



TOWN OF FAIRFAX

STAFF REPORT

February 13, 2014

TO: Mayor and Town Council

FROM: Garrett Toy, Town Manager *GT*
Jim Moore, Director of Planning and Building Services
Linda Neal, Principal Planner

SUBJECT: Introduction and first reading by title only of Ordinance No. 778, Amending Town Code Title 4 (Business Taxes, Licensed, and Regulations), Section 5.52.080(A), And Title 17 (Zoning), Sections 17.012.010, 17.012.030, 17.12.040, 17.012.050, 17.12.080, 17.012.090, 17.012.100, 17.012.110, 17.012.140, 16.012.160, 17.092.010, 17.104.010, And Chapters 17.096 and 17.104; And Adding Section 17.012.170 And Chapter 17.130

RECOMMENDATION

- 1) Adopt a Resolution Adopting An Addendum To A Previously Adopted Mitigated Negative Declaration With Respect To Proposed Ordinance No. 778
- 2) Introduce and waive the first reading of Ordinance No. 778 amending certain sections of the Town Code and Zoning Ordinance to eliminate the Highway Commercial Zone District and amend the other affected sections of Business Taxes, License and Regulations and Zoning Ordinance to bring the affected portions of the Town Code into conformance with the relevant portions of the 2010-2030 Fairfax General Plan (GP).

DISCUSSION

Under state law, a zoning ordinance amendment can only be effected by the passage of another ordinance. Therefore, in order to bring the Zoning Ordinance into conformance with the changes dictated by the General Plan (including adopting the revised Zoning Map that was included as part of the General Plan document), an ordinance is needed to amend the existing language of the Town Code. That ordinance is before the Town Council this evening for its consideration.

Previously, at its January 30th, 2014 meeting, the Planning Commission held a duly noticed public hearing on the proposed Draft Ordinance, took public testimony, and adopted Resolution Numbers 14-01 and 14-02 recommending that the Town Council adopt an Addendum to the Mitigated Negative Declaration (e.g., CEQA) previously provided adopted for the 2010–2030 GP and the proposed Ordinance, respectively.

AGENDA ITEM # 1

The zoning districts that will be affected by the Project are the existing Highway Commercial (CH), the Central Commercial (CC), the Service Commercial (CS), and Public Domain (PD), as depicted on the attached Zoning Map. The effects of the rezoning are more fully discussed in the attached staff report, minutes, and exhibits from the Planning Commission meeting.

ENVIRONMENTAL REVIEW

An ordinance such as this is considered a 'project' under the California Environmental Quality Act (CEQA). Under CEQA, one of various types of environmental review documents will be determined to be appropriate, depending on the circumstances surrounding each project. Here, the proposed ordinance works to implement particular mandates of the 2010-2030 General Plan. For the General Plan, an Initial Study, Mitigated Negative Declaration (MND), and Mitigation Monitoring and Reporting Program (MMRP) were prepared to study that document's environmental impacts.

On April 4, 2012, the Fairfax Town Council adopted the MND and MMRP and subsequently adopted the 2010-1030 General Plan. Section 15164 of CEQA Guidelines allows the Town to prepare an addendum to an adopted MND if only minor technical changes or additions are necessary or if none of the conditions described in § 15162 of the CEQA Guidelines calling for the preparation of a subsequent EIR or negative declaration have occurred. The Planning Commission has determined that an addendum is the appropriate environmental review document and recommends the addendum's approval by Council.

FISCAL IMPACT

None at this time

ATTACHMENTS

Proposed Ordinance No. 778

Resolution 14-11 Adopting an Addendum to a Previously Adopted Mitigated Negative Declaration with Respect to Proposed Ordinance No. 778

Exhibit A: Staff report and attachments from the January 30, 2014 Planning Commission meeting

Exhibit B: Existing and proposed Zoning Maps

Exhibit C: Draft Minutes of the Planning Commission January 30, 2014 meeting

ORDINANCE NO. 778

AMENDING TOWN CODE TITLE 5 (BUSINESS TAXES, LICENSES, AND REGULATIONS), SECTION 5.52.080(A), AND TITLE 17 (ZONING), SECTIONS 17.012.010, 17.012.030, 17.12.040, 17.012.050, 17.12.080, 17.012.090, 17.012.100, 17.012.110, 17.012.140, 16.012.160, 17.092.010, 17.104.010, AND CHAPTERS 17.096 AND 17.104; AND ADDING SECTION 17.012.170 AND CHAPTER 17.130

WHEREAS, all towns and cities within the State of California are required by law to adopt a general plan; and

WHEREAS, in 2012, the Town of Fairfax completed its first revision of its general plan in over 35 years; and

WHEREAS, the potential impacts to the environment associated with the proposed update to the general plan were studied in accordance with the California Environmental Quality Act ("CEQA," as codified at Public Resources Code §§ 21000, *et seq.*, and as further governed by the CEQA Guidelines, 14 Cal.Code of Regs. §§ 15000, *et seq.*), and a Mitigated Negative Declaration and Mitigation and Monitoring Plan were prepared for the proposed Fairfax 2010-2030 General Plan (the "General Plan");

WHEREAS, on April 4, 2012, the Town Council of the Town of Fairfax adopted the Mitigated Negative Declaration and Mitigation and Monitoring Plan prepared for the General Plan, and subsequently adopted the General Plan; and

WHEREAS, the General Plan includes Figure LU-1 ('Fairfax General Plan Map') and Figure LU-2 ('Fairfax Zoning'), both of which include Public Domain (PD) and Central Commercial (CC) zones, and neither of which include a Highway Commercial (CH) zone; and

WHEREAS, General Plan Land Use Program LU-7.1.1.2 Plan directed that all properties within the Town zoned as Commercial Highway (CH) be rezoned to Central Commercial (CC); and

WHEREAS, General Plan Land Use Element Program LU-8.1.1.3 and Housing Element Program H-2.1.1.2 directed that the real property commonly known as 10 Olema (Assessor's Parcel Number 001-104-012) be rezoned to Planned Development District (PDD); and

WHEREAS, General Plan Land Use Element Program LU-8.1.1.14 and Housing Element Program H-2.1.1.1 directed that the real property commonly known as 2626 Sir Francis Drake Boulevard (Assessor's Parcel Numbers 174-070-050 and 174-070-017) be rezoned to Planned Development District (PDD); and

WHEREAS, General Plan Land Use Element Program LU-8.1.1.5 and Housing Element Program H-4.1.1.1 directed that the real property commonly known as the School Street Plaza (Assessor's Parcel Number 002-112-13) be rezoned to Planned Development District (PDD); and

WHEREAS, California Government Code § 65860(C) requires towns and cities to amend their zoning ordinances to conform to their respective general plans; and

WHEREAS, the Planning Department has prepared this proposed amendment to the Zoning Ordinance of the Fairfax Town Code in order to implement General Plan dictates set forth above.

The Town Council of the Town of Fairfax does ordain as follows:

SECTION 1: Fairfax Town Code, Title 5 ('Business Taxes, Licenses, and Regulations), Division II ('Specific Business Regulations'), Chapter 5.52 ('Medical Marijuana Dispensaries'), Section 5.52.080 ('Limitation on Location of Dispensary'), Subsection A is hereby amended to read as follows:

(A) A dispensary shall be located only within a Central Commercial CC or Light Commercial CL area, as designated in the General Plan and zoning map.

SECTION 2: Fairfax Town Code, Title 17 ('Zoning'), Chapter 17.012 ('Zone Districts Established'), Section 17.012.010 ('Established') is amended to read as follows:

In order to classify, regulate, restrict and segregate the uses of land and building; to regulate and restrict the height and bulk of buildings; to regulate the area of yards and other open spaces about buildings; to regulate the percentage of a lot which may be occupied by a building or structure, and to otherwise regulate the use or development of land and premises, the following land use zones are established to be known and designated as:

- (A) RS-7.5 single-family residential zone;
- (B) RS-6 single-family residential zone;
- (C) RD 5.5-7 residential zone;
- (D) RM multiple-family residential zone;
- (E) CL limited commercial zone;
- (F) Reserved;
- (G) CC central commercial zone;
- (H) CS service commercial zone;
- (I) CR commercial recreation zone;
- (J) PDD planned development district;
- (K) SF-RMP single-family residential master plan zone;
- (L) O-A open area zone;
- (M) UR upland residential zone; and
- (N) PD public domain

SECTION 3: Fairfax Town Code, Title 17 ('Zoning'), Chapter 17.012 ('Zone Districts Established'), Section 17.012.030 ('Discrepancies'), is hereby amended to read as follows:

In case of any discrepancy between the designation of land on the ‘zoning map’ as lying within a particular zone and the designation of land in §§ 17.012.040 through 17.012.170 as being within the same zone, the zoning map shall control.

