

**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 rezoning 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

TOWN OF FAIRFAX Zoning Map



TOWN OF FAIRFAX
142 BOLINAS ROAD, FAIRFAX, CALIFORNIA 94939
(415) 453-1584 / FAX (415) 453-1618

- ZONING DISTRICTS**
- PUBLIC ZONES**
PD - Public Domain
- COMMERCIAL ZONES**
CC - Central Commercial
CH - Highway Commercial
CL - Light Commercial
CS - Service Commercial
CR - Recreational Commercial
- RESIDENTIAL ZONES**
RD - 5.5 - 7 - Residential
RS - 6 - Single Family Residential
RS - 7.5 - Single Family Residential
RM - Multi-Family Residential
PDD - Planned Development District
UR - 7 - Upland Residential (7ac/du)
UR - 10 - Upland Residential (10ac/du)
- *RS - 6 - zoning determined by arrowwood settlement agreement recorded 5/28/91
- OPEN AREA ZONE**
O-A - Open Space
- (Consult Fairfax Zoning Ordinance for detailed Zone descriptions)
- OTHER**
 Municipal Boundaries
 Fairfax Parcels Boundaries
 Creeks

Summary of Amendments

Date	Ordinance Number	Description/Amendment
2/13/02	322	Established land use zones, office zoning ordinance
3/6/03	453	Revised zoning to RM district from RD 5.5-7 along EPDS
3/13/03	536	PDD zone for Summit House (PDD's 1-123-06, 1-146-01, 01, 03, 1-211-06)
11/28/07	555	Revised zoning of Summit Hill from RD 5.5-7 to RS-6
5/14/08	588	Established Open Space Zone and Park District
10/18/09	602	Revised zoning of Summit Hill from UR-10 to UR-7
03/13/09	622	PDD pre-code Station Creek Subdivision

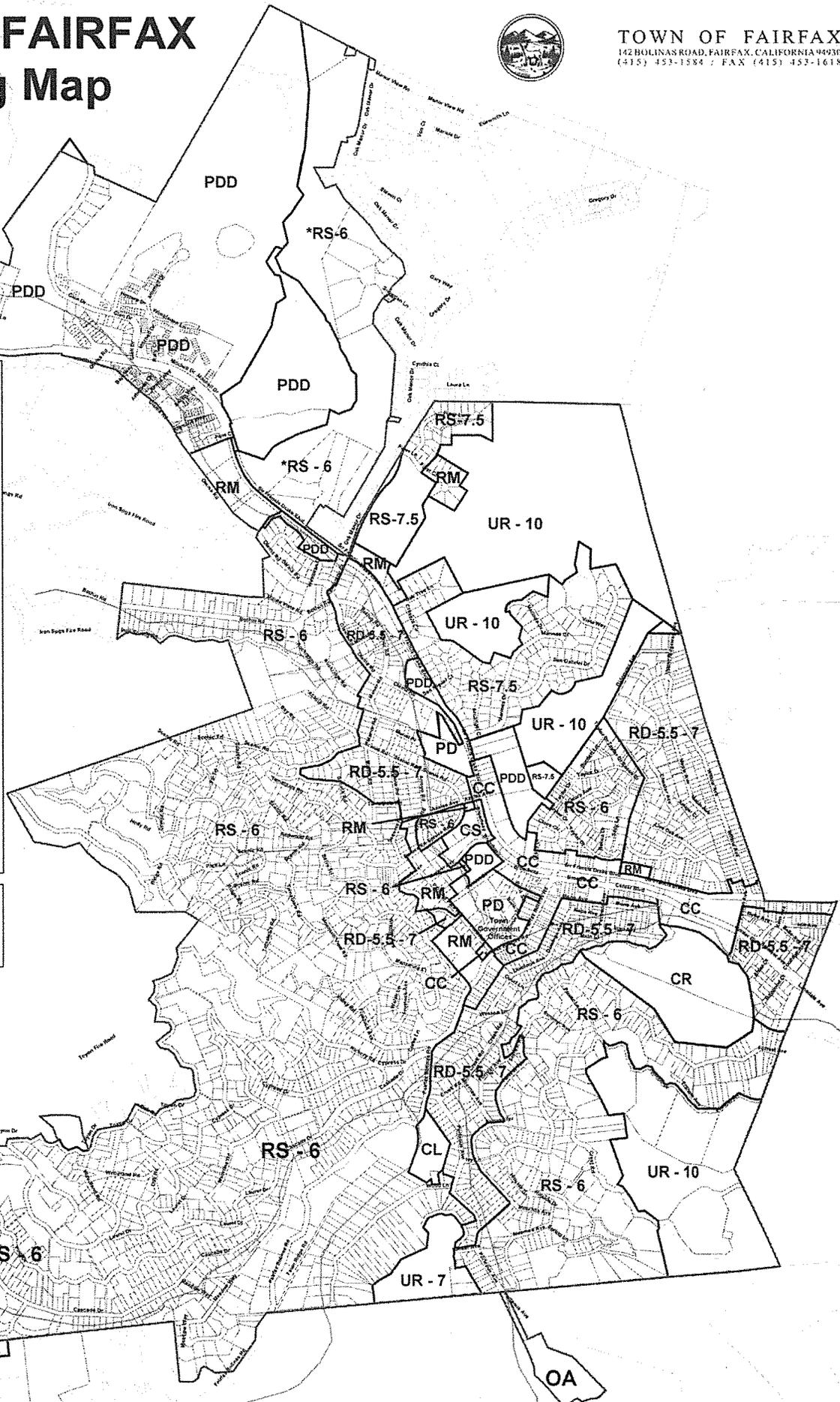
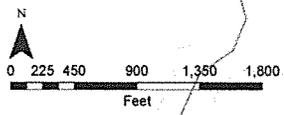


