



TOWN COUNCIL MEETING STAFF REPORT

MEETING DATE January 24, 2024

PREPARED FOR Mayor and Town Council

PREPARED BY Jeffrey Beiswenger, AICP, Building & Planning Director

SUBJECT Waive second reading and adopt an ordinance to amend the following chapters of Title 17 (Zoning) of the Fairfax Municipal Code: 17.060 (Ridgeline Development); 17.072 (Hill Area Residential Development Overlay Zone); 17.124 (UR Upland Residential Zone). Adoption of this ordinance has been analyzed as part of the Environmental Impact Report prepared for the 2023-31 Housing Element project.

CEQA Adoption of this ordinance is consistent with the Environmental Impact Report prepared for the recently adopted Housing Element.

RECOMMENDATION

Waive second reading, read by title only and adopt an ordinance “Amending Title 17 (Zoning) of the Fairfax Municipal Code to Update the Following Chapters: Chapter 17.060 (Ridgeline Development), Chapter 17.072 (Hill Area Residential Development Overlay Zone), and Chapter 17.124 (Ur Upland Residential Zone) to Implement the General Plan Housing Element.” Adoption of this ordinance has been analyzed as part of the Environmental Impact Report prepared for the Housing Element project.

BACKGROUND

The Town began work on the 6th Cycle Housing Element in 2021, which has required a more robust process than previous cycles due to increased state regulation, oversight, and potential penalties, and tightened timelines. The Town has now adopted the Housing Element and certified the related Environmental Impact Report (EIR). These zoning ordinance amendments to Program 2-D (Standards for Low Impact Clustered Residential Development on Large Sites) of the Housing Element were first presented to Council at the January 10, 2024, Special Town Council meeting.

Technical amendments have been prepared for the zoning ordinance with additions to Chapter 17.060 (Ridgeline Development), Chapter 17.072 Hill Area Residential Development Overlay Zone), and Chapter 17.124 (UR Upland Residential Zone). Together, these amendments implement Program 2-D in the Housing Element Action Plan: Standards for Clustered Development on Large Sites. The intent is to expand development opportunities for market rate housing with no change in the density from what would otherwise be allowed, while creating opportunities to set aside permanent open space.

On December 14, 2023, the Planning Commission conducted a public hearing and forwarded a recommendation of approval to the Town Council. On January 10, the Town Council conducted a public hearing, introduced the ordinance amendments, and specified minor error corrections and wording changes which have been incorporated. The changes include:

- Correction of formatting and typographical errors;
- Corrections to accurately display additions and strike-outs from current code;
- Edit to Section 17.060.050 (Criteria for Review of Applications) (B) (1) to strike the word “extensive” in front of the phrase “tree pruning and removal” to discourage tree removal unless it is truly needed to reduce fire hazards or is otherwise necessary;
- Edit to Section 17.060.050 (B) (2) to strike the phrase “and other suitable species” after the phrase “utilizing native species” to require the use of native plan species; and
- Rewrite of Section 17.072.090 (Development and Design Standards) (H) (6) (a), to “Locate development along the lowest portion of the property away from ridgelines, adjacent to existing streets and/or on already disturbed land, to the extent feasible, to protect undeveloped areas.”

General Plan Consistency

The proposed ordinance is consistent with the Fairfax General Plan. Including the proposed Housing Element. Program 2-D (Standards for Clustered Hillside Development on Large Sites) calls for the recommended zoning code amendments with a required adoption by the end of January 2024.

FISCAL IMPACT

N/A

ATTACHMENT

Ordinance amending the following chapters of Title 17 (Zoning) of the Fairfax Municipal Code: 17.060 (Ridgeline Development); 17.072 (Hill Area Residential Development Overlay Zone); 17.124 (UR Upland Residential Zone).

ORDINANCE NO. ____

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX AMENDING TITLE 17 (ZONING) OF THE FAIRFAX MUNICIPAL CODE TO UPDATE THE FOLLOWING CHAPTERS: CHAPTER 17.060 (RIDGELINE DEVELOPMENT), CHAPTER 17.072 (HILL AREA RESIDENTIAL DEVELOPMENT OVERLAY ZONE), AND CHAPTER 17.124 (UR UPLAND RESIDENTIAL ZONE) TO IMPLEMENT THE GENERAL PLAN HOUSING ELEMENT

WHEREAS, the Town of Fairfax, California ("Town") is a municipal corporation, duly organized under the constitution and laws of the State of California; and

WHEREAS State law authorizes cities to adopt and administer zoning ordinances to implement General Plans and requires that zoning regulations be consistent with the General Plan; and

WHEREAS, in recent years, the California Legislature has approved, and the Governor has signed into law, a number of bills that, among other things, amended the Government Code to require General Plan Housing Elements to analyze the availability of land resources in the Town to accommodate the Town's share of the region's future housing needs and to identify zoning amendments needed to meet these needs; and

WHEREAS, the Town had determined that certain sites in the Hill Area Residential Development Overlay Zone and UR Upland Residential Zone may enable the Town to respond to the State's requirements with appropriate development and design standards for low impact clustered residential development added to the existing zoning regulations without changing the maximum allowable residential density or allowing for additional housing units greater than the number established in the General Plan for these sites; and