SECTION 4: Fairfax Town Code, Title 17 (‘Zoning’), Chapter 17.012 (‘Zone Districts Established’), Section 17.012.040 (‘Boundaries; Generally’), is hereby amended to read as follows:

Each of the zones designated in §§ 17.012.050 through 17.012.170 shall have included within it the land area specified.

SECTION 5: Fairfax Town Code, Title 17 (‘Zoning’), Chapter 17.012 (‘Zone Districts Established’), Section 17.012.050 (‘Boundaries; RS-7.5 Zone’) is hereby amended to read as follows:

There is included within the RS-7.5 zone the following real property shown and designated upon the Assessor’s books on file in the office of the County Assessor, County of Marin, State of California, on August 1, 1969, and more specifically designated as follows:

<i>Book</i>	<i>Page, Block</i>	<i>Parcels</i>
1	15, 0	03, 12
1	16, 0	05, 09
1	17, 1	All parcels
1	17, 2	All parcels
1	17, 3	All parcels
1	24, 1	All parcels
1	25, 1	All parcels, except 01 and 02
1	26, 1	All parcels
1	26, 2	All parcels

SECTION 6: Fairfax Town Code, Title 17 (‘Zoning’), Chapter 17.012 (‘Zone Districts Established’), Section 17.012.080 (‘Boundaries; RM Zone’) is hereby amended to read as follows:

There is included within the RM zone the following real property shown and designated upon the Assessor’s books on file in the office of the County Assessor, County of Marin, State of California, on August 1, 1969, and more specifically designated as follows:

<i>Book</i>	<i>Page, Block</i>	<i>Parcels</i>
1	14, 4	02, 03, 04, 11, 12
1	14, 8	01, 02, 03, 04, 10
1	15, 0	19 through 27, inclusive, and 28, 29, 30, 31
1	25, 1	01, 02
2	01, 2	03 through 06, inclusive, and 10, 11, 13
2	02, 3	14, 15, 16, 22, 25, 26, 27, 28, 29, 31
2	10, 1	03 through 09, inclusive, and 15, 19

2	10, 4	16
2	11, 1	04, 05, 09, 09
2	11, 2	02, 03, 08, 09, 10, 12
174	05, 0	20, 30, 31, 36, 57

SECTION 7: Fairfax Town Code, Title 17 ('Zoning'), Chapter 17.012 ('Zone Districts Established'), Section 17.012.090 ('Boundaries; CL Zone') is hereby amended to read as follows:

There is included within the CL zone the following real property shown and designated upon the Assessor's books on file in the office of the County Assessor, County of Marin, State of California, on August 1, 1969, and more specifically designated as follows:

<i>Book</i>	<i>Page, Block</i>	<i>Parcels</i>
2	04, 1	34, 36

SECTION 8: Fairfax Town Code, Title 17 ('Zoning'), Chapter 17.012 ('Zone Districts Established'), Section 17.012.100 ('Boundaries; CH Zone') is hereby amended to read as follows:

§ 17.012.100 RESERVED.

SECTION 9: Fairfax Town Code, Title 17 ('Zoning'), Chapter 17.012 ('Zone Districts Established'), Section 17.012.110 ('Boundaries; CC Zone') is hereby amended to read as follows:

<i>Book</i>	<i>Page, Block</i>	<i>Parcels</i>
1	18, 1	01
1	22, 7	01, 02
1	22, 1	12
1	23, 5	08, 10, 11
1	22, 3	09 through 12, inclusive, and 19
1	18, 3	04, 08, 10, 12 through 17, inclusive
1	23, 6	53 through 56, inclusive
1	22, 6	29, 32, 34, 35, 40, 41, 48, 49
2	11, 7	01
2	12, 7	01, 02
2	11, 3	08
2	21, 1	01 through 07, inclusive and 15
2	10, 1	13
2	11, 6	04, 06, 07
2	21, 3	03 through 11, inclusive and 23
2	10, 4	03 through 08, inclusive, and 18, 19
2	12, 1	03 through 07, inclusive, and 10, 11, 18 through 21, inclusive
2	13, 1	07, 09, 12, 13, 14, 15

2	12, 2	01, 02, 25 through 34, inclusive, and 37
2	11, 5	01 through 07, inclusive, and 09, 10, 13, 14, 15, 16, 17, 20
2	12, 3	66 through 75, inclusive

SECTION 10: Fairfax Town Code, Title 17 ('Zoning'), Chapter 17.012 ('Zone Districts Established'), Section 17.012.140 ('Boundaries; PDD Zone'), is hereby amended to read as follows:

There is included within the PDD zone the following real property shown and designated upon the Assessor's books on file in the office of the County Assessor, County of Marin, State of California, on August 1, 1969, and as updated from time to time, and more specifically designated as follows:

<i>Book</i>	<i>Page, Block</i>	<i>Parcels</i>
1	10, 4	12
1	16, 0	01, 02, 03
1	18, 3	19
1	27, 1	14, 16
2	11, 2	13
174	05, 0	60
174	21, 0	1 through 11, inclusive
174	07, 0	17, 50
174	11, 1	All parcels
174	17, 0	All parcels

SECTION 11: Fairfax Town Code, Title 17 ('Zoning'), Chapter 17.012 ('Zone Districts Established'), Section 17.012.160 ('Boundaries; UR Zone'), is hereby amended to read as follows:

There is included within the UR zone the following real property shown and designated upon the Assessor's books on file in the office of the County Assessor, County of Marin, State of California, on July 1, 1991, and more specifically designated as follows:

<i>Book</i>	<i>Page, Block</i>	<i>Parcels</i>	<i>Zone</i>
174	07, 0	17	UR 7
1	15, 0	12	UR 10
1	16, 0	09	UR 10
1	25, 1	31	UR 10
2	18, 1	03	UR 10
2	18, 1	04	UR 10
2	18, 1	05	UR 10
2	18, 1	06	UR 10
2	18, 1	12	UR 10
2	18, 1	15	UR 10
2	18, 1	17	UR 10

2	18, 1	20	UR 10
2	18, 1	21	UR 10
2	07, 1	01	UR 7
2	07, 1	03	UR 7
2	07, 1	04	UR 7

SECTION 12: Fairfax Town Code, Title 17 ('Zoning'), Chapter 17.012 ('Zone Districts Established') is amended to add a new Section 17.012.170 ('Boundaries; PD Zone') to read as follows:

§ 17.012.170 BOUNDARIES; PD ZONE.

There is included within the PD zone the following real property shown and designated upon the Assessor's books on file in the office of the County Assessor, County of Marin, State of California, on August 1, 1969, and more specifically designated as follows:

<i>Book</i>	<i>Page, Block</i>	<i>Parcels</i>
1	13, 1	09, 47
2	11, 2	07
2	11, 4	01 through 05, inclusive
2	11, 3	04, 05, 06
2	11, 5	11, 12, 18, 19
2	10, 2	01, 02, 03, 06, 11, 12
2	10, 3	01, 02, 03

SECTION 13: Fairfax Town Code, Title 17 ('Zoning'), Chapter 17.020 ('Design Review Regulations'), Section 17.020.030 ('Applicability'), Subsection B, is hereby amended to read as follows:

(B) New construction in Central Commercial, Limited Commercial, Service Commercial, Multiple Residential, Planned Development District, Single Family-Residential Master Plan zones, duplexes in RD 5.5-7 zones and structures in the Ridgeline Scenic Corridor, as required in Chapter 17.060, and residences which have a distance of more than ten feet from the ground to the lowest point of complete enclosure.

SECTION 14: Fairfax Town Code, Title 17 ('Zoning'), Chapter 17.092 ('CL Limited Commercial Zone'), Section 17.092.010 ('Purpose'), Subsection A is hereby amended to read as follows:

(A) The CL limited commercial zone provides a location for uses which may be incompatible with the high density characteristics of the central commercial zone.

SECTION 15: Fairfax Town Code, Title 17 ('Zoning'), Chapter 17.096 ('CH Highway Commercial Zone') is hereby amended to read as follows:

§ 17.096 RESERVED.

SECTION 16: Fairfax Town Code, Title 17 ('Zoning'), Chapter 17.104 ('CS Central Commercial Zone') is hereby amended to read as follows:

CHAPTER 17.104: CS SERVICE COMMERCIAL ZONE

SECTION 17: Fairfax Town Code, Title 17 ('Zoning'), Chapter 17.104 ('CS Service Commercial Zone'), Section 17.104.010 ('Generally') is hereby amended to read as follows:

No premises in the CS service commercial zone may be used for any purpose or in any manner, except as set forth in this chapter.