Figure LU-2

TOWN OF FAIRFAX

Zoning Map



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

ZONING DISTRICTS

COMMERCIAL ZONES

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

RESIDENTIAL ZONES

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

*RS - 6 - zoning determined by arrowwood settlement agreement recorded 5/28/81

OPEN AREA ZONE

- O-A - Open Space

(Consult Fairfax Zoning Ordinance for detailed Zone descriptions)

OTHER

- Municipal Boundaries
- Fairfax Parcels Boundaries
- Creeks

Summary of Amendments

Date	Ordinance Number	Description/Amendment
9/13/87	302	Established land use zones, official zoning ordinance
2/6/88	403	Amend zoning to RSE district from RD 3.5-7 along SF206
9/15/88	530	PDD zone for Service House (SPN's 1-82348, 1-104-04, SL 83, 1-211-04)
9/13/87	540	Reopen portion of Access RA from RD 5.5-7 to RR-1
9/15/88	544	Revised Old Town - Open Park Subzone
12/21/81	407	Established Planned Residential District (UR-10 & UR-7)
9/13/88	632	PDD pro-anna Shady Creek Subdivision

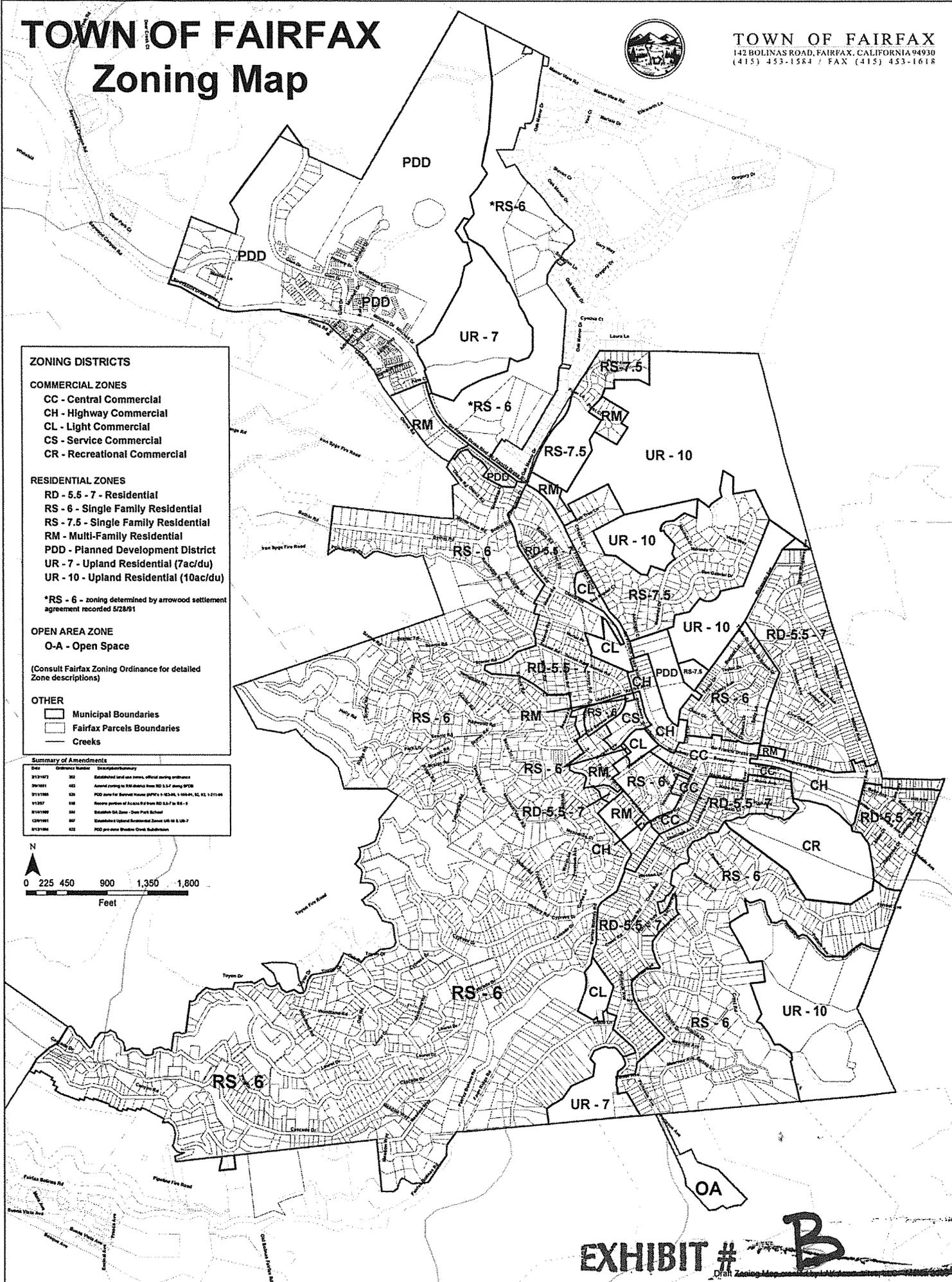
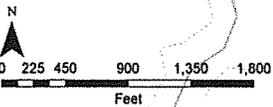


