



TOWN OF FAIRFAX

STAFF REPORT

December 7, 2022

TO: Mayor and Town Council

FROM: David Woltering, Interim Planning Director
Linda Neal, Principal Planner

SUBJECT: Adopt Ordinance transferring authority to review and grant exceptions to the residential and commercial driveway width and number regulations from the Town Council to the Planning Commission and expanding the variance language contained in the various residential and commercial zone districts to include driveway entrance variances.

RECOMMENDATION

Waive second reading, read by title only and adopt "Ordinance of the Town Council of the Town of Fairfax Amending Town Code Chapter 12.12, Driveway Entrances, Giving Authority to the Planning Commission to Grant Exceptions to the Driveway Width and Number of Driveway Entrances Regulations, Adding Sections to title 17, Zoning, Section 17.076 ('RS-7.5 Single-Family Residential Zone, Medium Density'), Chapter 17.080 ('RS-6 Single-Family Residential Zone, High Density'), Chapter 17.084 ('RD 5.5-7 Residential Zone, High Density'), Chapter 17.088 ('RM Multiple-Family Residential Zone'), Chapter 17.092 ('RM-S Multiple-Family Residential – Senior – Residential Zone'), Chapter 17.124 (UR Upland Residential Zone), Chapter 17.092 ('CL Limited Commercial Zone'), Chapter 17.096 ('CH Highway Commercial Zone'), Chapter 17.100 ('CC Central Commercial Zone'), Chapter 17.04 ('CS Service Commercial Zone'), and Chapter 17.124 ('UR Upland Residential Zone'), Cross Referencing Chapter 12.12, Driveway Entrances, Throughout the Town RS-7.5, RS-6, RD 5.5-7, RM, RM-S and UR Residential Zones and CL, CH, CC and CS Commercial Zones, and Amending the Variance sections of the Residential Zones to include Driveway Variances and of the Commercial Zones to Include Variance Provisions."

DISCUSSION

The Town Council introduced the attached Ordinance at a duly noticed public hearing on November 16, 2022. This is the second reading and adoption of the ordinance. If adopted, the ordinance would take effect in 30 days.

On September 7, 2022, the Fairfax Town Council directed the staff to prepare an Ordinance for Planning Commission consideration amending the code sections described above to transfer the authority to grant variances to the driveway width and number regulations from the Town Council to the Planning Commission.

In drafting the ordinance staff determined that the Driveway Entrance Ordinance should also be cross referenced in the Residential and Commercial Zones it regulates. The proposed ordinance amends and incorporates code changes to address this.

The Fairfax Planning Commission reviewed the draft of the proposed Ordinance at their October 27, 2022, meeting and adopted Resolution No. 2022-28, recommending that the Town Council adopt the proposed Ordinance.

The Commission recommended no changes to the ordinance and no member of the public spoke to the matter.

The Planning Commission staff report that provides additional information on the history of transference of approval authority to the Commission and Design Review Board from the Town Council can be viewed online in the [October 20, 2022, Planning Commission staff report](#).

FISCAL IMPACT

No impact.

ATTACHMENT

Proposed Ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX AMENDING TOWN CODE CHAPTER 12.12, DRIVEWAY ENTRANCES, GIVING AUTHORITY TO THE PLANNING COMMISSION TO GRANT EXCEPTIONS TO THE DRIVEWAY WIDTH AND NUMBER OF DRIVEWAY ENTRANCES REGULATIONS, ADDING SECTIONS TO TITLE 17, ZONING, SECTION 17.076 ('RS-7.5 SINGLE-FAMILY RESIDENTIAL ZONE, MEDIUM DENSITY'), CHAPTER 17.080 ('RS-6 SINGLE-FAMILY RESIDENTIAL ZONE, HIGH DENSITY'), CHAPTER 17.084 (RD 5.5-7 RESIDENTIAL ZONE, HIGH DENSITY), CHAPTER 17.088 ('RM MULTIPLE-FAMILY RESIDENTIAL ZONE'), CHAPTER 17.092 ('RM-S MULTIPLE-FAMILY RESIDENTIAL – SENIOR – RESIDENTIAL ZONE'), CHAPTER 17.124 ('UR UPLAND RESIDENTIAL ZONE'), CHAPTER 17.092 ('CL LIMITED COMMERCIAL ZONE'), CHAPTER 17.096 ('CH HIGHWAY COMMERCIAL ZONE'), CHAPTER 17.100 ('CC CENTRAL COMMERCIAL ZONE'), AND CHAPTER 17.104 ('CS SERVICE COMMERCIAL ZONE'), CROSS REFERENCING CHAPTER 12.12, DRIVEWAY ENTRANCES, THROUGHOUT THE TOWN RS 7.5, RS-6, RD 5.5-7, RM, RM-S AND UR RESIDENTIAL ZONES AND CL, CH, CC AND CS COMMERCIAL ZONES, AND AMENDING THE VARIANCE SECTIONS OF THE RESIDENTIAL ZONES TO INCLUDE DRIVEWAY VARIANCES AND OF THE COMMERCIAL ZONES TO INCLUDE VARIANCE PROVISIONS