SECTION 18: Fairfax Town Code, Title 17 ('Zoning') is amended to add a new Chapter 17.130 ('PD Public Domain Zone') to read as follows:

CHAPTER 17.130 PD Public Domain Zone

- 17.130.010 Generally
- 17.130.020 Principal permitted uses and structures
- 17.130.030 Conditional uses and structures
- 17.130.035 Procedure for Planning Director Use Determination
- 17.130.040 Uses prohibited
- 17.130.050 Building site requirements
- 17.130.060 Height regulations
- 17.130.070 Yards
- 17.130.080 Signs
- 17.130.090 Off-street parking
- 17.130.100 Traffic impact permit

§ 17.130.010 GENERALLY.

(A) No premises in the PD open area zone may be used for any purpose or in any manner except as set forth in this chapter.

(B) All structures, physical improvements and exterior physical modification of building are subject to design review.

§ 17.130.020 PRINCIPAL PERMITTED USES AND STRUCTURES.

Uses within the PD zone are restricted to the following:

- (A) Public or civic buildings, including maintenance or corporation yards;
- (B) Public parking areas;
- (C) Public schools and preschools;
- (D) Public parks, playgrounds and recreation areas;
- (E) Post offices and related facilities;
- (F) Fire stations and related facilities;
- (G) Public utility or public service uses;

- (H) Museums, libraries, and cultural institutions; and
- (I) Hospitals.

§ 17.130.030 CONDITIONAL USES AND STRUCTURES.

The following uses are permitted upon the securing of a use permit in each case, which use permit if granted shall prescribe conditions as are necessary to assure the public health, safety, and welfare are preserved:

- (A) Other uses determined by the Planning Commission as equivalent to those listed in § 17.130.020, but requiring regulation of location, extent or operation because of some unique characteristic; and
- (B) Private schools, day care centers or nurseries.

§ 17.130.035 PROCEDURE FOR PLANNING DIRECTOR USE DETERMINATION.

(A) Uses not specifically listed in §§ 17.130.020 and 17.130.030 are specifically prohibited unless a use determination by the Planning Director is made which finds the use not specifically listed is similar to another use permitted or conditionally permitted within the Public Domain zone.

(B) The criteria utilized by the Planning Director to determine if a proposed use is sufficiently similar to a permitted use as described in § 17.130.020 or 17.130.030, and can be processed as such is as follows:

- (1) The proposed use must be consistent with the General Plan; and
- (2) The proposed use must serve a public function and closely approximate a use described in § 17.130.020 or § 17.130.030 relative to the type of service provided;

§ 17.130.040 ACCESSORY USES AND STRUCTURES

Accessory uses and structures allowed in the PD zone shall consist of those activities which are characteristic of and usually found in connection with a principal use on the same premises and which are subordinate to, dependent on and economically and operationally integrated into the principal use, including but not limited to the following:

- (A) Parking garages and lots;
- (B) Storage for principal uses;
- (C) Offices for principal uses; and
- (D) Signs.

§ 17.130.050 USES PROHIBITED.

All uses of land unless set forth in §§ 17.130.020, 17.130.030, or 17.130.040 are specifically prohibited.

§ 17.130.060 BUILDING SITE REQUIREMENTS.

No building site requirements apply in the PD zone.

§ 17.130.070 HEIGHT REGULATIONS.

Height regulations in the PD zone are as follows: Except as otherwise permitted by variance, no structure shall be higher than 28.5 feet above natural grade, nor contain more than two stories.

§ 17.130.080 YARDS.

No yard requirements apply in the PD zone, except that if a parcel within the PD zone is immediately adjacent to a parcel bearing a zoning designation allowing residential dwelling units as a permitted use, such parcel within the PD zone shall be deemed to have a setback along the shared property line identical to the setback required by such adjacent zone.

§ 17.130.090 SIGNS.

No signs shall be established or maintained in the PD zone except as authorized or allowed under the provisions of Chapter 17.064 of this title.

§ 17.130.100 OFF-STREET PARKING.

(A) Off-street parking spaces and facilities shall be provided in the PD zone as required or allowed by the provision of Chapter 17.048 of this title.

(B) Off-street parking requirements for uses allowed in the PD zone but not listed in Chapter 17.048 of this code shall be determined on a case-by-case basis utilizing the information provided in the traffic study required by Chapter 17.056 of this code.

§ 17.130.110 TRAFFIC IMPACT PERMIT.

The provisions of the traffic impact permit, Chapter 17.056 of this title, are applicable to properties in the PD Zone.

SECTION 19: The Zoning Map depicted in Figure LU-2 of the Fairfax 2010-2030 General Plan, a true and correct copy of which is incorporated herein and attached hereto as Attachment 1, is hereby adopted as the official zoning map referenced in Town Code § 17.012.020, which may be amended from time to time.

SECTION 20: This ordinance shall be in full force and effect thirty days from and after its final passage and adoption.

SECTION 21: Copies of the foregoing 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 special meeting of the Fairfax Town Council, held in said Town on the ____ day of _____, 2014, and thereafter adopted at a regular meeting of the Town Council, held in said Town on the ____ day of _____, 2014, by the following vote:

AYES:

NOES:

ABSTAIN:

RESOLUTION 14-11

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX ADOPTING AN ADDENDUM TO A PREVIOUSLY ADOPTED MITIGATED NEGATIVE DECLARATION WITH RESPECT TO PROPOSED ORDINANCE NO. 778

WHEREAS, in 2012, the Town of Fairfax completed its first update of its general plan in over 35 years; and

WHEREAS, the potential impacts to the environment associated with the proposed update to the general plan were studied in accordance with the California Environmental Quality Act ("CEQA," as codified at Public Resources Code §§ 21000, *et seq.*, and as further governed by the CEQA Guidelines, 14 Cal. Code of Regs. §§ 15000, *et seq.*), and a Mitigated Negative Declaration and Mitigation and Monitoring Plan were prepared for the proposed Fairfax 2010-2030 General Plan (the "General Plan"); and

WHEREAS, on April 4, 2012, per Resolution No. 12-22, the Town Council of the Town of Fairfax adopted the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program prepared for the General Plan, and subsequently adopted the General Plan; and

WHEREAS, the General Plan includes Figure LU-1 ('Fairfax General Plan Map') and Figure LU-2 ('Fairfax Zoning'), both of which include Public Domain (PD) and Central Commercial (CC) zones, and neither of which include a Highway Commercial (CH) zone; and

WHEREAS, General Plan Land Use Element Program LU-8.1.1.3 and Housing Element Program H-2.1.1.2 directed that the real property commonly known as 10 Olema (Assessor's Parcel Number 001-104-012) be rezoned to Planned Development District (PDD); and

WHEREAS, General Plan Land Use Element Program LU-8.1.1.14 and Housing Element Program H-2.1.1.1 directed that the real property commonly known as 2626 Sir Francis Drake Boulevard (Assessor's Parcel Numbers 174-070-050 and 174-070-017) be rezoned to Planned Development District (PDD); and

WHEREAS, General Plan Land Use Element Program LU-8.1.1.5 and Housing Element Program H-4.1.1.1 directed that the real property commonly known as the School Street Plaza (Assessor's Parcel Number 002-112-13) be rezoned to Planned Development District (PDD); and

WHEREAS, Program LU-7.1.1.2 of General Plan directed that all properties within the Town zoned as Commercial Highway (CH) should be rezoned to Central Commercial (CC); and

WHEREAS, the General Plan likewise mandated that certain properties be zoned Public Domain (PD); and

WHEREAS, California Government Code § 65860(c) requires towns and cities to amend their zoning ordinances to conform to their respective general plans; and

WHEREAS, the Planning Department prepared a proposed amendment to the Fairfax Town Code in order to effect General Plan Program LU-7.1.1.2, as well as achieve conformance with the zoning map depicted in Figure LU-2, by drafting Ordinance No. 778 (the "Ordinance"); and

WHEREAS, the proposed Ordinance, among other actions, deletes all references to the CH zoning district and rezones all properties previously zoned CH to CC, as well as provides for a PD zoning district; and

WHEREAS, the Planning Department has conducted its own environmental review of the proposed Ordinance and determined that an Addendum to the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program prepared for the General Plan (the "Addendum") was the appropriate method by which to comply with CEQA; and

WHEREAS, a true and correct copy of the Addendum is attached to this Resolution as Attachment 1; and

WHEREAS, the Planning Department prepared and presented the Addendum to the Fairfax Planning Commission for its consideration at a duly-noticed public meeting held January 30, 2014; and

WHEREAS, on January 30, 2014, the Planning Commission reviewed the Addendum in light of the requirements of CEQA, and, by virtue of its passage of Resolution 14-01, recommended that the Town Council adopt the Addendum; and

WHEREAS, a true and correct copy of Planning Commission Resolution 14-02 is attached to this Resolution as Attachment 2; and

WHEREAS, at a duly noticed public hearing held on February 13, 2014, the Town Council was presented with a staff report on the Addendum, took public testimony on the same, and considered the Addendum in its own independent judgment.