WHEREAS, the Town wants to continue to protect existing scenic resources and prevent development on unurbanized open space adjacent to ridgetops identified in the General Plan; and

WHEREAS, the Town desires to amend its local regulatory scheme for these zoning regulations to implement the General Plan Housing Element and to comply with the governing provisions of Government Code; and

WHEREAS, on December 13, 2023, the Town Council of the Town of Fairfax approved the 2023-2031 Housing Element (Element) and the Element includes programs which call for the zoning ordinance to be amended; and

WHEREAS, the adopted Element includes Program 2D (Standards for Clustered Hillside Development on Large Sites) which calls for the zoning ordinance to be updated to include review standards for clustered hillside development to expand opportunities for market rate housing by establishing development standards and design review criteria; and

WHEREAS, on December 14, 2023, the Planning Commission of the Town of Fairfax voted to recommend Town Council adoption of ordinance; and

WHEREAS, a duly and properly noticed public hearing regarding the Ordinance was conducted by the Town Council on January 10, 2024, and the Town Council carefully considered all pertinent testimony and the staff report offered at the public hearing.

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

SECTION 1. The recitals above are each incorporated by reference and adopted as findings by the Town Council.

SECTION 2. The Town has prepared an Environmental Impact Report (EIR) on the Sixth Cycle Housing Element amendment to the General Plan, pursuant to the California Environmental Quality Act ("CEQA") and State CEQA Guidelines and the Town Council voted to certify the EIR on December 13, 2023.

SECTION 3. Chapter 17.060, Chapter 17.072, and Chapter 17.124 of Title 17 of the Fairfax Municipal Code is hereby amended and restated to as provided in Exhibit 1, attached hereto and incorporated herein by reference (deletions shown in ~~strikethrough~~ and additions shown in underline). Ellipses ("...") denote where text is not shown because no changes are proposed.

SECTION 4. This ordinance takes effect 30 days after second reading.

SECTION 5. The Town Clerk shall certify as to the adoption of this ordinance and within fifteen (15) days of its adoption shall post a certified copy of this ordinance in three public places in the Town of Fairfax, to wit: 1. Bulletin Board, Town Hall Offices; 2. Bulletin Board, Fairfax Post Office; and 3. Bulletin Board, Fairfax Women's Club Building, located at 46 Park Road.

SECTION 6. The Town Clerk shall submit a copy of this ordinance to the Department of Housing and Community Development within 60 days after adoption.

SECTION 7. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this ordinance, or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remainder of this ordinance. The Town Council hereby declares that it would have adopted this ordinance, and each and every section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

The foregoing ordinance was passed, approved, and adopted at a meeting of the Town Council on the twenty fourth (24th) day of January 2024, by the following vote, to wit:

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

Barbara Coler, Mayor

Attest: _____
Christine Foster, Deputy Town Clerk

EXHIBIT 1

CHAPTER 17.060: RIDGELINE DEVELOPMENT

Section

- 17.060.010 Purpose
- 17.060.020 Definitions
- 17.060.030 General requirements
- 17.060.040 Affected significant view corridors
- 17.060.050 Criteria for review of application
- 17.060.060 Application; procedures generally
- 17.060.070 Approval of design review application; required findings
- 17.060.080 Approval of application for exception; required findings
- 17.060.090 Time limits; extensions
- 17.060.100 Appeals
- 17.060.110 Enforcement

§.17.060.010 PURPOSE

The purpose of this chapter is to ~~conserve the general public welfare by conserving~~ implement the General Plan's policies for open space and resource conservation by establishing objective review criteria for land use applications, in order to, conserve the existing scenic resources and protect the sense of community and/or neighborhood identity now afforded by the presence of the unurbanized open spaces on the ridge tops above the town by preserving them in an open and scenically attractive state.

17.060.020 Definitions and terms of reference.

For the purpose of this chapter, the following definitions and terms of reference shall apply unless the context clearly indicates or requires a different meaning.

ADJACENT RIDGE. The portion of the ridgeline within 150 feet horizontal distance or 100 feet vertical distance from the subject structure, from which a line drawn perpendicular to the ridgeline strikes or passes over the subject structure. When a structure is built in a swale between two ridges, the higher ridge will determine the height of the structure.

MODEL WATER EFFICIENT LANDSCAPE ORDINANCE. The Model Water Efficient Landscape Ordinance adopted by the California State Legislature, 23 CA ADC § 490 et seq., as it may be amended from time to time, and as adopted by the Town and made a part of this chapter by reference.

MAJOR RIDGE(S). Those areas located on General Plan Figure OS-1, Map of Visual Resources Map No. 9, augmented by additional topographic reference mapping by Town staff.

RIDGELINE. The uppermost line in elevation traversing a ridge (chain of hills).

RIDGELINE SCENIC CORRIDORS. Those areas defined as community and/or neighborhood separators and visual resources providing community and/or neighborhood identity, further defined as the area on either side of the ridgeline within 150 feet horizontal distance measured at right angles to the ridgeline or 100 feet vertically of the ridge, whichever is a greater area as located on ~~Visual Resources Map No. 9~~ General Plan Figure OS-1 Map of Visual Resources.

SCENIC HIGHWAYS. Those roadways depicted on the General Plan Figure OS-1 Map of Visual Resource as Scenic Highways, including Bolinas Road and Sir Francis Drake Boulevard.

