



TOWN OF FAIRFAX

STAFF REPORT

June 4, 2014

TO: Mayor and Town Council

FROM: Garrett Toy, Town Manager *GT*

SUBJECT: Discuss status of repeal process 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), and direct staff as appropriate.

RECOMMENDATION

Discuss status of the repeal of Ordinance No. 778 and direct staff as appropriate.

DISCUSSION

At its May 7th meeting, the Town Council directed staff to begin the process to repeal Ordinance No. 778. This 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.

As indicated at the May meeting, the process to repeal an ordinance is the same process used to approve an ordinance in the first place. In order to expedite the process, a public hearing at a special Planning Commission was scheduled for May 29th. Staff will verbally report on the Planning Commission's recommendation at the Council meeting. Attached for your reference is the staff report to the Planning Commission regarding this item.

Staff is also aware that members of the community would like to comment to the Council on the repeal process, writ, and other related issues. This agenda item affords both the public and the Council an opportunity to comment on the matter. The Council will receive as supplemental materials prior to the Council meeting the correspondence between the petitioners' attorney and the Town.

FISCAL IMPACT

n/a

ATTACHMENTS

Planning Commission staff report

**TOWN OF FAIRFAX
STAFF REPORT
Department of Planning and Building Services**

TO: Fairfax Planning Commission

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

DATE: May 29, 2014

SUBJECT: Consideration of a draft ordinance repealing Ordinance No. 778, a zoning ordinance that amended Town Code Chapters 5.52, 17.012, 17.020, 17.092, 17.096, and 17.104, and added Chapter 17.130, rezoned all parcels then-zoned Highway Commercial (CH) to Central Commercial (CC) Zone, rezoned APN 002-112-13 and 001-104-012 from Limited Commercial (CL) to Planned Development District (PDD); rezoned APN's 174-070-17 and 174-070-50 from UR-7 to PDD, added a Public Domain (PD) Zone, rezoned selected parcels to Public Domain (PD), provided for the supremacy of the Zoning Map over the text in event of discrepancy, corrected typographical errors, and updated the Town Zoning Map to reflect these zoning changes, in its entirety.

CEQA: The adoption of an Ordinance to repeal Ordinance No. 778 is exempt from review under the California Environmental Quality Act (Public Resources Code § 21000, et seq., as further governed by the Guidelines to the California Environmental Quality Act, 14 C.C.R. § 15000, et seq.) per 14 C.C.R. § 15061(b)(3), which applies where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

RECOMMENDATION

- 1) Conduct the public hearing
- 2) Adopt a resolution recommending adoption of an ordinance to repeal Ordinance No.778.

BACKGROUND

On January 30, 2014, the Planning Commission, at a public hearing, adopted a resolution recommending the Council approve Ordinance No. 778. 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. The Planning Commission found it was consistent with the policies and programs of the General Plan.

The Town Council held a public hearing on February 13, 2014 to introduce Ordinance No. 778. The impetus for the special Planning Commission and Town Council public hearings was to expedite the conversion of CH zoned properties to CC in response to the lack of controls for formula-based businesses (i.e., chain stores) in the CH zone, among other things. In preparing the ordinance, staff discovered that the zoning map referenced by the General Plan had been adopted by resolution and not by ordinance as is required for zoning actions (e.g., rezoning to CC, PDD, PD). To make the current zoning map consistent with the map referenced by the General Plan, staff included the rezone of properties to PDD and PD as well as other technical amendments in Ordinance No. 778.

At its March 5, 2014 meeting, the Town Council adopted Ordinance No. 778.

On April 2nd, the Council agenda contained an action to reconsider the second reading of Ordinance No. 778. However, a referendum petition was submitted prior to the Council meeting on April 2nd. This precluded the Council from considering the option to rescind the 2nd reading of Ordinance No. 778 which would have resulted in Ordinance No. 778 not being adopted.

On May 1st the Town's Election Official (the Town Clerk) did not certify the petition for placement on the ballot due to a defect in the petition. As a result, Ordinance No. 778 went into effect.

On May 7, 2014, the Town Council considered the repeal of all or a portion of Ordinance No. 778. The Council voted 3 to 2 to start the repeal process for the entirety of Ordinance No. 778. The process to repeal an ordinance is the same process used to approve an ordinance in the first place. In order to accomplish this, the Planning Commission must consider a new ordinance at a public hearing to repeal Ordinance No. 778.

DISCUSSION

This evening the Planning Commission is being asked to consider an ordinance to repeal Ordinance No. 778. The Commission is asked to consider that the Council has discussed Ordinance No. 778 at three Council meetings and heard hours of public testimony both for and against the passage of Ordinance No. 778.

By directing staff to start the process to repeal Ordinance No. 778, the Council wants to have a "fresh start" for the rezoning process to implement General Plan policies, including those found in the Housing Element. This "fresh start" would allow the Planning Commission and Council to address concerns raised during the initial approval process of Ordinance No. 778.

Specifically, 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 four properties to PDD. This approach would allow the Planning Commission and Council to combine zoning text changes with specific rezoning actions. 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. The revisions would make clear that the current PDD language would continue to apply to the previously zoned PDD properties. Similarly, any revisions to the language in the CC and proposed PD zones could be undertaken at the same time as their specific rezoning actions.

At their May 7th meeting, the Council also directed staff to schedule a community forum/workshop to discuss possible amendments to the General Plan, including the Housing Element (HE), to address inconsistencies between the General Plan (GP) and zoning code raised during the discussions to consider Ordinance No. 778. Staff has conducted a preliminary review of the GP and HE documents and identified 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.

The purpose of the Council forum/workshop is to facilitate community discussion regarding the General Plan including the HE. The workshop would begin with an overview of the GP and its elements 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.

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.

Staff would incorporate the Council's proposed revisions/amendments, as applicable, within the separate zoning actions related to converting all CH zoned properties to CC, creating a new PD zoning, and rezoning four properties to PDD. All amendments/revisions to the zoning code or General Plan will require Planning Commission review at duly-noticed public hearings. In addition, the Planning Commissioners are encouraged to attend the community forum/workshop.

Should the Commission decide to recommend to the Council the denial of the repeal ordinance, it would need to make findings at the meeting that would then be incorporated into a resolution for the Commission's approval.

Please Note: Video recordings of the Town Council meetings on March 5, April 2 and May 7 are available on the Town's website.

FISCAL IMPACTS

There are potential financial impacts to the Town and future Senior Housing project should the rezoning actions as identified in this staff report not be implemented in a timely fashion. However, it would be premature to evaluate this impact at this time.

ATTACHMENTS

Exhibit A – New 2010 – 2030 General Plan Zoning Map

Exhibit B – Prior Zoning Map

Exhibit C – Ordinance No. _____, repealing Ordinance No. 778.

Exhibit D – Resolution No. _____, recommending the Town Council adopt the Ordinance repealing Ordinance No. 778