



TOWN OF FAIRFAX

STAFF REPORT

May 7, 2014

TO: Mayor and Town Council

FROM: Garrett Toy, Town Manager *GT*

SUBJECT: Discuss/consider the process for future General Plan and Housing Element amendments

RECOMMENDATION

Direct staff to schedule a Council workshop to discuss possible amendments to the General Plan, including the Housing Element, to address inconsistencies between the zoning code and General Plan.

DISCUSSION

During the recent discussions regarding Ordinance No. 778 which converted CH zoned properties to CC, rezoned four properties PDD, and rezoned properties to PD, an issue was raised regarding the property known as the "Wall Property". The contention from proponents of the referendum petition was that the approval of Ordinance No. 778 somehow affected the Wall Property by changing the density to .25 unit/acre from .1 unit/acre. The proponents indicate that tables in the adopted Housing Element incorrectly list the density at .25 unit/acre even though the General Plan (GP) and Housing Element (HE) designation of UR-10 is correctly listed. The GP and current zoning text define UR-10 as 1 unit per 10 acres. The .25 unit/acre density is a clerical error on the tables and is considered errata.

Errata are common occurrence in GP and HE due to the length and complexity of the documents. While staff may simply correct any typographical errors in the documents, as the Town undertakes GP and HE amendments, we will also include correction of any typographical errors in those amendments to eliminate any uncertainty, especially regarding density.

Attached are three (3) redlines of the tables that will be replaced in the HE. Specifically, the following errata was identified and corrected: a) density under UR-10 has been revised to .10 units/acre, b) UR-7 density adjusted to .14 units/acre, and c) acreage for parcel 002-071-01 is 9.04 and not .04. It should be noted that the GP was approved in April 2012 and the HE in October 2013 which would mean the policies and tables were in place well before the consideration of Ordinance No. 778. Ordinance No. 778 did not revise any GP or HE policies, nor could it, as it is a zoning ordinance, not a GP amendment. With regard to the Wall Property, staff did review the current zoning code and discovered the Wall Property is incorrectly listed under two zoning designations: UR-10 and RS-7.5 (6 units/acre). Attached are copies of the section of the code. It appears the Wall Property was zoned RS-7.5 in the 1970's and rezoned to UR-10 in the 1990's by passage of Ordinance No. 607, but was inadvertently not removed from the RS-7.5 zoning table.

The adoption of Ordinance No. 778 did not rezone the Wall property. It did, however, set forth a general rule whereby discrepancies between the zoning text and zoning map would be resolved in favor of the zoning map. In the case of the Wall property, the newly adopted zoning map correctly shows its UR-10 designation. Future zoning code amendments will eliminate all references to parcel numbers and refer to the Zoning Map for zoning designations, as parcel numbers can change over time and it is difficult to track all the changes.

Staff has also conducted a preliminary review of the GP and HE documents and identified other inconsistencies or issues that will need to be addressed by amendments to the zoning code and/or GP and HE. Staff anticipates it will find more revisions as it moves through the amendment process.

To facilitate community discussion, staff recommends the Council *conduct a workshop* to discuss proposed amendments to the General Plan including the HE. The workshop would begin with an overview of the GP and its elements, including the HE, and lead into a discussion on possible amendments, including staff's recommendations. The community will be strongly encouraged to attend and participate in the workshop. Staff would also recommend that the workshops for the Town Center Plan be postponed until these more broad discussions on the General Plan can be conducted.

From the workshop, staff would compile a list of proposed amendments for the Council to discuss at a future meeting. At this meeting, the Council would select the specific revisions/amendments that would be processed in GP/HE amendments and/or zoning actions. These amendments will require public hearings at the Planning Commission and Town Council.

This will be a very time consuming process. At any time during the amendment process, the Council can always consider implementing moratoria for development in zones until proposed GP/HE and/or zoning amendments can take effect, but none are recommended at this time.