SIGNIFICANT VIEW CORRIDORS. Identified by the Planning Commission as places from which the visual impact of development in a ridgeline scenic corridor could be significant and contrary to the purposes of this title.

UTILITY LINES. Public or private utility distribution and transmission lines.

§.17.060.030 GENERAL REQUIREMENTS.

- (A) No building, accessory building, or structure or modification thereof, shall be erected within ridgeline scenic corridors as ~~defined~~ located on General Plan Figure OS-1 Map of Visual Resources ~~Map No. 9~~, except in either of the following circumstances:
- (1) The applicant demonstrates with submissions of photographic visual simulations and architectural drawings, plans and sections showing existing and proposed conditions and how the standards of this section apply to building elevations to the Town staff and the Planning Commission that a new building, an accessory structure or addition will have minimal ~~no~~ impact on significant views due to the proposed location of the structure in relation to existing improvements; and/or
 - (2) The Planning Commission approves or conditionally approves a permit for building in the ridgeline scenic corridor.
- (B) If new buildings, accessory buildings or additions and modifications to ~~them-existing buildings must be placed~~ are to be approved for placement within the restricted area, they shall be designed and located to have the least impact on existing visual resources and significant view corridors.

§.17.060.040 AFFECTED SIGNIFICANT VIEW CORRIDORS.

- (A)
- (1) In considering an application for building in the restricted area, the Planning Commission will determine the significant view corridors which are affected by the project through field observations by Town officials and the Planning Commission, and by examining photographs of the project site from public gathering places, scenic highways, major roadways, and neighboring properties.
 - (2) Significant view corridors will be addressed by the applicant in the application using photographs and/or illustrations which demonstrate how the proposed project is seen from:
 - (a) Public gathering places, scenic highways, and major roadways;
 - (b) Neighboring properties and neighborhood roadways; and
 - (c) Critical points within the subject property.
- (B)
- (1) Views from ~~Public~~ public gathering places, scenic highways, and major roadways will be considered significant view corridors unless the Planning Commission makes the specific finding that a given location is not significant for a project.
 - (2) Views from ~~N~~neighboring properties, neighborhood roadways and points within the subject property may be significant if the Planning Commission makes the finding

that regulation of views from the point is necessary to protect the general public welfare, as defined in the purpose of this chapter.

§.17.060.050 CRITERIA FOR REVIEW OF APPLICATION.

- (A) The Planning Commission shall use the following criteria to review applications.
- (B) These criteria must be complied with unless an exception is granted by the Planning Commission.
 - (1) Native planting shall be retained to provide screening and avoid abrupt changes in the natural, vegetative cover. ~~Extensive tree~~ pruning and tree removal around structures ~~shall~~ may be avoided allowed if needed to reduce fire hazards, accommodate low impact clustered residential development consistent with the standards of § 17.072.090 (H), and ensure emergency ingress and egress. A tree plan, including revegetation requirements and proposed locations of trees of approved suitable species, may be required pursuant to § 16.24.070.
 - (2) Additional screening and cover shall be provided, with new planting utilizing native species compatible with existing vegetation and designed to break up silhouettes, reflections and large, unnatural surfaces. If required as a condition of design review approval, a maintenance bond shall be posted for one year to ensure the vitality of essential landscaping.
 - (3) Buildings, fences and structures shall be of materials and colors ~~compatible~~ consistent with materials and colors in the surrounding area within 300 feet of the project site. Exterior paint colors shall be muted earth tones, consistent with a color palette of paint colors based on Pantone color standards, which have been approved by the Planning Commission. Other colors may be approved through discretionary Design Review by the Planning Commission.
 - (4) Cuts, fills and retaining structures will be minimized except as required exclusively for foundations. Major topographic features shall maintain their natural landforms.
 - (5) Roadways shall follow contours to also minimize cuts, fills and retaining structures. Disturbed areas shall be revegetated to harmonize with the surrounding environment, and retaining structures shall include planting or similar means, as necessary, to harmonize as well.
 - (6) No roads or streets shall be permitted to traverse a ridge.
 - (7) If exterior lighting is to be installed, it shall ~~be of low intensity and low profile~~ conform to the following:
 - (a) Light intensity. Lighting shall be of have a low-level of intensity, meaning having a total light output on the site of 3,000 lumens or less and a low profile;
 - (b) Shielding. All fixtures shall be fully-shielded to minimize glare and protect the night sky.
 - (c) Color Temperature. The color temperature of all outdoor lighting shall be 3,000 Kelvin or less.
 - (d) Lighting curfew. A “dark sky” curfew shall be respected, and unless outdoor lighting is for building entries or exits, pathways and adjacent landscape areas, parking areas, or driveways, or is on a motion sensor that shuts off

five minutes after activation, all exterior lighting shall be extinguished as soon as there are no longer people present in exterior areas.

- (e) Light trespass. The maximum allowable "light trespass," meaning light falling beyond the property line, shall be 0.1 foot candles.

- (8) Utilities and alternative energy systems
 - (a) All utilities and cables shall be placed underground.
 - (b) Alternative energy sources, not including small residential rooftop solar energy systems, may be approved where their impacts are minimized. Small residential rooftop solar energy systems shall be subject to the review and approval procedures set forth in §§ 17.138.200 through 17.138.270. This provision supersedes § 17.044.020 of this title relating to public utilities.