WHEREAS, on September 7, 2022, the Fairfax Town Council directed the staff to prepare an Ordinance for Planning Commission consideration amending the code sections described above to transfer the authority to grant variances to the driveway width and number regulations to the Planning Commission; and

WHEREAS, the Town Council has determined the changes will streamline the planning approval process by decreasing the number of hearings required to approve planning projects; and

WHEREAS, the amendment to Chapter 12.12, Driveway Entrances, is being adopted simultaneously with amendments to the code sections which govern residential and commercial zones, to cross reference the driveway regulations contained in Chapter 12.12 and to conform the standards for driveway variances in the Variance sections of the Residential Zones and Variance sections to the Commercial Zones to those now established by Chapter 12.12; and

WHEREAS, the Town Council wishes to adopt the recommendation of the Planning Commission to adopt this Ordinance for purposes of streamlining the oversight process for driveway variances. Now therefore, the Town Council of the Town of Fairfax does ordain as follows:

Section 1: Recitals. The recitals above are each incorporated by reference and adopted as findings of the Town Council.

Section 2: Fairfax Town Code, Chapter 12.12, Section 12.12.090, Variances, is hereby amended to read as follows (deletions are shown in ~~strike through~~, and additions are shown in underline):

“The ~~Town Council~~ Planning Commission is authorized and empowered to grant adjustments and variances from the provisions of this chapter, provided it is shown to the satisfaction of the

~~Town Council Planning Commission~~, and the ~~Town Council Planning Commission~~ finds, that all of the following are shown to exist in the particular case:

- A. There are exceptional or extraordinary circumstances or conditions applying to the land, building or use referred to in the application, which circumstances or conditions do not apply generally to land, buildings, or uses in the same zone or district;
- B. The granting of the application is necessary for the preservation and enjoyment of substantial property rights of the petitioner; and
- C. The granting of the application will not, under the circumstances of the particular case, materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not under the circumstances of the particular case be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood.”

Section 3: A new Section 17.076.075, Driveway Standards, is hereby added to the Fairfax Town Code, Chapter 17.076, RS-7.5 Single-Family Residential Zone, Medium Density, to read in full as follows:

“Section 17.076.075 Driveway Standards.

The width and number of driveways for each property within the RS 7.5 Single-family Residential Zone are regulated by Town Code Chapter 12.12, Driveway Entrances.”

Section 4: Fairfax Town Code, Chapter 17.076, Section 17.076.110, Variances, is hereby amended to read in full as follows:

- A. “The Planning Commission may require, as a condition of a variance approved and issued under the provision of this section, a reduction of building height, lot coverage, floor area ratio or buildable area, or any combination thereof, when the reduction is found necessary to protect adjoining property from adverse or detrimental effect, or to prevent the variance from constituting a grant of special privilege.
- B. The Planning Commission may require as a condition of a driveway variance approved and issued under the provision of this section an increase in the width or number of driveways entering a property, when the increase is found necessary to protect adjoining property from adverse or detrimental effect, or to prevent the variance from constituting a grant of special privilege.”

Section 5: A new Section 17.080.075, Driveway Standards, is hereby added to the Fairfax Town Code, Chapter 17.080, RS-6 Single-family Residential Zone, High Density, to read in full as follows:

“Section 17.080.075 Driveway Standards.

The width and number of driveways for each property within the RS 6 Single-family Residential Zone, High Density, are regulated by Town Code Chapter 12.12, Driveway Entrances.”

Section 6: Fairfax Town Code, Chapter 17.080, Section 17.080.110, Variances, is hereby amended to read as follows:

- A. "The Planning Commission may require, as a condition of a variance approved and issued under the provision of this section, a reduction of building height, lot coverage, floor area ratio or buildable area, or any combination thereof, when the reduction is found necessary to protect adjoining property from adverse or detrimental effect, or to prevent the variance from constituting a grant of special privilege.
- B. The Planning Commission may require as a condition of a driveway variance approved and issued under the provision of this section an increase in the width or number of driveways entering a property, when the increase is found necessary to protect adjoining property from adverse or detrimental effect, or to prevent the variance from constituting a grant of special privilege."