FISCAL IMPACT

None

Attachments:

Errata tables

Municipal Code Section 17.012.050 and 17.012.160

TABLE H-3. GENERAL PLAN LAND USE CATEGORIES PERMITTING RESIDENTIAL USE

General Plan Land Use Category	Zoning District(s)	Maximum Density (Units per Acre)	Typical Housing Type(s)
Central Commercial	CC	No maximum	Mixed-Use Development
Light Commercial	CL	No maximum	--
Service Commercial	CS	No maximum	--
Recreational Commercial	CR	No maximum	Second unit
Residential .25 du/acre	R-2, R-3, PUD	.25 du/acre	
Residential 1-6 du/acre	R-6	1-6 du/acre	
Residential 7-12 du/acre	SF-RMP	7-12 du/acre	
UR-7/UR-10	UR-7/UR-10	.1425 - .10 du/acre	Single-family dwelling
Planned Development District	PDD	No maximum	
Public Domain	PD	No maximum	

Source: Town of Fairfax Land Use Element, 2012; Town of Fairfax 2013.

As part of the recent General Plan update the Town rezoned all of the CH properties to CC, which allows residential units on the second floor “by-right” – rather than by Conditional Use Permit only, as is the case under CH.

Zoning Ordinance

Fairfax’s land use designations, as identified in the Zoning Ordinance, have been relatively stable for many years. The predominant designations are residential (RS-6) and (RD5.5-7) allowing single-family residences and duplexes at densities of 8 to 14 units per acre. In fact, because most of the lots in Fairfax are legal, “non-conforming” due to exceptionally small size, the density in many areas of the community far exceeds the zoning designation. Due to steep slopes and related narrow roads, as well as a general lack of undeveloped land, increasing density beyond the current maximums in established resi-

TABLE H-5 RESIDENTIAL DEVELOPMENT STANDARDS

Zoning Designation	RS-6	RS -7.5	RD 5.5-7	UR-7	UR-10	RM	SF-RMP	PDD	O-A	CL	CC
Max. Density (du/ac)	6	5	12	0.25 ¹⁴	0.25 ¹⁰	10	Determined during MP	See Note 3	No Maximum	No Maximum	
Min. Lot Size (sq. ft.) (10% slope or less)	6,000 sq ft	7,500 sq ft	5,500 sq ft (single-family) 7,000 sq ft (duplex)	7 acres	10 acres	7,500 sq ft	Determined during MP	5 acres	5 acres	20,000 sf	No Minimum
Min. Lot Size (sq. ft.) (10%–15% slope)	+300 sq ft per 1% slope increase	+300 sq ft per 1% slope increase	+300 sq ft per 1% slope increase	7 acres	10 acres	+600 sq ft per 1% slope increase	Determined during MP	5 acres	5 acres	20,000 sf	No Minimum
Min. Lot Size (sq. ft.) (15% slope or more)	+1,000 sq ft per 1% slope increase	+1,200 sq ft per 1% slope increase	+1,000 sq ft per 1% slope increase	7 acres	10 acres	10,500 sq ft	Determined during MP	5 acres	5 acres	20,000 sf	No Minimum
Minimum Lot Width (ft.)	60 ft	75 ft	60 ft	60 ft	60 ft	60 ft	Determined during MP	See Note 3	100 ft	75 ft	No Minimum
Min. Lot Width (10%-15%) (ft)	60 ft	75 ft	60 ft	60 ft	60 ft	+8 ft for each 600 sq ft	Determined during MP	See Note 3	100 ft	75 ft	No Minimum
Min. Lot Width (15% slope or more) (ft)	60 ft	75 ft	60 ft	60 ft	60 ft	100 ft	Determined during MP	See Note 3	100 ft	75 ft	No Minimum
Front Yard (ft.) (10% slope or less)	6 ft	10 ft	6 ft	6 ft	6 ft	10 ft ¹	Determined during MP	See Note 3	6 ft ⁴	0 ft	0 ft
Front Yard (ft.) (10% slope or more)	6 ft	6 ft	6 ft	6 ft	6 ft	10 ft ¹	Determined during MP	See Note 3	6 ft ⁵	0 ft	0 ft
Side Yard (ft.) (10% slope or less)	5 ft	5 ft	5 ft	5 ft	5 ft	10 ft ²	Determined during MP	See Note 3	5 ft ⁶	0 ft	0 ft
Side Yard (ft.) (10% slope or more)	5 ft	10 ft	5 ft	5 ft	5 ft	10 ft ²	Determined during MP	See Note 3	5 ft ⁷	0 ft	0 ft
Rear Yard (ft.) (10% slope or less)	6 ft	10 ft	6 ft	6 ft	6 ft	10 ft ¹	Determined during MP	See Note 3	6 ft ⁴	0 ft	0 ft
Rear Yard (ft.)	12 ft	15 ft	10 ft	10 ft	10 ft	10 ft ¹	Determined	See	12 ft ⁵	0 ft	0 ft