NOW, THEREFORE, BE IT RESOLVED as follows:

Section 1. Per 14 C.C.R. § 15162, the Town Council of the Town of Fairfax finds that the Addendum to the previously adopted Mitigated Negative Declaration is the appropriate environmental document to analyze proposed Ordinance No. 778, inasmuch as (1) there are no substantial changes proposed in by the Ordinance that will require major revisions of the previous Mitigated Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the

severity of previously identified significant effects; (2) no substantial changes have occurred with respect to the circumstances under which the Ordinance is undertaken which will require major revisions of the previous Mitigated Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and (3) there is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous Mitigated Negative Declaration was adopted, showing that (a) the Ordinance will have one or more significant effects not discussed in the previous Mitigated Negative Declaration; (b) there are significant effects previously examined will be substantially more severe than shown in the previous Mitigated Negative declaration; (c) there are mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the Town declines to adopt the mitigation measure or alternative; or (d) mitigation measures or alternatives which are considerably different from those analyzed in the previous Mitigated Negative Declaration would substantially reduce one or more significant effects on the environment, but the Town declines to adopt the mitigation measure or alternative.

Section 2. Based on the findings contained in this Resolution, the Addendum, and all other evidence in the record, the Town Council, in the exercise of its own independent judgment, adopts the Addendum prepared in conjunction with Ordinance No. 778 and attached hereto as Attachment A.

The foregoing resolution was duly introduced and adopted at a meeting of the Town Council of the Town of Fairfax held in said Town on the 13th day of February, 2014, by the following vote:

AYES:
NOES:
ABSTAIN:

DAVID WEINSOFF, Mayor

Attest:

Michele Gardner, Town Clerk

ADDENDUM TO MITIGATED NEGATIVE DECLARATION FOR
THE FAIRFAX 2010-2030 GENERAL PLAN

I. INTRODUCTION

As further explained below, the proposed project considered herein is an ordinance that will enact a series of amendments to the Fairfax Town Code. These amendments are necessary to bring the affected Town Code sections into conformance with the adopted Fairfax 2010-2030 General Plan.

II. PROJECT INFORMATION

A. APPROVED PROJECT

In 2012, the Town Council for the Town of Fairfax (the "Town") held a public hearing to consider the Fairfax 2010-2030 General Plan (the "General Plan"). The General Plan consists of eight elements: Land Use, Circulation, Housing¹, Town Center, Open Space, Conservation, Safety, and Noise. Collectively, these elements provide the blueprint for the future development of the Town.

The General Plan dictated a number of actions to be taken by the Town in order to implement the vision set forth in the document. Among these actions were certain revisions to the Town Code, particularly with regard to the rezoning of all parcels then designated as Highway Commercial (HC) to Central Commercial (CC), and the inclusion of the Public Domain (PD) zoning district in the zoning map. These actions were analyzed in a Mitigated Negative Declaration (the "MND") and a Mitigation Monitoring and Reporting Program (the "MMRP") prepared for the General Plan. True and correct copies of the MND and MMRP are attached to and incorporated within this Addendum as Attachment 1.

On April 4, 2012, the Town Council approved the MND and adopted the MMRP by adoption of Resolution 12-22. It subsequently adopted the General Plan through the same resolution.

B. PROPOSED PROJECT

The Town staff has now prepared an ordinance to enact a series of amendments to the Town Code to implement particular dictates of the General Plan. Staff has prepared a table comparing the applicable provisions of the General Plan and the proposed Town Code amendments that constitute the proposed project. This table is attached as Attachment 2 to this Addendum. The proposed amendments consist of:

1. Rezoning all CH-zoned properties to CC;
2. Deleting references to the now-obsolete CH zone in other sections of the Town Code;

¹ The Housing Element was subsequently updated by the Town Council's adoption of the Housing Element Update on October 22, 2013

3. Providing that any discrepancies between the zoning map and zoning ordinance text be resolved in conformance with the zoning map;
4. Clarifying the name of the Service Commercial zoning district where erroneously listed;
5. Adding a Public Domain zoning district to the zoning ordinance text and map; and
6. Adopting an official zoning map to conform to the zoning map that appears in the General Plan.

Each of these amendments is necessary to align the zoning ordinance in the Town Code with the General Plan.

III. ANALYSIS

A. CEQA FRAMEWORK

Section 15164 of the California Environmental Quality Act (CEQA) Guidelines allows for a lead agency to prepare an addendum to an adopted negative declaration or environmental impact report (EIR) if only minor technical changes or additions are necessary or if none of the conditions described in § 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred. Pursuant to 14 C.C.R. § 15162, no subsequent negative declaration shall be prepared for the project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

- (1) Substantial changes are proposed in the project that will require major revisions of the previous negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or,
- (3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:
 - a. The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
 - b. Significant effects previously examined will be substantially more severe than shown in the previous EIR;
 - c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
 - d. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant

effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

This Addendum evaluates the proposed Town Code amendments and demonstrates that the amendments do not meet any of the requirements set forth in 14 C.C.R. § 15162. This Addendum shall be considered by the decision making body prior to making a decision on the adoption of the proposed Town Code amendments. Per 14 C.C.R. § 15164(c), the Addendum need not be, and thus has not been, circulated for public review.

B. REVIEW OF ENVIRONMENTAL IMPACTS AND DETERMINATION

Staff has analyzed the proposed Ordinance, all relevant changes in circumstances, and any new information since the adoption of the previous Initial Study and MND to determine if any new environmental impacts could occur. The environmental analysis and conclusions provided in the MND remain current and applicable to the proposed project. All potential impacts in the CEQA Environmental Checklist were considered during the preparation of this Addendum, and it has been determined that no impacts would result from the amendments made to the Town Code by virtue of the proposed Ordinance. Nothing in the proposed Ordinance will impact aesthetics, agriculture and forestry resources, air quality, biological resources, cultural resources, geology and soils, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, land use and planning, mineral resources, noise, population and housing, public services, recreation, transportation and traffic, utilities and service systems or mandatory findings of significance.

Further, none of the conditions outlined in 14 C.C.R. § 15162 have arisen. Specifically:

- (1) Substantial changes are proposed in the project that will require major revisions of the previous negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

The proposed Ordinance implements particular zoning amendments expressly dictated or contemplated by the General Plan and thus already studied in the Initial Study and MND approved in April 2012. The proposed Ordinance does not include any substantial changes to the General Plan mandates that will require major revisions of the previous MND due to the involvement of new significant environmental effects, nor will it lead to a substantial increase in the severity of any previously identified significant effects.

- (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

The General Plan and the MND that analyzed it, were prepared and approved in April 2012. Staff has determined that no substantial changes have occurred with respect to the circumstances under which the proposed Ordinance is now introduced and therefore no major revisions of the MND are necessary due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

(3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:

- a. The project will have one or more significant effects not discussed in the previous EIR or negative declaration;

After reviewing the proposed Ordinance, there is no indication that there is any new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the MND was adopted in 2012 that shows that the proposed Ordinance will have significant effects not discussed in the MND.

- b. Significant effects previously examined will be substantially more severe than shown in the previous EIR;

No significant effects previously identified will be made substantially more severe than shown in the previous MND.

- c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or

No mitigation measures or alternatives previously found to be infeasible would in fact be feasible and would substantially reduce one or more significant effects of the proposed Ordinance.

- d. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

The proposed Ordinance will not yield any significant effects necessitating mitigation measures or alternatives considerably different from those analyzed in the previous MND that would substantially reduce one or more significant effects on the environment, and the Town has not declined to adopt any such mitigation measure or alternative.

For these reasons, an addendum is the appropriate environmental review document, in accordance with the California Environmental Quality Act.

IV. CONCLUSION

Having evaluated the potential environmental impacts of the proposed Project, it has been determined that its implementation would not constitute a substantial change to the original project; involve new or more severe significant environmental effects than the project studied in the MND; require major revisions to the MND based on new or more severe environmental

impacts; or impose new or more severe impacts than were considered in the MND. Thus, this Addendum satisfies the requirements of CEQA. 14 C.C.R. §§ 15162 and 15164.