EXHIBIT # B
 Draft Zoning Map prepared by [unreadable] 11/20/2008

ORDINANCE NO. _____

AN ORDINANCE TO REPEAL ORDINANCE NO. 778

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

SECTION 1: The Town Council, finds and determines that the adoption of this Ordinance No. _____ 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. Inasmuch as there have been no changes to the physical environment since the effective date of Ordinance No. 778, and this Ordinance No. _____ simply returns the Town's zoning to that which existed prior to the adoption of Ordinance No. 778, this action will have no significant effect on the environment.

SECTION 2: Ordinance No. 778, as adopted by the Town Council on March 5, 2014, is hereby repealed in its entirety.

SECTION 3: If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Ordinance. The Town Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared valid or unconstitutional.

SECTION 4: This ordinance shall be in full force and effect thirty days from and after its final passage and adoption.

SECTION 5: 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; and
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:

ABSENT:

Mayor

Attest:

Michele Gardener, Deputy Town Clerk

Date

RESOLUTION NO. ____

A RESOLUTION OF THE FAIRFAX PLANNING COMMISSION RECOMMENDING THE TOWN COUNCIL ADOPT ORDINANCE NO. ____, THEREBY REPEALING ORDINANCE NO. 778

WHEREAS, on March 5, 2014, the Fairfax Town Council adopted Ordinance No. 778, thereby amending various sections of the Town Zoning Ordinance (Fairfax Town Code Title 17), as well as the Town's Zoning Map; and

WHEREAS, on May 7, 2014, the Town Council voted to start the process to repeal Ordinance No. 778; and

WHEREAS, the staff of the Town of Fairfax has thus prepared Ordinance No. ____, which would effect the repeal of Ordinance No. 778; and

WHEREAS, pursuant to the State Planning and Zoning Law (California Government Code Section 65000, et seq.), any revisions to a zoning ordinance must first be considered by the Planning Commission for its recommendation on the same to the Town Council; and

WHEREAS, under Government Code § 65855, the Planning Commission's recommendation to the Town Council on any amendment to the Zoning Ordinance must include the reasons for the recommendation, as well as the relationship of the proposed ordinance or amendment to applicable general and specific plans; and

WHEREAS, on Thursday, May 29, 2014, at a duly-noticed and regular meeting of the Planning Commission of the Town of Fairfax, the Planning Commission did consider proposed Ordinance No. ____, heard a report on the same from staff, took and considered public comment on the matter, made findings, and formulated a recommendation to the Town Council.

NOW, THEREFORE, BE IT RESOLVED as follows:

Section 1. The Planning Commission forwards proposed Ordinance No. ____ Repealing Ordinance No. 778 to the Town Council with its recommendation that the Town Council review, introduce, and adopt the Ordinance.

Section 2. The Planning Commission makes this recommendation to the Town Council in the belief that the repeal of Ordinance No. 778 will allow for additional opportunity to engage the community in the best manner in which to achieve the Town's goals and aspirations.

Section 3. The Planning Commission finds that Ordinance No. ____ complies with the following provisions of the Town of Fairfax 2010-2030 General Plan:

- A. *Objective TC-2.1: Work with the community to maintain and enhance the historic character of the Town Center Area.* Repealing Ordinance No. 778, which, among other things, rezoned a number of properties within the Town Center Area and thus affected the permitted uses and development of those properties, will provide the

EXHIBIT # D

Town with additional time in which to facilitate community discussions on the Town Center Area's future.

- B. *Housing Element Program H-1.1.1.3: Conduct Community Outreach. The Planning Commission will develop and implement a program providing public information and outreach to increase citizen awareness, including establishing a forum for discussion of housing issues.* Repealing Ordinance No. 778, which, among other things, rezoned a number of housing opportunity sites, will provide more time in which to allow the Planning Commission to conduct the community outreach envisioned by the Housing Element prior to the implementation of any zoning changes related to housing issues.

The foregoing resolution was duly introduced and adopted on the 29th day of May, 2014, by the following vote:

AYES:

NOES:

ABSTAIN:

Chairperson

ATTEST:

James M. Moore
Director of Planning and Building Services