Zoning Designation	RS-6	RS -7.5	RD 5.5-7	UR-7	UR-10	RM	SF-RMP	PDD	O-A	CL	CC	
(10% slope or more)							during MP	Note 3				
Building Coverage (%)	35%	35%	35%	35%	35%	35%	Determined during MP	See Note 3		No Maximum	No Maximum	
Max. Bldg. Height (ft.) (10% slope or less)	28.5 ft above natural grade and 2 stories						35 ft	See Note 3	35 ft	28.5 ft above natural grade and 2 stories		
Max. Bldg. Height (ft.) (10% slope or more and uphill)	28.5 ft above natural grade and 3 stories						35 ft	See Note 3	35 ft	28.5 ft above natural grade and 3 stories		
Max. Bldg. Height (ft.) (10% slope or more and downhill)	35 ft above natural grade and 3 stories						35 ft	See Note 3	35 ft	35 ft above natural grade and 3 stories		
Parking (spaces/unit) – Studio	1 space								See Note 3	See 17.048 of Town Code	1 space	
Parking (spaces/unit)–1 bedroom or more	2 spaces and 1 guest space if legal on-street parking is not available along the immediate frontage of the property.							See Note 3	See 17.040 of Town Code	2 spaces and 1 guest space if legal on-street parking is not available along the immediate frontage of the property.		

MP = Master Plan

Notes:

1. Front and rear yard will have a combined depth of not less than 40 feet, with neither yard having a depth of less than 10 feet.
2. Side yards will have a combined width of not less than 25 feet, with neither yard having a depth of less than 10 feet.
3. Standards for area, coverage, light and air orientation, site planning, density, yard requirements, open spaces, parking and screening shall be governed by the standards of the residential, commercial or industrial zoning district(s) most similar in nature and function to the proposed planned development district (PDD) use(s), or by standards that the Planning Commission shall by resolution from time to time adopt.
4. Front and rear yard will have a combined depth of not less than 25 feet, with neither yard having a depth of less than 6 feet.
5. Front and rear yard will have a combined depth of not less than 35 feet, with the front yard having a depth of not less than six feet and the rear yard of not less than 12 feet;
6. Side yards will have a combined width of not less than 15 feet, with neither yard having a depth of less than 5 feet.
7. Side yards will have a combined width of not less than 20 feet, with neither yard having a depth of less than 5 feet.

