



TOWN OF FAIRFAX

STAFF REPORT

February 5, 2014

TO: Mayor and Town Council

FROM: Garrett Toy, Town Manager 
Jim Moore, Director of Planning and Building Services

SUBJECT: Adoption of an interim urgency zoning ordinance of the Town Council of the Town of Fairfax prohibiting approvals within the Highway Commercial (CH) zoning district during the pendency of the town's adoption of permanent zoning regulations and declaring the urgency thereof

RECOMMENDATION

- 1) Open/close public hearing
- 2) Adopt an interim urgency zoning ordinance of the Town Council of the Town of Fairfax prohibiting approvals within the Highway Commercial (CH) zoning district during the pendency of the town's adoption of permanent zoning regulations and declaring the urgency thereof

DISCUSSION

In April 2012, the Town adopted an update to its general plan (the Fairfax 2010-2030 General Plan). That document, which is the overarching land use authority enacted by the Town, directed that the entirety of the Highway Commercial (CH) zoning district be rezoned to Central Commercial (CC) (Land Use Element Program LU-7.1.1.2). As the Council knows, the CH zoning district was designed to cater to automobile uses (Fairfax Town Code § 17.096.010(B)), while the Central Commercial zoning district is designed to cater to and invite pedestrian uses (Fairfax Town Code § 17.100.010). The direction within the General Plan to rezone from CH to CC reflected one of the broader "key initiatives" of General Plan, which is to implement "[z]oning changes to preserve the character of the downtown area while incorporating residential uses, to reduce automobile use and encourage public transit and bicycle and pedestrian transportation modes." (General Plan, p.5.) This theme is found throughout the document (e.g., Policy C-1.3 of the Circulation Element directs decision-makers for the Town to "promote Pedestrian and bicycle circulation to ensure that automobile convenience does not compromise bicycle and pedestrian safety and convenience").

Staff has prepared an ordinance to effect the rezoning mandated by the General Plan, and has presented it to the Planning Commission for its review (January 30) and recommendation to the Council. While the Town Council will ultimately be asked to adopt the proposed rezoning, it takes time to comply with the requirements of the State Planning and Zoning Law. As a result, this moratorium is an interim measure meant to dovetail with the rezoning. While the proposed rezoning ordinance makes its way through the Planning Commission and Council, this urgency ordinance will prohibit the approval of any subdivision, use permit, variance, design review, sign application, or any other discretionary Town permit or approval required for properties located within the Highway Commercial (CH) zoning district. Projects that have received land use approvals from or have submitted completed applications to the Town within the last 90 days will be allowed to receive their

permits or continue through the approval process, respectively. Staff will be allowed to continue to issue building permits under the moratorium.

As a moratorium, the ordinance considered by Council this evening will initially be effective for only 45 days, though it may be extended, if necessary. Staff is moving with all diligence to have the rezoning amendment arrive at Council for its review and adoption as soon as practicable. Once the rezoning is complete, there will be no further need for the moratorium and it will be allowed to expire.

FISCAL IMPACT

None

ATTACHMENTS:

Exhibit A - Urgency Interim Ordinance No. 776

Exhibit B – Map of CH zones

35 **WHEREAS**, to the extent that property owners within the CH zone have submitted a completed
36 application for or sought and received discretionary land use approvals from the Town within the
37 last 90 days and have not yet completed the work necessary to fully realize the approved use, it is
38 not the intention of the Town to forestall or hinder any work necessary to perfect said uses; and

39 **WHEREAS**, Government Code § 65858 provides that a town council may adopt, by a four-
40 fifths vote, as an urgency measure, an interim ordinance prohibiting any uses that may be in
41 conflict with a general plan or zoning measures that the town is considering or studying or
42 intends to study within a reasonable time; and

43 **WHEREAS**, the Town Council finds that in order to protect the public health, safety, and
44 welfare, while the rezoning contemplated above is completed, it is necessary to impose a
45 moratorium on the approval of any subdivision, use permit, variance, design review, sign
46 application, or any other entitlement for use which is required in order to comply with the
47 Town’s zoning ordinances, or any other discretionary Town permit or approval for the
48 construction, expansion, replacement, modification or alteration of any facilities on any property
49 located within the Highway Commercial (CH) zoning district.

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

51 **SECTION 1:** Adoption as Urgency Interim Zoning Ordinance. This interim ordinance
52 is adopted as an urgency interim zoning ordinance pursuant to the provisions of Government
53 Code Sections 65858(a), and shall be effective immediately upon its adoption. Based upon the
54 findings set forth in Section 6 of this interim ordinance, the Town Council finds and determines
55 that the adoption of this interim ordinance as an urgency ordinance is necessary for the
56 immediate preservation of the public peace, health or safety.

57 **SECTION 2:** Moratorium Established. The Town of Fairfax hereby establishes an
58 interim moratorium on approval of any subdivision, use permit, variance, design review, sign
59 application, or any other entitlement for use which is required in order to comply with the
60 Town’s zoning ordinances, or any other discretionary Town permit or approval for the
61 construction, expansion, replacement, modification or alteration of any facilities on any property
62 located within the Highway Commercial (CH) zoning district.