V. REFERENCES

The following documents are referenced within this Addendum and are available for review at the Fairfax Town Hall, located at 142 Bolinas Road, in Fairfax, California:

1. Resolution 12-22, Approving the Initial Study and Mitigated Negative Declaration, Adopting Findings Regarding Environmental Effects, and a Mitigation Monitoring and Reporting Program for the Fairfax 2010-2030 General Plan, and Adopting the Fairfax 2010-2030 General Plan (April 2012)
2. Fairfax 2010-2030 General Plan (April 2012)

Attachment 2 to Addendum to Mitigated Negative Declaration for
the Fairfax 2010-2030 General Plan

Ordinance XX-XX	Summary of proposed Town Code amendments (the “Proposed Project”)	Source of applicable General Plan dictate (from the “Approved Project”)
Section 1	Revises the list of established zoning districts in Town to (a) delete the Commercial Highway – CH zone, (b) correct the name of the Service Commercial – CS zone, and (c) add the Public Domain – PD zone	Figure LU-2 (‘Fairfax Zoning Map’), which (a) contains no CH zoned properties and identifies all properties previously zoned as CH as being rezoned CC, (b) references the CS zone, and (c) references the PD zone. In addition, Program LU-7.1.1.2 directs that all properties within the Town zoned CH be rezoned to CC.
Section 2	Revises the zoning ordinance to reflect the deletion of the CH zone and the reservation of this section for future use.	Figure LU-2 (‘Fairfax Zoning Map’) which contains no CH zoned properties and identifies all properties previously zoned as CH as being rezoned CC.
Section 3	Amends the list of parcels included in the CC zone to include those parcels previously included in the CH zone.	Figure LU-2 (‘Fairfax Zoning Map’) which contains no CH zoned properties and identifies all properties previously zoned as CH as being rezoned CC. In addition, Program LU-7.1.1.2 directs that all properties within the Town zoned CH be rezoned to CC.
Section 4	Amends the list of zoning districts within which design review shall be required to delete reference to CH zone.	Figure LU-2 (‘Fairfax Zoning Map’) which contains no CH zoned properties and identifies all properties previously zoned as CH as being rezoned CC. In addition, Program LU-7.1.1.2 directs that all properties within the Town zoned CH be rezoned to CC.
Section 5	Revises the purpose of the CL zone to delete reference to providing for uses “which may have difficulty in finding a proper location in the highway commercial zone.”	Figure LU-2 (‘Fairfax Zoning Map’) which contains no CH zoned properties and identifies all properties previously zoned as CH as being rezoned CC. In addition, Program LU-7.1.1.2 directs that all properties within the Town zoned CH be rezoned to CC.
Section 6	Revises the zoning ordinance to reflect the deletion of the CH zone and the reservation of this section for	Figure LU-2 (‘Fairfax Zoning Map’) which contains no CH zoned properties and identifies all properties previously

Ordinance XX-XX	Summary of proposed Town Code amendments (the “Proposed Project”)	Source of applicable General Plan dictate (from the “Approved Project”)
	future use.	zoned as CH as being rezoned CC. In addition, Program LU-7.1.1.2 directs that all properties within the Town zoned CH be rezoned to CC.
Section 7	Amends the list of zoning districts in which a Medical Marijuana Dispensary may be allowed to reflect deletion of CH zoning district.	Figure LU-2 (‘Fairfax Zoning Map’) which contains no CH zoned properties and identifies all properties previously zoned as CH as being rezoned CC. In addition, Program LU-7.1.1.2 directs that all properties within the Town zoned CH be rezoned to CC.
Section 8	Amends the zoning ordinance to reflect that, in the event of a discrepancy between the designation of land on the zoning map as being within a particular zone and the designation of land in the list of parcels comprising each zoning district, the zoning map shall control.	Figure LU-2 (‘Fairfax Zoning Map’).
Section 9	Corrects the name of the Service Commercial – CS zoning district with no substantive amendment	Figure LU-2 (‘Fairfax Zoning Map’), which references the Service Commercial zoning district.
Section 10	Corrects the name of the Service Commercial – CS zoning district with no substantive amendment	Figure LU-2 (‘Fairfax Zoning Map’), which references the Service Commercial zoning district.
Section 11	Adds a Public Domain zoning district to the zoning ordinance text.	Figure LU-2 (‘Fairfax Zoning Map’), which includes the PD zone.
Section 12	Adds the use and development standards for the PD zone.	Figure LU-2 (‘Fairfax Zoning Map’), which includes the PD zone.
Section 13	Adopts as the official Zoning Map that map shown in Figure LU-2 of the General Plan.	Figure LU-2 (‘Fairfax Zoning Map’).

RESOLUTION NO. 14-02

RECOMMENDING THE TOWN COUNCIL ADOPT ORDINANCE NO. ____ THEREBY AMENDING TOWN CODE TITLE 5 (BUSINESS TAXES, LICENSES, AND REGULATIONS), SECTION 5.52.080(A), AND TITLE 17 (ZONING), SECTIONS 17.012.010, 17.012.030, 17.12.040, 17.012.050, 17.12.080, 17.012.090, 17.012.100, 17.012.110, 17.012.140, 16.012.160, 17.092.010, 17.104.010, AND CHAPTERS 17.096 AND 17.104; AND ADDING SECTION 17.012.170 AND CHAPTER 17.130

WHEREAS, under Government Code § 65300, all towns and cities within the State of California are required by law to adopt a general plan; and

WHEREAS, in 2012, the Town of Fairfax completed its first update of its general plan in over 35 years; and

WHEREAS, the potential impacts to the environment associated with the proposed update to the general plan were studied in accordance with the California Environmental Quality Act ("CEQA," as codified at Public Resources Code §§ 21000, *et seq.*, and as further governed by the CEQA Guidelines, 14 Cal.Code of Regs. §§ 15000, *et seq.*), and a Mitigated Negative Declaration and Mitigation and Monitoring Plan were prepared for the proposed Fairfax 2010-2030 General Plan (the "General Plan");

WHEREAS, on April 4, 2012, through adoption of Resolution No. 12-22, the Town Council of the Town of Fairfax adopted the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program prepared for the General Plan, and subsequently adopted the General Plan; and

WHEREAS, the General Plan includes Figure LU-1 ('Fairfax General Plan Map') and Figure LU-2 ('Fairfax Zoning'), both of which include Public Domain (PD) and Central Commercial (CC) zones, and neither of which include a Highway Commercial (CH) zone; and

WHEREAS, General Plan Land Use Program LU-7.1.1.2 Plan directed that all properties within the Town zoned as Commercial Highway (CH) be rezoned to Central Commercial (CC); and

WHEREAS, General Plan Land Use Element Program LU-8.1.1.3 and Housing Element Program H-2.1.1.2 directed that the real property commonly known as 10 Olema (Assessor's Parcel Number 001-104-012) be rezoned to Planned Development District (PDD); and

WHEREAS, General Plan Land Use Element Program LU-8.1.1.14 and Housing Element Program H-2.1.1.1 directed that the real property commonly known as 2626 Sir Francis Drake Boulevard (Assessor's Parcel Numbers 174-070-050 and 174-070-017) be rezoned to Planned Development District (PDD); and

EXHIBIT # B

WHEREAS, General Plan Land Use Element Program LU-8.1.1.5 and Housing Element Program H-4.1.1.1 directed that the real property commonly known as the School Street Plaza (Assessor's Parcel Number 002-112-13) be rezoned to Planned Development District (PDD); and

WHEREAS, California Government Code § 65860(C) requires towns and cities to amend their zoning ordinances to conform to their respective general plans; and

WHEREAS, in order to effect the changes mandated by the General Plan as set forth above, the Planning Department has prepared a proposed Ordinance amending the Town Code (proposed Ordinance No. _____, a true and correct copy of which is attached to this Resolution as Attachment A); and

WHEREAS, the proposed Ordinance, among other actions, deletes all references to the CH zoning district and rezoning all properties previously zoned CH to CC, provides for a PD zoning district, identifies the parcels belonging in the PD zoning district, and adopts as the official zoning map that map depicted as Figure LU-2 in the General Plan; and

WHEREAS, the Planning Department has also conducted its own environmental review of the proposed Ordinance and determined that an Addendum to the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program prepared for the General Plan (the Addendum) is the appropriate method by which to comply with CEQA; and

WHEREAS, the Planning Department has prepared and presented the Addendum to the Fairfax Planning Commission, and the Planning Commission, by virtue of its adoption of Resolution No. _____, has recommended that the Town Council adopt the Addendum; and

WHEREAS, the Fairfax Planning Commission has heard a presentation on the proposed Ordinance, taken public testimony, and considered the entire record before it at a duly noticed meeting held on January 16th, 2014; and

WHEREAS, the Fairfax Planning Commission at the January 16th, 2014 public meeting determined that the proposed Ordinance brings the affected portions of the Zoning Ordinance into conformance with the 2010 – 2030 Fairfax General Plan.