TABLE H-12 INVENTORY OF SITES WITH POTENTIAL FOR RESIDENTIAL DEVELOPMENT

Site Name	APN	Acreage	Zoning	GP Land Use	Allowed Density	Proposed Capacity	Current Use
Vacant Sites							
001-150-12		68.05	UR-10	UR-10	.25,10 du/acre	6 above moderate units	Vacant
001-160-09		18.45	UR-10	UR-10	.25,10 du/acre	2 above moderate units	Vacant
001-251-31		11.5	UR-10	UR-10	.25,10 du/acre	1 above moderate unit	Vacant
002-071-01		09.04	UR-7	UR-7	.25,14 du/acre	1 above moderate unit	Vacant
002-181-03		4.78	UR-10	UR-10	..1025 du/acre	1 above moderate unit	Vacant
002-181-04		4.58	UR-10	UR-10	.25,10 du/acre	1 above moderate unit	Vacant
002-181-12		11.21	UR-10	UR-10	.25,10 du/acre	1 above moderate unit	Vacant
002-181-20		6.79	UR-10	UR-10	..1025 du/acre	1 above moderate unit	Vacant
002-181-21		11	UR-10	UR-10	.25,10 du/acre	1 above moderate unit	Vacant
002-181-22		.74	UR-10	UR-10	.25,10 du/acre	1 above moderate unit	Vacant
174-290-01		2.11	RS-6	Residential 1-6 du/acre	1-6 du/acre	1 above moderate unit	Vacant
174-290-03		1.69	RS-6	Residential 1-6 du/acre	1-6 du/acre	1 above moderate unit	Vacant

§ 17.012.030 DISCREPANCIES.

(A) 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 17.012.160 as being within the same zone, §§ 17.012.040 through 17.012.160 shall control.

(B) In case an Assessor's parcel is listed in §§ 17.012.040 through 17.012.160 as lying within the boundaries of two or more zones, the Planning Commission shall determine which zone will in fact include the Assessor's parcel within its boundaries, and the regulations of the zone so designated shall apply to the assessor's parcel.

(Prior Code, § 17.08.030) (Ord. 352, passed --1973)

§ 17.012.040 BOUNDARIES; GENERALLY.

Each of the zones designated in §§ 17.012.050 through 17.012.160 shall have included within it the land area specified.

(Prior Code, § 17.08.040) (Ord. 352, passed --1973)

§ 17.012.050 BOUNDARIES; RS-7.5 ZONE.

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	01, 02, 03, 05, 09
1	17, 1	All parcels
1	17, 2	All parcels
1	17, 3	All parcels
1	24, 1	All parcels

<i>Book</i>	<i>Page, Block</i>	<i>Parcels</i>
1	25, 1	All parcels, except 01 and 02
1	26, 1	All parcels
1	26, 2	All parcels

(Prior Code, § 17.08.050) (Ord. 352, passed --1973)

§ 17.012.060 BOUNDARIES; RS-6 ZONE.

There is included within the RS-6 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:

(A) All property in the Town of Fairfax not included within the boundaries of any other zone or district;

(B) All hill areas;

(C) Fairfax Manor;

(D) Bothin Park;

(E) Fairfax Park;

(F) Cascades;

(G) Westbrae, except 1-127-14 and 16;

(H) Deer Park;

(I) Wood Lane; and

(J) Fairfax Heights, except 1-224-01.

(Prior Code, § 17.08.060) (Ord. 352, passed --1973)

§ 17.012.070 BOUNDARIES; RD 5.5-7 ZONE.

There is included within the RD 5.5-7 zone the following real property shown and designated upon

<i>Book</i>	<i>Page, Block</i>	<i>Parcels</i>
1	22, 1	06
1	27, 1	14, 16
174	05, 0	60
174	06, 0	21, 25
174	07, 0	17
174	11, 1	All parcels
174	11, 2	All parcels
174	06, 0	15, 23, 24

(Prior Code, § 17.08.140) (Ord. 352, passed --1973; Am. Ord. 632, passed --1994)

§ 17.012.150 BOUNDARIES; O-A ZONE.

There is included within the O-A 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, 1989, and more specifically designated as follows:

<i>Book</i>	<i>Page, Block</i>	<i>Parcels</i>
197	12, 0	03
197	12, 0	22

(Prior Code, § 17.08.150) (Ord. 584, passed --1989)

§ 17.012.160 BOUNDARIES; UR ZONE.

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
174	07, 0	50	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

(Prior Code, § 17.08.160) (Ord. 607, passed --1991)