Section 7: A new Section 17.084.075, Driveway Standards, is hereby added to the Fairfax Town Code, Chapter 17.084, RD 5.5-7 Residential Zone, High Density, to read in full as follows:

"Section 17.084.075 Driveway Standards.

The width and number of driveways for each property within the RD 5.5-7 Residential Zone, High Density are regulated by Town Code Chapter 12.12, Driveway Entrances."

Section 8: Fairfax Town Code, Chapter 17.084, Section 17.084.110, Variances, is hereby amended to read as follows:

- A. "The Planning Commission may require, as a condition of a variance approved and issued under the provision of this section, a reduction of building height, lot coverage, floor area ratio or buildable area, or any combination thereof, when the reduction is found necessary to protect adjoining property from adverse or detrimental effect, or to prevent the variance from constituting a grant of special privilege.
- B. The Planning Commission may require as a condition of a driveway variance approved and issued under the provision of this section an increase in the width or number of driveways entering a property, when the increase is found necessary to protect adjoining property from adverse or detrimental effect, or to prevent the variance from constituting a grant of special privilege."

Section 9: A new Section 17.088.075, Driveway Standards, is hereby added to the Fairfax Town Code, Chapter 17.088, RM Multiple-Family Residential Zone, to read in full as follows:

"Section 17.088.075 Driveway Standards.

The width and number of driveways for each property within the RM Multiple-Family Residential Zone are regulated by Town Code Chapter 12.12, Driveway Entrances."

Section 10: Fairfax Town Code, Chapter 17.088, Section 17.088.110, Variances, is hereby amended to read as follows:

- A. "The Planning Commission may require, as a condition of a variance approved and issued under the provision of this section, a reduction of building height, lot coverage, floor area ratio or buildable area, or any combination thereof, when the reduction is found necessary to protect adjoining property from adverse or

detrimental effect, or to prevent the variance from constituting a grant of special privilege.

- B. The Planning Commission may require as a condition of a driveway variance approved and issued under the provision of this section an increase in the width or number of driveways entering a property, when the increase is found necessary to protect adjoining property from adverse or detrimental effect, or to prevent the variance from constituting a grant of special privilege.”

Section 11: A new Section 17.090.085, Driveway Standards, is hereby added to the Fairfax Town Code, Chapter 17.090, RM-S Multiple-Family Residential – Senior – Residential Zone, to read in full as follows:

“Section 17.090.085 Driveway Standards.

The width and number of driveways for each property within the RM-S Multiple-Family Residential Senior – Residential Zone are regulated by Town Code Chapter 12.12, Driveway Entrances.”

Section 12: Fairfax Town Code, Chapter 17.090, Section 17.090.120, Variances, is hereby amended to read as follows:

- A. “The Planning Commission may require, as a condition of a variance approved and issued under the provision of this section, a reduction of building height, lot coverage, floor area ratio or buildable area, or any combination thereof, when the reduction is found necessary to protect adjoining property from adverse or detrimental effect, or to prevent the variance from constituting a grant of special privilege.
- B. The Planning Commission may require as a condition of a driveway variance approved and issued under the provision of this section an increase in the width or number of driveways entering a property, when the increase is found necessary to protect adjoining property from adverse or detrimental effect, or to prevent the variance from constituting a grant of special privilege.”

Section 13: Section 21: A new Section 17.124.075, Driveway Standards, is hereby added to the Fairfax Town Code, Chapter 17.124, UR Upland Residential Zone, to read in full as follows:

“Section 17.124.075, Driveway Standards.

The width and number of driveways for each property within the UR Upland Residential Zone are regulated by Town Code Chapter 12.12, Driveway Entrances.”

Section 14: Fairfax Town Code, Chapter 17.124, Section 17.124.110, Variances, is hereby amended to read as follows:

- A. “The Planning Commission may require, as a condition of a variance approved and issued under the provision of this section a reduction of building height, or buildable area, or any combination thereof, when the reduction is found necessary to protect adjoining property from adverse or detrimental effect, or to prevent the variance from constituting a grant of special privilege.
- B. The Planning Commission may require as a condition of a driveway variance approved and issued under the provision of this section an increase in the width

or number of driveways entering a property, when the increase is found necessary to protect adjoining property from adverse or detrimental effect, or to prevent the variance from constituting a grant of special privilege.”

Section 15: A new Section 17.092.095, Driveway Standards, is hereby added to the Fairfax Town Code, Chapter 17.092, CL Limited Commercial Zone, to read in full as follows:

“Section 17.092.095 Driveway Standards.

The width and number of driveways for each property within the CL Limited Commercial Zone are regulated by Town Code Chapter 12.12, Driveway Entrances.”

