



# TOWN OF FAIRFAX

## STAFF REPORT

### May 5, 2021

**TO:** Mayor and Town Council

**FROM:** Linda Neal, Principal Planner

**SUBJECT:** Introduction and first reading by title only of an Ordinance of the Town Council of the Town of Fairfax Amending Chapter 17.020 and Adding Section 17.020.030(c) to Include the Requirement of a Design Review Permit for Changes in the Exterior Color of a Structure or the Alteration of a Significant Design Element Which is a Part of the Design of the Building in All Zones Except RD 5.5-7, RS 6, RS 7.5, UR 7 and UR 10; Exempt from CEQA pursuant to CEQA Guidelines Section 15060(c)(2), 15061(b)(3), 15305 and 15378

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#### **RECOMMENDATION**

- 1) Conduct Public Hearing
- 2) Introduce, waive first reading and read by title only, an Ordinance of the Town Council of the Town of Fairfax Amending Chapter 17.020 and Adding Section 17.020.030(c) to Include the Requirement of a Design Review Permit for Changes in the Exterior Color of a Structure or the Alteration of a Significant Design Element Which is a Part of the design of the Building in All Zones Except RD 5.5-7, RS 6, RS 7.5, UR 7, and UR 10.

#### **DISCUSSION**

There is an uncertain history with Design Review requirements as they apply to commercial buildings (also see attached timeline – Attachment D). From 1982 to 2002 the Zoning Ordinance required that alterations and additions to structures in the commercial zones, multiple family residential (apartment) zones and planned development districts (condominium projects), in all zones except the residential zones, having an estimated value more than \$2,500 and/or changes in the exterior color of structures, or the alteration of a significant design element which is a part of the building, obtain prior approval of a design review permit from the Design Review Board (now the Planning Commission).

That changed on February 5, 2002 when the Town Council voted to adopt Ordinance 688 which required design review for new residences and residential projects constituting 50% remodels in the various residential zones. The title of the ordinance indicates that the requirement for a design review permit for new residences and 50% remodels was to be "an expansion of the Design Review Board's duties". While adding the new language from Ordinance 688 to the Design Review Code, the codification company apparently inadvertently removed the following language from the design review ordinance which directed the applicability of the provisions of the design review ordinance to exterior color changes and alteration of significant design elements which are a part of the design of a building in commercial, multiple-family, and planned development district zones:

“Alterations or additions in all zones except RD 5.5-7, RS 6 and RS 7.5 which have an estimated value more than \$2,500 as determined by the Building Inspector and/or changes in the exterior color of structures or the alteration of a significant design element which is a part of the building.”

At the February 18, 2021 Commission meeting, while reviewing proposed new façade for the commercial building at 48 -52 Bolinas Road, which included a black/grey exterior color palette, the necessity of restoring the above section of the code to the Zoning Ordinance became apparent to the Commission. If the proposed color palette has been approved, there would have been three commercial buildings in a row that had very similar black/grey exterior color schemes immediately adjacent to each other. The project was only before the Commission because the project included reconstruction of the façade of the building to remove the shingled awning, which in turn gave them the ability to direct changes to the applicant’s proposed color.

The Commission directed staff to prepare an ordinance for their review and recommendation to the Town Council to restore an updated version of the above code section to the Zoning Ordinance eliminating the \$2,500 trigger to determine if an alteration or addition is subject to design review.

At the March 18, 2021 Commission meeting during the first review of the draft ordinance, the Commission directed staff to consider whether or not to include the residential zones put into effect since the original adoption of the section of the ordinance into the code language. The draft ordinance was accordingly amended to include the Multifamily Residential – Senior Residential zoning district. The new ordinance therefore specifies that the single-family RD 5.5-7, RS6, UR 7, and UR 10 zones are the only districts where exterior color changes or changes in a significant design element which is a part of the building do not trigger design review.

At the March meeting the Commission also expressed concern that the use of the word “significant” in the code language might require additional language to clarify the potential applicability of a ‘significant design element’ to applicants.

While the Commission recommended adoption of the ordinance as written in Exhibit A, the Town Attorney recommends the Council incorporate language into the ordinance to address the Commission’s concern about clarifying the meaning of “significant”. Specifically, we have added the following language to the end of the proposed code section (underlined in ordinance) to clarify the definition of “significant design alteration”:

“A significant design element alteration is anything that changes the shape, line, color, pattern, or texture of the exterior of a building, including changes in any exterior building materials, roofline, window or door shape, size or location, changes to awnings, etc.”

The Commission adopted attached Resolution No. 2021-04 at their April 15, 2021 meeting recommending that the Town Council adopt said ordinance.

### **CEQA**

Adoption of the proposed Ordinance is exempt from the California Environmental Quality Act (“CEQA”). Adoption of this Ordinance will enact only minor changes in land use regulations, and the proposed Ordinance does not constitute a “project” within the meaning of the California Environment Quality Act of 1970 (CEQA) Guidelines Section 15060(c)(2), 15061(b)(3) because there is no potential for either a direct physical change on the environment, or a reasonably foreseeable indirect physical change in the environment and categorical exemptions 15305 and 15378 because the code amendment will not result in any changes in land use density, is not a project, and is in compliance with the Fairfax 2010-2030 Fairfax General Plan.

### **FISCAL IMPACT**

The fee for applicants to apply for an exterior color change/exterior design alteration would currently be \$388.00 but would increase to \$427.00 on July 1, 2021.

### **ATTACHMENT**

- A. Proposed Ordinance
- B. Planning Commission Resolution No. 2021-04
- C. Table of the history of design review ordinance changes
- D. Timeline of design review changes
- E. Historic ordinances and minutes from the 1/17/02 Commission and 3/6/02 Council meetings after which the codification error occurred.
- F. Article “How San Francisco Lost Its Color” by Annie Vainshtein, Oct. 11. 2019