63 **SECTION 3.** Moratorium Defined. Notwithstanding any other ordinance or provision
64 of the Fairfax Town Code, no application for any subdivision, use permit, variance, design
65 review, sign application, or any other entitlement for use which is required in order to comply
66 with the Town’s zoning ordinances, or any other discretionary Town permit or approval for the
67 construction, expansion, replacement, modification or alteration of any facilities on any property
68 located within the Highway Commercial (CH) zoning district shall be approved during the term
69 of this interim ordinance. The foregoing notwithstanding, any development project within the
70 Highway Commercial (CH) zoning district for which discretionary land use approvals have been
71 applied for and the application deemed complete by staff or have been affirmatively been issued

72 by the Town within ninety days of the effective date of this Urgency Interim Ordinance shall not
73 be subject to this Urgency Interim Ordinance.

74 **SECTION 4.** Moratorium Term. This interim ordinance shall take effect immediately
75 upon adoption, and this interim ordinance shall expire, and the moratorium established hereby
76 shall terminate, forty-five (45) days after the date of its adoption, unless extended by the Town
77 Council at a regularly noticed public hearing pursuant to California Government Code Section
78 65858.

79 **SECTION 5.** Report. Pursuant to Government Code Section 65858(d), Town staff shall
80 prepare and submit for Town Council adoption, at least ten (10) days prior to the expiration of
81 this interim ordinance, or any extension hereof, a written report describing the measures taken to
82 alleviate the conditions which led to the adoption of this interim ordinance.

83 **SECTION 6:** Urgency Findings. The Town Council finds and determines that the
84 immediate preservation of the public health, safety and welfare requires that this ordinance be
85 enacted as an urgency ordinance pursuant to Government Code Section 65858. The Town is
86 currently in the process of re-zoning all properties zoned Highway Commercial (CH) zone to the
87 Central Commercial (CC) zone. As set forth above, the principally and conditionally permitted
88 uses as between the two zones vary considerably, with each reflecting the types of uses to which
89 it is designed to cater. Without this urgency ordinance, approval for new uses within the existing
90 Highway Commercial zoning district may be sought that would conflict with the use regulations
91 or development standards ultimately adopted with respect to such properties upon their rezoning
92 to Central Commercial. In addition, in the absence of this moratorium, approval may be sought
93 for uses that cater to automobiles rather than pedestrians, thus conflicting with the General Plan's
94 vision for the development of this part of the Town, as set forth above. Therefore, this
95 Ordinance is necessary for the immediate preservation of the public peace, health, safety and
96 welfare and its urgency is hereby declared.

97 **SECTION 7:** Severability. If any section, subsection, sentence, clause, or phrase of this
98 ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of
99 competent jurisdiction, such decision shall not affect the validity of the remaining portions of the
100 ordinance. The Town Council hereby declares that it would have passed this ordinance and each
101 section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that anyone or
102 more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

103 The foregoing ordinance was duly adopted at a regular meeting of the Fairfax Town Council,
104 held in said Town on the 5th day of February, 2014, by the following vote, to wit:

105 AYES:
106 NOES:
107 ABSENT:
108

TOWN OF FAIRFAX

Zoning Map



TOWN OF FAIRFAX
 142 BOLINAS ROAD, FAIRFAX, CALIFORNIA 94930
 (415) 453-1584 / FAX (415) 453-1618

ZONING DISTRICTS

COMMERCIAL ZONES

- CC - Central Commercial
- CH - Highway Commercial
- CL - Light Commercial
- CS - Service Commercial
- CR - Recreational Commercial

RESIDENTIAL ZONES

- RD - 5.5 - 7 - Residential
- RS - 6 - Single Family Residential
- RS - 7.5 - Single Family Residential
- RM - Multi-Family Residential
- PDD - Planned Development District
- UR - 7 - Upland Residential (7ac/du)
- UR - 10 - Upland Residential (10ac/du)

*RS - 6 - zoning determined by arrowwood settlement agreement recorded 5/28/91

OPEN AREA ZONE

- O-A - Open Space

(Consult Fairfax Zoning Ordinance for detailed Zone descriptions)

OTHER

- Municipal Boundaries
- Fairfax Parcels Boundaries
- Creeks

Summary of Amendments

Date	Ordinance Number	Description/Summary
3/13/97	302	Established land use zones, official zoning ordinance
3/9/01	483	Amend zoning to SMI district from RD 5.5/7 along WFOB
3/11/05	530	PDD zone for Summit House (MPN's 1-8234), 1-10045, 02, 03, 5-21104
9/15/07	556	Reverse portion of Acacia Rd from RD 5.5/7 to RS - 6
8/14/09	584	Establish OA Zone - Deer Park School
12/9/09	687	Establish Special Residential Zones UR-10 & UR-7
8/12/10	632	PDD preserve Shadow Creek Subdivision