- (9) Ridgeline view protections
 - (a) All structures shall be located so that the roof does not extend ~~above the ridgeline~~ into a ridgeline scenic corridor when viewed from a public gathering place, including Town parks, public schools, sidewalks in the Central Commercial area identified in the General Plan, or a major roadway.
 - (b) No part of a building's height ~~may~~ shall exceed 28.5 feet on an upslope lot and 35 feet to the adjacent ridge on a downslope lot, 24 feet within 20 feet of a front property line on an upslope lot, and 24 feet at a rear setback line, measured to the adjacent natural or finished grade, whichever is lower. One foot of additional building height in the front and the rear is allowed if the portion of the building above the 24-foot height limit is setback one foot, up to the maximum height limits established for upslope lots (28.5 feet) and downslope lots (35 feet).
 - (c) ~~Where a ridge lot is too flat to allow placement of a roof of a building or structure down from the ridgeline~~ Where the Planning Commission approves the placement of a structure so that its roofline extends into a ridgeline scenic corridor because of a particular topographical feature or the location of the site and because there is no other suitable building location on the site, no part of the roof of the structure may shall extend more than 15 feet above the lowest elevation of the adjacent ridgeline and the maximum horizontal dimension above this elevation shall not exceed 20 feet.

- (10) In order to minimize bulk and mass, long, unbroken rooflines and large, uninterrupted wall surfaces greater than 40 feet in length will be avoided shall be allowed only if there is a horizontal or vertical offset of at least five feet or dormers break up the visual mass.

- (11) A landscape documentation package shall be provided with the development application that complies with the standards of the Model Water Efficient Landscape which applies to all new residential development with 500 square feet or more of landscape area. If the total landscaped area is 2,500 square feet or less, an applicant may use the prescriptive compliance option provided in

Appendix D of the Model Water Efficient Landscape Ordinance to streamline the review process.

§.17.060.060 APPLICATION; PROCEDURES GENERALLY.

- (A) An application for a permit for building in the ridgeline scenic corridor shall be made in accordance with §§ 17.020.050 and 17.020.060 of this title.
- (B) The Planning Commission may approve, modify, deny or continue an application for design review of development in a ridge line scenic corridor and exceptions in accordance with the procedures, including procedures governing notice of public hearings, as set forth herein. The Planning Commission may impose reasonable conditions of approval, provided those conditions of approval are needed to ensure compliance with objective development and design standards.

§.17.060.070 APPROVAL OF DESIGN REVIEW APPLICATION; REQUIRED FINDINGS.

In approving or conditionally approving an application for design review of a structure in a ridgeline scenic corridor, the Planning Commission ~~must~~ shall make the following findings:

- (A) Other suitable building locations are not available on the site; and/or
- (B) The visual impact of the proposed structure on significant view corridors has been minimized and the project substantially conforms to the criteria in § 17.060.040.

§.17.060.080 APPROVAL OF APPLICATION FOR EXCEPTION; REQUIRED FINDINGS.

In approving an application for an exception, the Planning Commission ~~must~~ shall make the following findings:

- (A) The exception is the minimum necessary for use and enjoyment of the property;
- (B) The exception is necessary due to a particular topographical feature or location of the property; and
- (C) Granting the exception results in a project which meets the intent of § 17.060.070.

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CHAPTER 17.072: HILL AREA RESIDENTIAL DEVELOPMENT OVERLAY ZONE

Section

- 17.072.010 Purpose
- 17.072.020 Applicability
- 17.072.030 Development permit required
- 17.072.040 Development permit; procedural requirements
- 17.072.050 Uses permitted without a development permit
- 17.072.060 Referral to Planning Commission
- 17.072.070 Design review procedures
- 17.072.080 Development permit application; contents
- 17.072.090 Development standards
- 17.072.100 Planning Commission action
- 17.072.110 Development permit; required findings for approval
- 17.072.120 Appeal
- 17.072.130 Reapplication
- 17.072.140 Time limits; extensions

§.17.072.010 PURPOSE.

- (A) It is the purpose of the hill area residential development overlay zone to provide review of and objective standards for development proposed for undeveloped land in hill areas.
- (B) It is the intent of this chapter to accomplish the following:
 - (1) Encourage maximum retention of natural topographic features such as drainage ways, streams, slopes, ridgelines, rock outcroppings, vistas, natural plant formation and trees;
 - (2) Minimize grading of hillside areas;
 - (3) Provide a safe means of ingress and egress for vehicular and pedestrian traffic to and within hillside areas;
 - (4) Minimize water runoff and soil erosion problems during and after construction;
 - (5) Prevent loss of life, reduce injuries and property damage and minimize economic dislocations from geologic hazards; and
 - (6) Ensure that infill development on hillside lots is of a size and scale appropriate to the property and is consistent with other properties in the vicinity under the same zone classification.
 - (7) Provide incentives for creation of permanent open space with low impact clustered residential development.

§.17.072.020 APPLICABILITY.

Properties zoned RS-6, RS-7.5, RD 5.5-7, RM, RM-S, PDD, SF-RMP, UR-7, or UR-10, 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; (an undeveloped roadway is an unpaved or paper road which must be improved.)

