



TOWN OF FAIRFAX

STAFF REPORT

May 7, 2014

TO: Mayor and Town Council

FROM: Garrett Toy, Town Manager

SUBJECT: Discuss/consider the repeal of all or a portion of Ordinance No. 778 which, among other things, rezoned properties from CH (Highway Commercial) to CC (Central Commercial), added new PDD (Planned Development District) zoned properties, and rezoned properties PD (Public Domain).

RECOMMENDATION

Discuss/consider the repeal of all or a portion of Ordinance No. 778 and direct staff as appropriate.

DISCUSSION

At its meeting on March 5, 2014, the Town Council heard the second reading of and adopted Ordinance No. 778. This ordinance brought the Zoning Ordinance into conformance with certain changes stipulated in the 2010-2030 General Plan (including the adoption of the revised Zoning Map that was included as part of the General Plan document).

Specifically, the ordinance converted CH zoned properties to CC, rezoned four properties PDD, and rezoned certain properties to PD. It likewise (a) deleted language appearing in other sections of the Town Code referring to the now-defunct CH district, (b) set forth a rule whereby discrepancies between the zoning text and zoning map would be resolved in favor of the map, (c) adopted as to the Town's official zoning map the map included in the General Plan as Figure LU-2, (d) established a Public Domain (PD) zoning district, and (e) rezoned certain properties to the new PD zoning district.

Prior to the April 2nd Council meeting, a referendum petition was submitted to the Town Clerk regarding Ordinance No. 778 (the Ordinance). This action prevented the Ordinance from taking effect on April 4th as well as precluded the Council from reconsidering the second reading of Ordinance No. 778, which was on the Council's April 2nd agenda for discussion. As a result, the moratorium on development in CH zones (which expires on the earlier of either the date Ordinance No. 778 goes into effect or January 20, 2015) also remained in effect.

However, the Town's Election Official (the Town Clerk) has recently informed the proponents of the referendum that the petition did not meet all the prerequisite legal

requirements to be deemed sufficient and, thus, cannot be certified for placement on the ballot. As a result, Ordinance No. 778 is now in effect and the moratorium on development in CH has been lifted.

The Council may recall that Councilmember Reed for the April 2nd Council meeting had requested the Council to reconsider the adoption of the second reading of the Ordinance. Similarly, staff is requesting the Council consider the repeal of all or a portion of Ordinance No. 778. Should the Council desire to pursue this option, there are two options: 1) Repeal Ordinance No. 778 in its entirety, or 2) Repeal the section of Ordinance No. 778 which rezones four properties to PDD and 23 properties to PD. Option 2 would address the concern that the rezoning of the four properties to PDD should be in conjunction with any revisions to the PDD language. A subset of this Option would be to either repeal only the PDD or PD portions of the Ordinance. A benefit of retaining the CH to CC rezoning is that it does address the formula based business requirement.

Repeal Process

Under either option, the process to repeal all or part of an ordinance is the same process used to approve an ordinance in the first place. This would entail a public hearing at the Planning Commission, a public hearing to introduce the repeal ordinance at a Town Council meeting, and the second Town Council meeting to adopt the ordinance. Staff would be required to notice all the properties within 300 feet of the rezoned properties 10 days prior to the public hearings.

Due to noticing requirements and meeting schedules, the process would take 4-6 months to complete. This means the repeal would not take effect for 4-6 months. In order to expedite the repeal, while still complying with all applicable deadlines, the following actions would need to be taken: a) the Planning Commission considers the repeal at a special meeting in May, b) the Council introduces the repeal at its June 4th meeting, 3) the Council adopts the second reading of the repeal in July (a 2nd reading must occur during a regular Council meeting), and 4) the repeal takes effects 30 days from the second reading (August).

What Happens to the Properties During the Repeal Process?

During the time period needed to repeal a portion or the entire ordinance, the new zoning would be in effect: a) CH properties would be rezoned to CC, b) the new Public Domain (PD) zoning would be in effect and c) four new parcels would be included within the PDD zoning district.

It should be noted that Council's rezoning action did NOT impact the properties previously zoned PDD in that the existing PDD language governing densities was not modified. There are no listed densities in the current PDD zoning language and that continues to be the case. The Council action also did NOT amend any of the existing development processes or standards for PDD zoned properties. While our initial

research would suggest that the previously zoned PDD properties have limited development capacity, the new PDD zoned properties, as well as the previously zoned properties, are all subject to the existing PDD language.

Upon repeal of the entire ordinance, all the properties would revert back to their initial zoning. In addition, other proposed revisions would not be valid such as the language resolving discrepancies between the zoning text and zoning map in favor of the map. In the event the Council only repealed a portion of the ordinance such as the PDD zoning, the rezoning of the CH parcels to CC and rezoning of properties to PD would remain in effect.

Moratorium Options

Ordinance No. 778 has taken effect and, as a result, the moratorium on development in the old CH zone has expired.

While development in the PDD zones is subject to the current zoning language, which makes development unlikely, the Council could consider enacting a moratorium on development in PDD zones until the repeal of Ordinance No. 778. This would necessitate Council making the findings required under the state statute that governs moratoria. Similarly, an alternative to repeal would be for the Council to impose a moratorium on development in the PDD zone until the zoning code can be amended to address any concerns. The impact would probably be minimal as any project relying on the PDD zoning would need to wait until the zoning code is amended to allow for the desired development.

The Council could hold a special meeting in May to enact such an ordinance or wait until its regular June meeting.

What Happens After a Repeal is Adopted?

Staff would return to the Planning Commission and Council with separate rezoning actions for: a) rezoning CH parcels to CC, b) rezoning certain parcels to PD, and c) rezoning of four properties to PDD. This approach would allow the Planning Commission and Council to combine zoning text changes with a specific rezoning action. For example, staff would revise the existing PDD language to reflect the General Plan and Housing Element policies and to provide clarification as to the intent of those policies. Similarly, any revisions to the language in the CC zone could be undertaken at the same time as the rezoning.

Under the option that repeals the PDD and PD portion of the code, the four properties identified to be rezoned to PDD (2600 and 2626 Sir Francis Drake Boulevard [Christ Lutheran Church], 10 Olema, and the School Street Plaza) would revert back to their previous zoning (e.g., UR-7). With regard to the Christ Lutheran Church, the Housing Element proposed a minimum 20 units/acre on a 2 acre portion of the site and was silent on the remaining 18 acres, other than to state it was primarily a wooded area that would be difficult to develop. It was never the Town's intention to impose a minimum

density of 20 units/acre on the entirety of that site. Staff will recommend as part of the text amendments that these 18 acres be subject to the existing PDD language.

With regard to the 23 PD zoned properties, they would revert back to their previous zoning designations. However, they would remain publicly owned or operated facilities.

After the repeal, staff would proceed to revise the PDD zoning language to address concerns for the newly zoned PDD areas. The revisions would make clear that the current PDD language would continue to apply to the previously zoned PDD properties. Similarly, any concerns regarding the PD zoning would be addressed at this time. As the Planning Commission and Town Council only meet once a month, the approval process, most likely, would take a several months to complete.

FISCAL IMPACT

All the options require additional staff and Town Attorney resources to complete.

ATTACHMENTS

Ordinance No. 778