



TOWN OF FAIRFAX

STAFF REPORT

June 2, 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

NOTE: CONTINUED FROM THE MAY 5th COUNCIL MEETING

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 UR 7 and UR 10 districts. The new ordinance specifies that the single-family RD 5.5-7, RS 6, RS 7.5, UR 7 and UR 10 districts 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. A design review permit would be required to change the color or alter a significant exterior design element on buildings located in the Multiple-family RM and Multiple-family Residential – Senior Residential districts, the commercial districts (CL, CC, CS, CR), and Planned Development Districts (PDD - condominium developments).

The new ordinance therefore specifies that the single-family RD 5.5-7, RS 6, RS 7.5, 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. Please note that single- family homes located in multi-family or commercial districts will be subject to this design review requirement.

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, but not limited to, changes in any exterior building materials, roofline, window or door shape, size or location, and changes to awnings.”

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.

ATTACHMENTS

- 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

ORDINANCE NO. ____

**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 ZONES
EXCEPT RD 5.5-7, RS 6, RS 7.5, UR 7, AND UR 10**

WHEREAS, the Town of Fairfax contains a small but colorful downtown area filled with small, one and two story commercial buildings; and

WHEREAS, the community of Fairfax values “the small-town feel” of the commercial areas; and

WHEREAS, the exterior color and structural design components of the commercial buildings create and maintain the small-town character and historical nature of the commercially developed properties including but not limited to those along Sir Francis Drake Boulevard, Broadway, Bolinas, and Center Boulevard; and

WHEREAS, being able to guide development, restoration, and improvements to the existing structures to maintain the historic, small town, character of the downtown area is essential. Incorporating into the design review process the review of exterior color changes and significant exterior design element changes is essential to maintaining the diversity and unique character of the commercial areas; and

WHEREAS, the Planning Commission conducted a duly noticed public hearing on March 18, 2021 and April 15, 2021 to consider the draft ordinance; and

WHEREAS, adoption of this Ordinance is consistent with and will further the following Fairfax General Plan Goals, objectives, policies, and programs of the Town’s General Plan:

1. Land Use Element Goal LU-7: Preserve community and neighborhood character.
2. Land Use Element Objective LU-7.1; Preserve and enhance the community’s small-town scale and character.
3. Land Use Element Objective LU-7.1.2: New and/or renewed development in the Town Center area should preserve and enhance the village character of the Town Center area in the mix of land uses, architectural styles and ornamentation, materials, colors, and textures.
4. Town Center Element Goal TC-2: Maintain and preserve the historic character of the Town Center Area:

5. Town Center Policy TC-2.1.1: New and/or renewed development in the Town Center Planning Area should be compatible with the architectural character of the downtown in terms of height, design treatment, colors, textures, and materials; and

WHEREAS, the Town Council conducted a duly noticed public hearing on June 2, 2021, to consider the draft ordinance, heard the presentation of a staff report, and received public comment on the matter.

NOW, THEREFORE, the Town Council of the Town of Fairfax does ordain as follows:

SECTION 1: Section 17.020.030 (“APPLICABILITY”) OF THE Fairfax Municipal Code, Chapter 17.020 (“Design Review Regulations”), is revised to include subsection “(C)” as follows:

§ 17.020.030(C) 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. Significant design element alterations include but are not limited to height, color, signs, landscaping and appurtenances. A significant design element alteration is anything that changes the shape, line, color, pattern, or texture of the exterior of a building, including, but not limited to, changes in any exterior building materials, roofline, window or door shape, size or location, and changes to awnings.

SECTION 2: 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; and

SECTION 3: Severability. If any section, subsection, sentence, clause, phrase, or work of this Ordinance is, for any reason, deemed or held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, or preempted by legislative enactment, such decision or legislation shall not affect the validity of the remaining portions of this Ordinance. The Town Council of the Town of Fairfax hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or work thereof, regardless of the fact that any one or more sections, subsections, clauses, phrases, or work might subsequently be declared invalid or unconstitutional or preempted by subsequent legislation; and

SECTION 4: Effective Date and Posting. This Ordinance shall become effective 30 days following its adoption by the Town Council. Copies of this Ordinance shall, within fifteen days after its passage and adoption, be posted in three public places in the Town of Fairfax, to wit: 1. Bulletin Board, Town Hall Offices. 2. Bulletin Board, Fairfax Post Office; 3. Bulletin Board, Fairfax Women's Club building.