§.17.072.030 DEVELOPMENT PERMIT REQUIRED.

Except for uses listed in § 17.072.050, land in the HRD overlay zone may not be used or developed until plans for development have been subject to design review to ensure compliance with objective development and design standards and approved by the ~~town~~ Planning Commission, and a hill area residential development permit is issued.

§.17.072.040 DEVELOPMENT PERMIT; PROCEDURAL REQUIREMENTS.

The procedural requirements for obtaining the hill area residential development permit are as follows:

- (A) Submission of a development plan to the Planning Commission;
- (B) Public hearing before the Planning Commission, with notice thereof given pursuant to the provisions of § 17.004.070; and
- (C) Approval of the hill area residential development permit pursuant to § 17.072.110 of this chapter, subject to appeal to the Town Council under § 17.072.120.

§.17.072.050 USES PERMITTED WITHOUT A DEVELOPMENT PERMIT.

The following uses are permitted outright in the HRD overlay zone:

- (A) Additions to existing structures provided that the addition is not a 50 percent or greater remodel, as prescribed ~~defined~~ in § 17.016.040 of this title;
- (B) Accessory structures under 200 square feet in area;
- (C) Accessory dwelling units and junior accessory dwelling units meeting the requirements of Chapter 17.048;
- (D) Fences and retaining walls (under four feet); and
- (E) Maintenance and repair of existing structures.

§.17.072.060 REFERRAL TO PLANNING COMMISSION.

- (A) Projects requiring a hill area residential development permit shall be reviewed by the Planning Commission.
- (B) The Planning Commission shall address the following issues using objective development and design standards established in this title:
 - (1) The visual impact of the structure upon view corridors found to be significant;
 - (2) The size, scale, siting and design of the proposed structure;
 - (3) Compliance with standards for ridgeline-related development established by Chapter 17.060 and standards for low-impact clustered development pursuant to § 17.072.090 (H);
 - (4) Materials and color of the structure; and
 - (5) Landscaping.

§.17.072.070 DESIGN REVIEW PROCEDURES.

- (A) Projects shall be reviewed pursuant to the procedures set forth in Chapter 17.020 of this title.
- (B) A separate application for design review shall be required.

§.17.072.080 DEVELOPMENT PERMIT APPLICATION; CONTENTS.

The submittal shall include the following information:

- (A) Completed application made by owner or owners of the land involved, or any agent thereof, on forms prescribed by the town accompanied by fees established by resolution of the Town Council;
- (B) Topographical and boundary survey signed by a licensed surveyor showing:
 - (1) Contours at five-foot intervals;
 - (2) Property lines and dimensions;
 - (3) Native vegetation (freestanding trees over six inches in diameter and all stands); and
 - (4) Existing structures including fences and retaining walls.
- (C) Site plan showing:
 - (1) Location of existing and new structures including fences, driveways and retaining walls;
 - (2) New on-site drainage facilities and necessary off-site improvements;
 - (3) Easements existing and proposed; if none exist, a notation of this must be made;
 - (4) Sanitary sewer, water and storm drainage lines labeled with their sizes; and
 - (5) Points of access.
 - (6) Relation of the site plan, existing structures, and proposed structures to ridges identified in the General Plan, scenic highways, and significant view corridors if the

proposed development is within 150 feet horizontal distance or 100 feet vertical distance of an adjacent ridgeline.

- (D) Fairfax Tree Committee report and permit if tree removal is requested;
- (E) Report by a registered civil engineer specializing in soils and foundations, including:
 - (1) Site soil drainage;
 - (2) Relevant watershed boundaries;
 - (3) Relationship of the proposed construction to drainage patterns in the vicinity and the cumulative effects of runoff;
 - (4) Site geology and the safety of proposed construction; and
 - (5) Foundation adequacy.
- (F) A grading and erosion control plan;
- (G) Elevations, floor plans and roof plans;
- (H) Exterior finishes and materials;
- (I) Landscape plan delineating natural and planted areas and generic types of landscape materials to be used; and
- (J) Profiles and photographic visual simulations showing relationship between proposed structures and adjacent off-site improvements and ridges and the required setbacks (150 feet horizontal distance and 100 feet vertical distance from an adjacent ridge).

§.17.072.090 DEVELOPMENT AND DESIGN STANDARDS.

The following objective development and design standards shall apply to new development in the HRD overlay zone:

- (A) *Fire management.* Projects must comply with the town's Fire Code.
- (B) *Geologic hazards.* Construction shall not be permitted on identified seismic or geologic hazard areas such as on slides, on natural springs, or on identified fault zones, without approval from the town engineer, based on acceptable soils and geologic reports. Development shall be prohibited in areas determined by the Town Engineer to be geotechnically unstable based on a report by a licensed soils engineer where the Planning Commission determines that the corrective work would be inconsistent with the purpose and the intent of this chapter.
- (C) *Topographical.*
 - (1) Graded slopes shall be sculptured and contoured to blend with natural terrain. Cuts and fills shall not exceed one foot or rise for each one and one-half feet of run without the approval of the Town Engineer.
 - (2) The grading plan shall include preventative measures to reduce dust generation, protection of trees and other significant natural features.
 - (3) Retaining structures shall be shown in plan and elevation. Height of retaining structures shall be minimized. Planting and choice of materials shall be used to visually integrate the structures with natural surroundings.