Section 16: A new Section 17.092.125, Variances, is hereby added to the Fairfax Town Code, Chapter 17.092, CL Limited Commercial Zone, to read in full as follows:

“Section 17.092.125 Variances.

- A. The Planning Commission may require, as a condition of a variance approved and issued under the provision of this section, a reduction of building height, or buildable area, or any combination thereof, when the reduction is found necessary to protect adjoining property from adverse or detrimental effect, or to prevent the variance from constituting a grant of special privilege.
- B. The Planning Commission may require as a condition of a driveway variance approved and issued under the provision of this section an increase in the width or number of driveways entering a property, when the increase is found necessary to protect adjoining property from adverse or detrimental effect, or to prevent the variance from constituting a grant of special privilege.”

Section 17: A new Section 17.096.105, Driveway Standards, is hereby added to the Fairfax Town Code, Chapter 17.096, CH Highway Commercial Zone, to read in full as follows:

“Section 17.096.105 Driveway Standards.

The width and number of driveways for each property within the CH Highway Commercial Zone are regulated by Town Code Chapter 12.12, Driveway Entrances.”

Section 18: A new Section 17.096.125, Variances, is hereby added to the Fairfax Town Code, Chapter 17.096, CH Highway Commercial Zone, to read in full as follows:

“Section 17.096.125 Variances.

- A. The Planning Commission may require, as a condition of a variance approved and issued under the provision of this section, a reduction of building height, or buildable area, or any combination thereof, when the reduction is found necessary to protect adjoining property from adverse or detrimental effect, or to prevent the variance from constituting a grant of special privilege.
- B. The Planning Commission may require as a condition of a driveway variance approved and issued under the provision of this section an increase in the width or number of driveways entering a property, when the increase is found necessary to protect adjoining property from adverse or detrimental effect, or to prevent the variance from constituting a grant of special privilege.”

Section 19: A new Section 17.100.095, Driveway Standards, is hereby added to the Fairfax Town Code, Chapter 17.100, CC Central Commercial Zone, to read in full as follows:

“Section 17.100.095 Driveway Standards.

The width and number of driveways for each property within the CH Highway Commercial Zone are regulated by Town Code Chapter 12.12, Driveway Entrances.”

Section 20: A new Section 17.100.125, Variances, is hereby added to the Fairfax Town Code, Chapter 17.100, CC Central Commercial Zone, to read in full as follows:

“Section 17.100.125 Variances.

- A. The Planning Commission may require, as a condition of a variance approved and issued under the provision of this section, a reduction of building height, or buildable area, or any combination thereof, when the reduction is found necessary to protect adjoining property from adverse or detrimental effect, or to prevent the variance from constituting a grant of special privilege.
- B. The Planning Commission may require as a condition of a driveway variance approved and issued under the provision of this section an increase in the width or number of driveways entering a property, when the increase is found necessary to protect adjoining property from adverse or detrimental effect, or to prevent the variance from constituting a grant of special privilege.”

Section 21: A new Section 17.104.085, Driveway Standards, is hereby added to the Fairfax Town Code, Chapter 17.104, CS Commercial Service Zone, to read in full as follows:

“Section 17.104.085 Driveway Standards.

The width and number of driveways for each property within the CH Highway Commercial Zone are regulated by Town Code Chapter 12.12, Driveway Entrances.”

Section 22: A new Section 17.104.115, Variances, is hereby added to the Fairfax Town Code, Chapter 17.104, CS Commercial Service Zone, to read in full as follows:

“Section 17.104.115 Variances

- A. The Planning Commission may require, as a condition of a variance approved and issued under the provision of this section, a reduction of building height or buildable area, or any combination thereof, when the reduction is found necessary to protect adjoining property from adverse or detrimental effect, or to prevent the variance from constituting a grant of special privilege.
- B. The Planning Commission may require as a condition of a driveway variance approved and issued under the provision of this section an increase in the width or number of driveways entering a property, when the increase is found necessary to protect adjoining property from adverse or detrimental effect, or to prevent the variance from constituting a grant of special privilege.”

Section 23: The Town Council finds that this ordinance is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to categorical exemption number 15301, Existing Facilities and 15303, New Construction of Conversion of Small Structures.

Section 24: This Ordinance shall be in full force and effect thirty days from and after its final passage and adoption.

Section 25: Copies of the forgoing 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.

The foregoing ordinance was duly and regularly introduced at a regular meeting of the Fairfax Town Council held in said Town on the 16th day of November 2022, and thereafter adopted at a regular meeting of the Town Council, held in said Town on the 7th day of December 2022 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Mayor

Attest:

Michele Gardner, Town Clerk