NOW, THEREFORE, BE IT RESOLVED as follows:

Section 1. The Planning Commission hereby finds that proposed Ordinance No. _____ would bring the affected sections and chapters of the Town Code into conformance with the relevant portions of the General Plan.

Section 2. The Planning Commission thus forwards proposed Ordinance No. _____ Amending Town Code Title 5 (Business Taxes, Licenses, And Regulations), Section 5.52.080(A), And Title 17 (Zoning), Sections 17.012.010, 17.012.030, 17.12.040, 17.012.050, 17.12.080, 17.012.090, 17.012.100, 17.012.110, 17.012.140, 16.012.160, 17.092.010, 17.104.010, And Chapters 17.096 And 17.104; And Adding Section 17.012.170 And Chapter 17.130 to the Town Council with its recommendation that the Town Council review, introduce, and adopt the Ordinance.

The foregoing resolution was duly introduced and adopted on the 30th day of January, 2014, by the following vote:

AYES:

NOES:

ABSTAIN:

ATTEST:

Chairperson

James M. Moore
Director of Planning and Building Services

ORDINANCE NO. XX-XX

AMENDING TOWN CODE TITLE 5 (BUSINESS TAXES, LICENSES, AND REGULATIONS), SECTION 5.52.080(A), AND TITLE 17 (ZONING), SECTIONS 17.012.010, 17.012.030, 17.12.040, 17.012.050, 17.12.080, 17.012.090, 17.012.100, 17.012.110, 17.012.140, 16.012.160, 17.092.010, 17.104.010, AND CHAPTERS 17.096 AND 17.104; AND ADDING SECTION 17.012.170 AND CHAPTER 17.130

WHEREAS, all towns and cities within the State of California are required by law to adopt a general plan; and

WHEREAS, in 2012, the Town of Fairfax completed its first revision of its general plan in over 35 years; and

WHEREAS, the potential impacts to the environment associated with the proposed update to the general plan were studied in accordance with the California Environmental Quality Act ("CEQA," as codified at Public Resources Code §§ 21000, *et seq.*, and as further governed by the CEQA Guidelines, 14 Cal.Code of Regs. §§ 15000, *et seq.*), and a Mitigated Negative Declaration and Mitigation and Monitoring Plan were prepared for the proposed Fairfax 2010-2030 General Plan (the "General Plan");

WHEREAS, on April 4, 2012, the Town Council of the Town of Fairfax adopted the Mitigated Negative Declaration and Mitigation and Monitoring Plan prepared for the General Plan, and subsequently adopted the General Plan; and

WHEREAS, the General Plan includes Figure LU-1 ('Fairfax General Plan Map') and Figure LU-2 ('Fairfax Zoning'), both of which include Public Domain (PD) and Central Commercial (CC) zones, and neither of which include a Highway Commercial (CH) zone; and

WHEREAS, General Plan Land Use Program LU-7.1.1.2 Plan directed that all properties within the Town zoned as Commercial Highway (CH) be rezoned to Central Commercial (CC); and

WHEREAS, General Plan Land Use Element Program LU-8.1.1.3 and Housing Element Program H-2.1.1.2 directed that the real property commonly known as 10 Olema (Assessor's Parcel Number 001-104-012) be rezoned to Planned Development District (PDD); and

WHEREAS, General Plan Land Use Element Program LU-8.1.1.14 and Housing Element Program H-2.1.1.1 directed that the real property commonly known as 2626 Sir Francis Drake Boulevard (Assessor's Parcel Numbers 174-070-050 and 174-070-017) be rezoned to Planned Development District (PDD); and

WHEREAS, General Plan Land Use Element Program LU-8.1.1.5 and Housing Element Program H-4.1.1.1 directed that the real property commonly known as the School Street Plaza (Assessor's Parcel Number 002-112-13) be rezoned to Planned Development District (PDD); and

EXHIBIT # C

WHEREAS, California Government Code § 65860(C) requires towns and cities to amend their zoning ordinances to conform to their respective general plans; and

WHEREAS, the Planning Department has prepared this proposed amendment to the Zoning Ordinance of the Fairfax Town Code in order to implement General Plan dictates set forth above.

The Town Council of the Town of Fairfax does ordain as follows:

SECTION 1: Fairfax Town Code, Title 5 ('Business Taxes, Licenses, and Regulations), Division II ('Specific Business Regulations'), Chapter 5.52 ('Medical Marijuana Dispensaries'), Section 5.52.080 ('Limitation on Location of Dispensary'), Subsection A is hereby amended to read as follows:

(A) A dispensary shall be located only within a Central Commercial CC or Light Commercial CL area, as designated in the General Plan and zoning map.

SECTION 2: Fairfax Town Code, Title 17 ('Zoning'), Chapter 17.012 ('Zone Districts Established'), Section 17.012.010 ('Established') is amended to read as follows:

In order to classify, regulate, restrict and segregate the uses of land and building; to regulate and restrict the height and bulk of buildings; to regulate the area of yards and other open spaces about buildings; to regulate the percentage of a lot which may be occupied by a building or structure, and to otherwise regulate the use or development of land and premises, the following land use zones are established to be known and designated as:

- (A) RS-7.5 single-family residential zone;
- (B) RS-6 single-family residential zone;
- (C) RD 5.5-7 residential zone;
- (D) RM multiple-family residential zone;
- (E) CL limited commercial zone;
- (F) Reserved;
- (G) CC central commercial zone;
- (H) CS service commercial zone;
- (I) CR commercial recreation zone;
- (J) PDD planned development district;
- (K) SF-RMP single-family residential master plan zone;
- (L) O-A open area zone;
- (M) UR upland residential zone; and
- (N) PD public domain

SECTION 3: Fairfax Town Code, Title 17 ('Zoning'), Chapter 17.012 ('Zone Districts Established'), Section 17.012.030 ('Discrepancies'), is hereby amended to read as follows:

In case of any discrepancy between the designation of land on the 'zoning map' as lying within a particular zone and the designation of land in §§ 17.012.040 through 17.012.170 as being within the same zone, the zoning map shall control.

SECTION 4: Fairfax Town Code, Title 17 ('Zoning'), Chapter 17.012 ('Zone Districts Established'), Section 17.012.040 ('Boundaries; Generally), is hereby amended to read as follows:

Each of the zones designated in §§ 17.012.050 through 17.012.170 shall have included within it the land area specified.

SECTION 5: Fairfax Town Code, Title 17 ('Zoning'), Chapter 17.012 ('Zone Districts Established'), Section 17.012.050 ('Boundaries; RS-7.5 Zone') is hereby amended to read as follows:

There is included within the RS-7.5 zone the following real property shown and designated upon the Assessor's books on file in the office of the County Assessor, County of Marin, State of California, on August 1, 1969, and more specifically designated as follows:

<i>Book</i>	<i>Page, Block</i>	<i>Parcels</i>
1	15, 0	03, 12
1	16, 0	05, 09
1	17, 1	All parcels
1	17, 2	All parcels
1	17, 3	All parcels
1	24, 1	All parcels
1	25, 1	All parcels, except 01 and 02
1	26, 1	All parcels
1	26, 2	All parcels

SECTION 6: Fairfax Town Code, Title 17 ('Zoning'), Chapter 17.012 ('Zone Districts Established'), Section 17.012.080 ('Boundaries; RM Zone') is hereby amended to read as follows:

There is included within the RM zone the following real property shown and designated upon the Assessor's books on file in the office of the County Assessor, County of Marin, State of California, on August 1, 1969, and more specifically designated as follows:

<i>Book</i>	<i>Page, Block</i>	<i>Parcels</i>
1	14, 4	02, 03, 04, 11, 12
1	14, 8	01, 02, 03, 04, 10
1	15, 0	19 through 27, inclusive, and 28, 29, 30, 31
1	25, 1	01, 02
2	01, 2	03 through 06, inclusive, and 10, 11, 13
2	02, 3	14, 15, 16, 22, 25, 26, 27, 28, 29, 31
2	10, 1	03 through 09, inclusive, and 15, 19

2	10, 4	16
2	11, 1	04, 05, 09, 09
2	11, 2	02, 03, 08, 09, 10, 12
174	05, 0	20, 30, 31, 36, 57

SECTION 7: Fairfax Town Code, Title 17 ('Zoning'), Chapter 17.012 ('Zone Districts Established'), Section 17.012.090 ('Boundaries; CL Zone') is hereby amended to read as follows:

There is included within the CL zone the following real property shown and designated upon the Assessor's books on file in the office of the County Assessor, County of Marin, State of California, on August 1, 1969, and more specifically designated as follows:

<i>Book</i>	<i>Page, Block</i>	<i>Parcels</i>
2	04, 1	34, 36

SECTION 8: Fairfax Town Code, Title 17 ('Zoning'), Chapter 17.012 ('Zone Districts Established'), Section 17.012.100 ('Boundaries; CH Zone') is hereby amended to read as follows:

§ 17.012.100 RESERVED.