- (4) Grading plans shall include erosion control and revegetation programs. Where erosion potential exists, silt traps or other engineering solutions may be required. The timing of grading and construction shall be controlled by the Town Engineer or other staff designated by the Town Engineer to avoid failure during construction. No initial grading shall be done during the rainy season, from October 1 through April 1.
- (D) *Ecological.* Projects shall be designed to minimize disruption of existing ecosystems. Removal, changes or construction which will destroy important or rare vegetation and/or wildlife habitats shall be avoided.
- (1) Removal of any tree, as the term is defined in § 8.28.020, shall be subject to issuance of a tree removal permit as required by Chapter 8.28 of this code.
 - (2) In areas of diverse wildlife habitat as delineated on the General Plan Wildlife Habitat and Diversity Map, disruption of trees, shrubs and natural vegetative cover shall be minimized.
 - (3) No development is permitted 50 feet either side of high water centerline measured perpendicular to the high-water mark away from the centerline. Water quality and natural conditions shall be maintained.
- (E) *Landscaping.* Landscaping shall minimally disturb natural areas and shall be compatible with native plant settings. Where appropriate use is determined by the Planning Commission, fire-resistant and drought-resistant species shall be utilized. Planting shall not obstruct views or alter solar energy access of nearby properties.
- (1) A landscape documentation package shall be provided with the development application that complies with the standards of the Model Water Efficient Landscape Ordinance which applies to all new residential development with 500 square feet or more of landscape area. If the total landscaped area is 2,500 square feet or less, an applicant may use the prescriptive compliance option provided in Appendix D of the Model Ordinance to streamline the review process. Under this option, turf shall not exceed 25 percent of the landscape area.
 - (2) No fill, grading, or construction shall be permitted within the dripline of any existing tree designated for preservation except as may be recommended by an arborist certified by the International Society of Arboriculture or a California-registered professional forester.
- (F) *Circulation.*
- (1) Roads shall be designed to meet the requirements of the Town Engineer, as set forth in the Subdivision Ordinance, and the Fire Department as set forth in the Fire Code.
 - (2) The Planning Commission may require parking areas to accommodate public and guest parking in addition to off-street parking for dwelling units.
 - (3) Off-street parking shall conform to the provisions of Chapter 17.052 of this title.
- (G) *Design.* Projects shall be designed to meet the criteria set forth in § 17.020.040 of this title.
- (H) *Low impact clustered development option.* ~~The~~ In order to enable the creation of permanent open space that will connect or expand existing open space, create wildlife

corridors, and preserve habitat for endangered species, the Planning Commission may approve a low impact clustered residential development in an HRD overlay zone on sites greater than one acre with an average slope greater than 15 percent that are identified in the General Plan Housing Element for housing development, subject to design review and the following standards:

- (1) Maximum density. The maximum number of units (MN) shall be determined by a slope density formula as follows, unless a different density is set in the General Plan or the applicable base zone:

$$\text{MN} = \frac{\text{Development site area (sq. ft.)}}{(10,000 + 1,200 \times (\text{average slope} - 15))}$$
- (2) Minimum lot size. The Planning Commission may approve lots that are less than the minimum lot size and dimensions that otherwise would be required by the base zoning district or overlay zone, provided that the overall density does not exceed the General Plan maximum for the site.
- (3) Gross building square footage. The maximum permitted gross building area for habitable space is limited to 3,500 square feet. Any garage space that exceeds 500 square feet shall be counted as habitable space.
- (4) Street layout. All new public streets and private streets shall meet the standards of § 16.24.040, with the following modifications:
 - (a) New street and driveway grades shall not exceed 18 percent unless an exception has been approved by the Planning Director and the Director of Public Works to allow street and driveway grades up to 25 percent.
 - (b) Streets and driveways with slopes over 15 percent shall be a permanent, durable, non-asphalt hardscape surface. Streets and driveways with slopes over 18 percent shall have grooves/scoring for traction.
 - (c) A transition shall be provided at the street and driveway apron to allow vehicles to safely transition to/from roadways and parking areas.
- (5) Emergency access. At least two means of emergency ingress and egress shall be provided to all clustered hillside developments with five or more lots. Existing fire roads providing access to open space areas shall be retained and maintained if this is determined necessary by the Fire Department.
- (6) Site layout and building design. All clustered development shall:
 - (a) Locate development along the lowest portion of the property away from ridgelines, adjacent to existing streets and/or on already disturbed land, to the extent feasible, to protect undeveloped areas;
 - (b) Use split level building terraces, pier foundations and stepped footings, as appropriate for the proposed building, to reduce grading and visual impacts and break up building mass;
 - (c) Site buildings with different floor elevations to achieve height variation;
 - (d) Design roofs with an offset of at least 18 inches, a change in pitch, or a gable every 60 linear feet;

