

The Commission has previously been sympathetic to changing the CH zoning to allow residential on the first floor. However, in today's State context of almost-everything-housing-goes mandates, there is a serious question of whether removing that restriction would expose the Town to the two-thirds residential SB 35 trigger, which in turn would open the door to taller, bulkier multi-family buildings than would otherwise be the case.

Staff will attempt to explain this concept: Basically, because the Town currently only allows 28.5-foot buildings (i.e. two stories) and prevents residential use on the first floor in the CH zone, a developer can't invoke the SB35 local zoning over-ride because two-thirds of the floor area cannot currently be used for housing. If a developer could build residential on the first floor, SB35 applicability would open the door to zoning (and potentially ODDS) standards over-rides for properties in that zone. A developer could potentially even exceed the ODDS density bonus-related maximum height of 35 feet/3 stories. There would be significant concerns with residential development of 3 stories (or more) directly on Sir Francis Drake.

While acknowledging there is some uncertainty on how SN4 Suburban would stack up against SN4 Suburban-Open in this context, staff does believe that allowing residential on the first floor in the CH zone raises this issue. If the direction of the PC is to continue the current CH zone's

prohibition against first floor residential, staff recommends that the SN4 Suburban-Open ODDS zone be applied to the Sir Francis Drake-fronting CH-zoned properties as shown in the attachments.

Uses

Proposed Chapter 4 refers developers to the lists of uses contained in the current zoning ordinance's applicable underlying zoning district for the property involved.

Building Types

Chapter 6 shows the proposed building types that would be included as housing options within each of the zones. The Planning Commission ODDS subcommittee discussed potentially allowing 4-plexes in the T3 Edge Neighborhood, which encompasses the Town's RD-5.5-7 current zoning district. There were several factors supporting including quadplexes. The overall size of an allowed building would not change, whether the residence was a single-family residence or a quadplex. A proposed duplex (which the RD-5.5-7 zoning allows) is considered multifamily and thus not subject to discretionary review. Parking would continue to be required onsite. The main benefit is that smaller units in a quadplex contained within the same overall maximum-sized structure as a residence or duplex provides greater affordability than larger units by design. Such housing creates the 'missing middle' type of housing that is conspicuously missing from most of Fairfax, and provides residents with greater housing options than is currently the case. As we know, the population of Fairfax is aging quickly. A single family residence that may have been desirable to raise a family may no longer be as desirable to an older adult who wants to remain in the community but is grappling with increasing expenses, ambulatory issues, etc.,

The Commission may be aware that the State is once again seriously considering further loosening/ eliminating local restrictions on multi-family housing. SB9 which has already passed the State senate would if signed into law replace single family zoning with up to four living units. If the Town were to proactively come up with its own quadplex standards, it could also assist Fairfax in meeting its RHNA housing numbers.

Staff intends to continue to evaluate the criteria under which a quadplex is allowed, and suggest tightening them where it seems appropriate. For example, fire safety concerns might warrant prohibit them on hillside areas served by narrow winding streets, or in any neighborhood served by streets that are the only way in and out. Staff requests the full Commission provide feedback about the extent to which this type of housing is appropriate for Fairfax, and under what criteria.

CONCLUSION/RECOMMENDATION

Staff acknowledges that the Commission has had very little time to read this current amended for Fairfax draft ODDS version. However, Commissioners have had over a month to digest the larger, County-general ODDS toolkit version, and the changes proposed in the amended toolkit are fairly straightforward. The attached diagrams also focus only on those areas where this toolkit could potentially be applied. The purpose of this meeting is to continue to secure feedback. The ODDS toolkit will be returned to the Commission at a future date for additional

deliberation, direction, and hopefully, ultimately, recommendation to the Town Council for adoption.

Staff recommends that the Commission provide direction to staff on the following:

1. The extent to which the ODDS changes reflect what the Commission wants in its toolkit.
2. The toolkit's proposed zoning districts and their potential applicability to the properties shown within the toolkit zones.
3. The potential inclusion of quadplexes as part of the toolkits permitted uses.
4. Further changes to be made to the toolkit, and any other comments on the draft.

Attachment A – draft ODDS toolkit (Town website copy only)

Attachment B - Diagrams of potential ODDS zones in Fairfax

Attachment C – Minutes of May 27, 2021 Planning Commission meeting

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