SECTION 9: Fairfax Town Code, Title 17 ('Zoning'), Chapter 17.012 ('Zone Districts Established'), Section 17.012.110 ('Boundaries; CC Zone') is hereby amended to read as follows:

<i>Book</i>	<i>Page, Block</i>	<i>Parcels</i>
1	18, 1	01
1	22, 7	01, 02
1	22,1	12
1	23, 5	08, 10, 11
1	22, 3	09 through 12, inclusive, and 19
1	18, 3	04, 08, 10, 12 through 17, inclusive
1	23, 6	53 through 56, inclusive
1	22, 6	29, 32, 34, 35, 40, 41, 48, 49
2	11, 7	01
2	12, 7	01, 02
2	11, 3	08
2	21, 1	01 through 07, inclusive and 15
2	10, 1	13
2	11, 6	04, 06, 07
2	21, 3	03 through 11, inclusive and 23
2	10, 4	03 through 08, inclusive, and 18, 19
2	12, 1	03 through 07, inclusive, and 10, 11, 18 through 21, inclusive
2	13, 1	07, 09, 12, 13, 14, 15

2	12, 2	01, 02, 25 through 34, inclusive, and 37
2	11, 5	01 through 07, inclusive, and 09, 10, 13, 14, 15, 16, 17, 20
2	12, 3	66 through 75, inclusive

SECTION 10: Fairfax Town Code, Title 17 ('Zoning'), Chapter 17.012 ('Zone Districts Established'), Section 17.012.140 ('Boundaries; PDD Zone'), is hereby amended to read as follows:

There is included within the PDD zone the following real property shown and designated upon the Assessor's books on file in the office of the County Assessor, County of Marin, State of California, on August 1, 1969, and as updated from time to time, and more specifically designated as follows:

<i>Book</i>	<i>Page, Block</i>	<i>Parcels</i>
1	10, 4	12
1	16, 0	01, 02, 03
1	18, 3	19
1	27, 1	14, 16
2	11, 2	13
174	05, 0	60
174	21, 0	1 through 11, inclusive
174	07, 0	17, 50
174	11, 1	All parcels
174	17, 0	All parcels

SECTION 11: Fairfax Town Code, Title 17 ('Zoning'), Chapter 17.012 ('Zone Districts Established'), Section 17.012.160 ('Boundaries; UR Zone'), is hereby amended to read as follows:

There is included within the UR zone the following real property shown and designated upon the Assessor's books on file in the office of the County Assessor, County of Marin, State of California, on July 1, 1991, and more specifically designated as follows:

<i>Book</i>	<i>Page, Block</i>	<i>Parcels</i>	<i>Zone</i>
174	07, 0	17	UR 7
1	15, 0	12	UR 10
1	16, 0	09	UR 10
1	25, 1	31	UR 10
2	18, 1	03	UR 10
2	18, 1	04	UR 10
2	18, 1	05	UR 10
2	18, 1	06	UR 10
2	18, 1	12	UR 10
2	18, 1	15	UR 10
2	18, 1	17	UR 10

2	18, 1	20	UR 10
2	18, 1	21	UR 10
2	07, 1	01	UR 7
2	07, 1	03	UR 7
2	07, 1	04	UR 7

SECTION 12: Fairfax Town Code, Title 17 ('Zoning'), Chapter 17.012 ('Zone Districts Established') is amended to add a new Section 17.012.170 ('Boundaries; PD Zone') to read as follows:

§ 17.012.170 BOUNDARIES; PD ZONE.

There is included within the PD zone the following real property shown and designated upon the Assessor's books on file in the office of the County Assessor, County of Marin, State of California, on August 1, 1969, and more specifically designated as follows:

<i>Book</i>	<i>Page, Block</i>	<i>Parcels</i>
1	13, 1	09, 47
2	11, 2	07
2	11, 4	01 through 05, inclusive
2	11, 3	04, 05, 06
2	11, 5	11, 12, 18, 19
2	10, 2	01, 02, 03, 06, 11, 12
2	10, 3	01, 02, 03

SECTION 13: Fairfax Town Code, Title 17 ('Zoning'), Chapter 17.020 ('Design Review Regulations'), Section 17.020.030 ('Applicability'), Subsection B, is hereby amended to read as follows:

(B) New construction in Central Commercial, Limited Commercial, Service Commercial, Multiple Residential, Planned Development District, Single Family-Residential Master Plan zones, duplexes in RD 5.5-7 zones and structures in the Ridgeline Scenic Corridor, as required in Chapter 17.060, and residences which have a distance of more than ten feet from the ground to the lowest point of complete enclosure.

SECTION 14: Fairfax Town Code, Title 17 ('Zoning'), Chapter 17.092 ('CL Limited Commercial Zone'), Section 17.092.010 ('Purpose'), Subsection A is hereby amended to read as follows:

(A) The CL limited commercial zone provides a location for uses which may be incompatible with the high density characteristics of the central commercial zone.

SECTION 15: Fairfax Town Code, Title 17 ('Zoning'), Chapter 17.096 ('CH Highway Commercial Zone') is hereby amended to read as follows:

§ 17.096 RESERVED.

SECTION 16: Fairfax Town Code, Title 17 ('Zoning'), Chapter 17.104 ('CS Central Commercial Zone') is hereby amended to read as follows:

CHAPTER 17.104: CS SERVICE COMMERCIAL ZONE

SECTION 17: Fairfax Town Code, Title 17 ('Zoning'), Chapter 17.104 ('CS Service Commercial Zone'), Section 17.104.010 ('Generally') is hereby amended to read as follows:

No premises in the CS service commercial zone may be used for any purpose or in any manner, except as set forth in this chapter.

SECTION 18: Fairfax Town Code, Title 17 ('Zoning') is amended to add a new Chapter 17.130 ('PD Public Domain Zone') to read as follows:

CHAPTER 17.130 PD Public Domain Zone

- 17.130.010 Generally
- 17.130.020 Principal permitted uses and structures
- 17.130.030 Conditional uses and structures
- 17.130.035 Procedure for Planning Director Use Determination
- 17.130.040 Uses prohibited
- 17.130.050 Building site requirements
- 17.130.060 Height regulations
- 17.130.070 Yards
- 17.130.080 Signs
- 17.130.090 Off-street parking
- 17.130.100 Traffic impact permit

§ 17.130.010 GENERALLY.

(A) No premises in the PD open area zone may be used for any purpose or in any manner except as set forth in this chapter.

(B) All structures, physical improvements and exterior physical modification of building are subject to design review.

§ 17.130.020 PRINCIPAL PERMITTED USES AND STRUCTURES.

Uses within the PD zone are restricted to the following:

- (A) Public or civic buildings, including maintenance or corporation yards;
- (B) Public parking areas;
- (C) Public schools and preschools;
- (D) Public parks, playgrounds and recreation areas;
- (E) Post offices and related facilities;
- (F) Fire stations and related facilities;
- (G) Public utility or public service uses;

- (H) Museums, libraries, and cultural institutions; and
- (I) Hospitals.

§ 17.130.030 CONDITIONAL USES AND STRUCTURES.

The following uses are permitted upon the securing of a use permit in each case, which use permit if granted shall prescribe conditions as are necessary to assure the public health, safety, and welfare are preserved:

- (A) Other uses determined by the Planning Commission as equivalent to those listed in § 17.130.020, but requiring regulation of location, extent or operation because of some unique characteristic; and
- (B) Private schools, day care centers or nurseries.

§ 17.130.035 PROCEDURE FOR PLANNING DIRECTOR USE DETERMINATION.

(A) Uses not specifically listed in §§ 17.130.020 and 17.130.030 are specifically prohibited unless a use determination by the Planning Director is made which finds the use not specifically listed is similar to another use permitted or conditionally permitted within the Public Domain zone.