- (e) Articulate facades to produce shadows through wall setbacks, recessed openings, porches, verandas, moderate overhangs, decks, balconies, and projecting windows;
 - (f) Not exceed the minimum roof slope standards of the International Residential Code, as adopted by the Town and avoid extended horizontal rooflines exceeding 40 feet; and
 - (g) Provide at least 200 cubic feet of enclosed, lockable private storage space for each dwelling unit, separate from the space required for off-street parking, with a minimum horizontal dimension of four feet.
- (7) Maximum building height. No part of a primary building shall exceed:
- (a) 28.5 feet on the upslope of a lot;
 - (b) 35 feet on the downslope of a lot;
 - (c) 24 feet within 20 feet of a front property line on an upslope lot; and
 - (d) 24 feet at a rear setback line, measured to the adjacent natural or finished grade, whichever is lower.
 - (e) One foot of additional building height in the front and the rear is allowed if the portion of the building above the 24-foot height limit is setback one foot.
 - (f) The maximum height for accessory dwelling units is established by Chapter 17.048.
- (8) Setbacks. The Planning Commission may approve varied setbacks to preserve natural features, including zero-side yard setbacks provided a minimum 10-foot separation is maintained between buildings, front setbacks are at least 10 feet, rear setbacks are at least 20 feet, and garage setbacks are at least 18 feet. Carports only have to meet the 10-foot front setback.
- (a) The subdivision map shall specify the location of each zero-lot line house on a hillside cluster development lot.
 - (b) If the side wall of a house is five feet or less from the property line, windows or other openings for habitable rooms that allow visibility into adjacent yards are prohibited. However, windows and openings that do not allow visibility into adjacent yards, such as a translucent window, are allowed.
 - (c) To allow design flexibility, structures may encroach into a required setback for 25 percent of the building length a distance not more than one half of the required yard or setback, if approved by the Planning Commission through design review, provided there is a compensating increase in the opposing setback (a five-foot reduction in a front yard setback would increase the rear yard setback by five feet).
- (9) Required permanent open space. At least 75 percent of the site must remain in its natural state and be preserved as permanent open space with a conservation easement, dedication or transfer to the Town, another public agency, or an open space trust, or other development restriction, that runs with the land and is approved by the Town Attorney, and recorded in the Marin County Recorder's Office. None of this land can be used to meet the requirements for common and private open space established by this chapter.

- (10) Allowable housing types. The Planning Commission may approve a variety of housing types, such as cluster cottage housing units, courtyard clusters, detached town homes, and tiny houses, as well as traditional single-family dwellings. Tiny houses shall meet the standards of § 17.138.520.
- (11) Minimum private open space as outdoor living area. Each lot shall have a minimum 200 square foot usable yard with a minimum dimension of not less than 10 feet.
- (12) Common facilities. A clustered development may include shared amenities for residents' use that are designed to offer recreational opportunities and foster social interaction. These may include common open space and a common house with a kitchen and dining area for residents and guests at least 150 square feet in size, laundry, and/or recreational spaces, as well as work space for artist studios and galleries with minimum horizontal dimensions of 12 feet.
- (13) A public access easement (or other development restriction that is approved by the Town Attorney) shall be used to establish new trails and trail connections to existing trails and public sidewalks to provide public access through open space parcels. The development restriction that runs with the land shall be recorded in the Marin County Recorder's Office.
- (14) Parking. Parking shall be provided as required by Chapter 17.052 and the following additional requirements.
 - (a) One guest parking space conveniently placed relative to the dwelling unit shall be provided for every five units. The Planning Commission, may approve:
 - (i) A reduction in order to minimize grading or avoid tree removal.
 - (ii) Allow for parking to be provided on-street in parking bays meeting the standards for parking on narrow streets set in § 10.04.060.
 - (b) The Planning Commission may allow one of the required resident parking spaces to be provided off-site in a common parking area that is within 200 feet of the main entrance to the dwelling unit.
- (15) Landscaping. All low impact clustered residential development shall
 - (a) Revegetate scarred or graded areas.
 - (b) On slopes of 2:1 or greater, select plant materials with deep rooting characteristics that will minimize erosion and reduce surface runoff. Subdividers also shall use a series of low retaining walls, with sub-drain lines, to increase planting areas, where feasible. This will reduce runoff and potential erosion.
 - (c) Use irregular spacing for new plants to achieve a natural appearance on graded slopes. Plant trees along contour lines in undulating groups to create grove effects which blur the distinctive line of the graded slopes, and plant shrubs of varying height between tree strands. Ground covers of native and introduced species are appropriate for slope erosion control.
 - (d) Submit a landscape documentation package that complies with the standards of the Model Water Efficient Landscape Ordinance which applies to all new residential development with 500 square feet or more of

landscape area. If the total landscaped area is 2,500 square feet or less, an applicant may use the prescriptive compliance option provided in Appendix D of the Model Ordinance to streamline the review process. Under this option, turf shall not exceed 25 percent of the landscape area.

§.17.072.100 PLANNING COMMISSION ACTION.

- (A) An application for a hill area residential development permit shall be acted upon by the Planning Commission within 180 days of the date the application is considered complete by the town unless a shorter approval timeframe is established by State law (see Chapters 17.026 and 17.027).
- (B) ~~Failure of the Planning Commission to act on the application within 180 days constitutes denial unless a continuation is agreed to by the Planning Commission and applicant.~~ As a condition of approval, the Planning Commission may change the location and configuration of lots and building sites to ensure compliance with objective standards and minimize grading, preserve public views of scenic corridors, reduce hazards to adjacent property, ensure adequate emergency ingress and egress, or conserve environmental resources.
- (C) An application shall be “deemed approved” under State law for failure to comply with required timeframes for approval.