(B) The criteria utilized by the Planning Director to determine if a proposed use is sufficiently similar to a permitted use as described in § 17.130.020 or 17.130.030, and can be processed as such is as follows:

- (1) The proposed use must be consistent with the General Plan; and
- (2) The proposed use must serve a public function and closely approximate a use described in § 17.130.020 or § 17.130.030 relative to the type of service provided;

§ 17.130.040 ACCESSORY USES AND STRUCTURES

Accessory uses and structures allowed in the PD zone shall consist of those activities which are characteristic of and usually found in connection with a principal use on the same premises and which are subordinate to, dependent on and economically and operationally integrated into the principal use, including but not limited to the following:

- (A) Parking garages and lots;
- (B) Storage for principal uses;
- (C) Offices for principal uses; and
- (D) Signs.

§ 17.130.050 USES PROHIBITED.

All uses of land unless set forth in §§ 17.130.020, 17.130.030, or 17.130.040 are specifically prohibited.

§ 17.130.060 BUILDING SITE REQUIREMENTS.

No building site requirements apply in the PD zone.

§ 17.130.070 HEIGHT REGULATIONS.

Height regulations in the PD zone are as follows: Except as otherwise permitted by variance, no structure shall be higher than 28.5 feet above natural grade, nor contain more than two stories.

§ 17.130.080 YARDS.

No yard requirements apply in the PD zone, except that if a parcel within the PD zone is immediately adjacent to a parcel bearing a zoning designation allowing residential dwelling units as a permitted use, such parcel within the PD zone shall be deemed to have a setback along the shared property line identical to the setback required by such adjacent zone.

§ 17.130.090 SIGNS.

No signs shall be established or maintained in the PD zone except as authorized or allowed under the provisions of Chapter 17.064 of this title.

§ 17.130.100 OFF-STREET PARKING.

(A) Off-street parking spaces and facilities shall be provided in the PD zone as required or allowed by the provision of Chapter 17.048 of this title.

(B) Off-street parking requirements for uses allowed in the PD zone but not listed in Chapter 17.048 of this code shall be determined on a case-by-case basis utilizing the information provided in the traffic study required by Chapter 17.056 of this code.

§ 17.130.110 TRAFFIC IMPACT PERMIT.

The provisions of the traffic impact permit, Chapter 17.056 of this title, are applicable to properties in the PD Zone.

SECTION 19: The Zoning Map depicted in Figure LU-2 of the Fairfax 2010-2030 General Plan, a true and correct copy of which is incorporated herein and attached hereto as Attachment 1, is hereby adopted as the official zoning map referenced in Town Code § 17.012.020.

SECTION 20: This ordinance shall be in full force and effect thirty days from and after its final passage and adoption.

SECTION 21: Copies of the foregoing 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 ____ day of _____, 2014, and thereafter adopted at a regular meeting of the Town Council, held in said Town on the ____ day of _____, 2014, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

RESOLUTION NO. 14-02

RECOMMENDING THE TOWN COUNCIL ADOPT ORDINANCE NO. ____ THEREBY AMENDING TOWN CODE TITLE 5 (BUSINESS TAXES, LICENSES, AND REGULATIONS), SECTION 5.52.080(A), AND TITLE 17 (ZONING), SECTIONS 17.012.010, 17.012.030, 17.12.040, 17.012.050, 17.12.080, 17.012.090, 17.012.100, 17.012.110, 17.012.140, 16.012.160, 17.092.010, 17.104.010, AND CHAPTERS 17.096 AND 17.104; AND ADDING SECTION 17.012.170 AND CHAPTER 17.130

WHEREAS, under Government Code § 65300, all towns and cities within the State of California are required by law to adopt a general plan; and

WHEREAS, in 2012, the Town of Fairfax completed its first update of its general plan in over 35 years; and

WHEREAS, the potential impacts to the environment associated with the proposed update to the general plan were studied in accordance with the California Environmental Quality Act ("CEQA," as codified at Public Resources Code §§ 21000, *et seq.*, and as further governed by the CEQA Guidelines, 14 Cal.Code of Regs. §§ 15000, *et seq.*), and a Mitigated Negative Declaration and Mitigation and Monitoring Plan were prepared for the proposed Fairfax 2010-2030 General Plan (the "General Plan");

WHEREAS, on April 4, 2012, through adoption of Resolution No. 12-22, the Town Council of the Town of Fairfax adopted the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program prepared for the General Plan, and subsequently adopted the General Plan; and

WHEREAS, the General Plan includes Figure LU-1 ('Fairfax General Plan Map') and Figure LU-2 ('Fairfax Zoning'), both of which include Public Domain (PD) and Central Commercial (CC) zones, and neither of which include a Highway Commercial (CH) zone; and

WHEREAS, General Plan Land Use Program LU-7.1.1.2 directed that all properties within the Town zoned as Commercial Highway (CH) be rezoned to Central Commercial (CC), and the Planning Commission looks forward to addressing all aspects of this zoning change in a timely manner; and

WHEREAS, General Plan Land Use Element Program LU-8.1.1.3 and Housing Element Program H-2.1.1.2 directed that the real property commonly known as 10 Olema (Assessor's Parcel Number 001-104-012) be rezoned to Planned Development District (PDD); and

WHEREAS, General Plan Land Use Element Program LU-8.1.1.14 and Housing Element Program H-2.1.1.1 directed that the real property commonly known as 2626 Sir Francis Drake Boulevard (Assessor's Parcel Numbers 174-070-050 and 174-070-017) be rezoned to Planned Development District (PDD); and

Attachment 2

WHEREAS, General Plan Land Use Element Program LU-8.1.1.5 and Housing Element Program H-4.1.1.1 directed that the real property commonly known as the School Street Plaza (Assessor's Parcel Number 002-112-13) be rezoned to Planned Development District (PDD); and

WHEREAS, California Government Code § 65860(C) requires towns and cities to amend their zoning ordinances to conform to their respective general plans; and

WHEREAS, in order to effect the changes mandated by the General Plan as set forth above, the Planning Department has prepared a proposed Ordinance amending the Town Code (proposed Ordinance No. _____, a true and correct copy of which is attached to this Resolution as Attachment A); and

WHEREAS, the proposed Ordinance, among other actions, deletes all references to the CH zoning district and rezoning all properties previously zoned CH to CC, provides for a PD zoning district, identifies the parcels belonging in the PD zoning district, and adopts as the official zoning map that map depicted as Figure LU-2 in the General Plan; and

WHEREAS, the Planning Department has also conducted its own environmental review of the proposed Ordinance and determined that an Addendum to the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program prepared for the General Plan (the Addendum) is the appropriate method by which to comply with CEQA; and

WHEREAS, the Planning Department has prepared and presented the Addendum to the Fairfax Planning Commission, and the Planning Commission, by virtue of its adoption of Resolution No. _____, has recommended that the Town Council adopt the Addendum; and

WHEREAS, the Fairfax Planning Commission has heard a presentation on the proposed Ordinance, taken public testimony, and considered the entire record before it at a duly noticed meeting held on January 30th, 2014; and

WHEREAS, the Fairfax Planning Commission at the January 30th, 2014 public meeting determined that the proposed Ordinance brings the affected portions of the Zoning Ordinance into conformance with the 2010 – 2030 Fairfax General Plan.

NOW, THEREFORE, BE IT RESOLVED as follows:

Section 1. The Planning Commission hereby finds that proposed Ordinance No. _____ would bring the affected sections and chapters of the Town Code into conformance with the relevant portions of the General Plan.

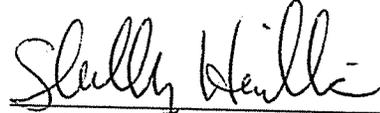
Section 2. The Planning Commission thus forwards proposed Ordinance No. _____ Amending Town Code Title 5 (Business Taxes, Licenses, And Regulations), Section 5.52.080(A), And Title 17 (Zoning), Sections 17.012.010, 17.012.030, 17.12.040, 17.012.050, 17.12.080, 17.012.090, 17.012.100, 17.012.110, 17.012.140, 16.012.160, 17.092.010, 17.104.010, And Chapters 17.096 And 17.104; And Adding Section 17.012.170 And Chapter 17.130 to the Town Council with its recommendation that the Town Council review, introduce, and adopt the Ordinance.

The foregoing resolution was duly introduced and adopted on the 30th day of January, 2014, by the following vote:

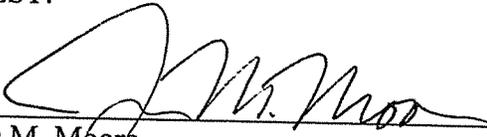
AYES:

NOES:

ABSTAIN:


Chairperson

ATTEST:


James M. Moore
Director of Planning and Building Services