§.17.072.110 DEVELOPMENT PERMIT; REQUIRED FINDINGS FOR APPROVAL.

Approval of a hill area residential development permit shall be pursuant to the following findings:

- (A) The proposed development is consistent with the general plan, other adopted codes, subdivision standards established in Title 16, objective zoning standards, and objective development and design standards, and policies of the town and is consistent with the purpose and intent of this title;
- (B) The site planning preserves identified natural features;
- (C) Based on the soils report finding, the site can be developed without geologic, hydrologic or seismic hazards;
- (D) Vehicular access and parking ~~are adequate~~ meet the requirements of Chapter 17.052 as modified by this chapter, Title 10, Title 12, and Title 16; and
- (E) The proposed development harmonizes with the surrounding residential development, meets the design review criteria of Chapter 17.020, ~~and~~ does not result in the deterioration of significant view corridors under the objective criteria established in Chapter 17.060, and if a low impact clustered residential development is proposed, the standards of § 17.072.090 (H) have been met.

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CHAPTER 17.124: UR UPLAND RESIDENTIAL ZONE

Section

- 17.124.010 Generally
- 17.124.020 Principal permitted uses and structures
- 17.124.030 Conditional uses and structures
- 17.124.040 Accessory uses and structures
- 17.124.050 Building site requirements
- 17.124.060 Height regulations
- 17.124.070 Yards
- 17.124.075 Driveway standards
- 17.124.080 Signs
- 17.124.090 Off-street parking
- 17.124.100 Traffic impact permit
- 17.124.110 Variances
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§.17.124.010 GENERALLY.

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§.17.124.020 PRINCIPAL PERMITTED USES AND STRUCTURES.

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§.17.124.030 CONDITIONAL USES AND STRUCTURES.

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§.17.124.040 ACCESSORY USES AND STRUCTURES.

Accessory uses in the UR zone are as follows:

- (A) Home occupations;
- (B) Cabanas, greenhouses, patios, ~~h~~ bath houses, tool sheds, playhouses, barbecue pits, fences, walkways, hedges and similar improvements and appurtenances;
- (C) Private garages, parking spaces and swimming pools for the exclusive use of the residents of the premises and their guests;
- (D) ~~One residential accessory dwelling unit or one junior accessory dwelling unit, which must be approved in accordance with the procedures and standards in Chapter 17.048 of this title~~ Up to two residential accessory dwelling units which may include one junior accessory dwelling unit, which shall be approved in accordance with the procedures and standards in Chapter 17.048 of this title; and
- (E) Short-term rental uses that include only one short-term rental unit per single-family zoned property contained within an existing structure permitted for residential use ~~as long as~~ if that structure is not an ADU/JADU created after January 1, 2020.

§.17.124.050 BUILDING SITE REQUIREMENTS.

Except as otherwise provided in §§ 17.044.030 through 17.044.050 of this title, a use permit must be first secured in the UR zone for any use occupancy or physical improvement failing to meet the following requirements.

- (A) Minimum building site area shall be identical to the acreage expressed in the Fairfax general plan classification for the site unless the Planning Commission approves a low impact clustered residential development under the provisions of § 17.072.090 (H).
- (B) Minimum width shall be 60 feet unless the Planning Commission approves a low impact clustered residential development under the provisions of § 17.072.090 (H).

§.17.124.060 HEIGHT REGULATIONS.

- (A) Except as otherwise permitted by variance, no building or structure occupied by a principal use on a lot having a slope of ten percent or less shall exceed a height of 28.5 feet nor contain more than two stories. On lots having a slope in excess of ten percent, no building or structure occupied by a principal use and situated on the downhill side of the street upon which it has its primary frontage shall exceed 35 feet in height, and if situated on the uphill side of the street, shall not exceed 28.5 feet in height nor contain more than three stories.
- (B)
 - (1) Except as otherwise permitted by variance or by the provisions of § 17.052.020 of this title, no accessory building or structure on any lot shall exceed 15 feet in height nor contain more than one story. The height of accessory dwelling units shall be governed by Chapter 17.048.
 - (2) Handrails required by the Uniform Building Code shall not be included in measuring height.

§.17.124.070 YARDS.

- (A) Except as otherwise permitted by variance, or by a low impact clustered residential development plan approved by the Planning Commission, each building site in the UR zone having a slope of not more than ten percent shall have yards as follows:
 - (1) A front and rear yard having a combined depth of not less than 25 feet, but neither having a depth of less than six feet; and
 - (2) Two side yards having a combined width of not less than 15 feet, but neither yard having a width of less than five feet.
- (B) Except as otherwise permitted by variance or by a low impact clustered residential development plan approved by the Planning Commission, each building site in the UR zone having a slope or more than ten percent shall have yards as follows:
 - (1) A front and a rear yard having a combined depth of not less than 35 feet, but the front yard having a depth of not less than six feet and the rear yard of not less than 12 feet; and
 - (2) Two side yards having a combined width of not less than 20 feet, but neither yard having a width of less than five feet.

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§.17.124.090 OFF-STREET PARKING.

Off-street parking spaces and facilities shall be provided in the UR zone as required or allowed by the provisions of Chapter 17.052 of this title unless modified for a low impact clustered residential development plan approved by the Planning Commission.

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