The foregoing Ordinance was introduced at a regular meeting of the Town Council of the Town of Fairfax on the 2nd day of June 2021, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

BRUCE ACKERMAN, Mayor

ATTEST: _____
Michele Gardner, Town Clerk

RESOLUTION NO. 2021-04

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF FAIRFAX RECOMMENDING THE FAIRFAX TOWN COUNCIL ADOPT ORDINANCE NO. XX ENTITLED "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

WHEREAS, the Town of Fairfax contains a developed commercial district primarily along portions of Sir Francis Drake Boulevard, Broadway, Bolinas Road, and Center Boulevard and various multiple family developments throughout town but concentrated on Bolinas and Sir Francis Drake Boulevard; and

WHEREAS, the Design Review permitting process is a procedural tool used by the Town to ensure that exterior changes to the structures on commercial zoned and multi-unit properties compliment the neighboring commercial development and the historic nature of downtown Fairfax as viewed from major thoroughfares and surrounding hillside areas; and

WHEREAS, there is a trend throughout Town to alter existing buildings utilizing exterior color palettes that combine shades of black, grey and white; and

WHEREAS, incorporating the processing of any exterior color changes or significant exterior design changes to any building or property located on a commercially zoned property or multi-unit property, into the Design Review process is necessary in the project review phase to ensure such changes are compatible with adjacent commercial and residential development and that the changes will avoid monotony in the overall appearance of the downtown area; and

WHEREAS, Ordinance 352, which comprehensively updated the Fairfax Zoning Ordinance in 1973, contained language requiring a design review permit for "alterations or additions in all zones except RD 5.5-7, RS 6, RS 7.5 which change the exterior color or structures or alter a significant design element which is a part of the design of the building". This language was inadvertently removed with the adoption of Ordinance 688. The codification company apparently removed certain language requiring that 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 obtain a design review permit; and

WHEREAS, Ordinance 688, adopted in 2002, was meant to expand the design review ordinance to require a design review permit for all new residences and alterations to residences which constitute 50% remodels, not to eliminate the language requiring a

design review for color alterations in all zones except the single-family residential zones RD 5.5-7, RS 6, RS 7.5, UR 7, and UR 10; and

WHEREAS, staff has prepared such an ordinance, a true and correct copy of which is attached hereto as Attachment A1 (the "proposed Ordinance"), which, if adopted, will amend the Town's zoning ordinance, found at Title 17 of the Town Code; and

WHEREAS, in accordance with the State Planning and Zoning Law, the Planning Commission is tasked with considering whether any proposed amendment to the Town's Zoning Ordinance would be in conformance with the terms of the Town's General Plan. The Planning Commission determines that the proposed Ordinance would conform to the Town of Fairfax 2010 – 2030 General Plan on the basis of the following:

The proposed Ordinance will incorporate the review of exterior color changes and significant exterior design changes to any commercial buildings or any other structure located on commercially zoned properties ensuring that all renewal projects are subject to the same requirements and will comply with the following Fairfax General Plan goals, objectives, and programs:

Land Use Element Goal LU-7: Preserve community and neighborhood character.

Land Use Element Objective LU-7.1; Preserve and enhance the community's small-town scale and character.

Land Use Element Objective LU-7.1.2: New and/or renewed development in the Town Center area should preserve and enhance the village character of the Town Center area in the mix of land uses, architectural styles and ornamentation, materials, colors, and textures.

Town Center Element Goal TC-2: Maintain and preserve the historic character of the Town Center Area.

Town Center Policy TC-2.1.1: New and/or renewed development in the Town Center Planning Area should be compatible with the architectural character of the downtown in terms of height, design treatment, colors, textures, and materials.

WHEREAS, 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 Environmental Quality Act of 1970 (CEQA) Guidelines Section 15060(c)(2), 15061 (b)(3) and categorical exemptions 15305 and 15378 because there is no potential that the regulations result in a direct or reasonably foreseeable indirect physical change in the environment.

WHEREAS, the Planning Commission has conducted duly-noticed public hearings to consider the draft ordinance on March 18 and April 15, 2021, heard the presentation of the staff report, and receive public comment on the matter.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the Town of Fairfax as follows:

SECTION 1. The recitals set forth above are adopted as further findings of the Planning Commission.

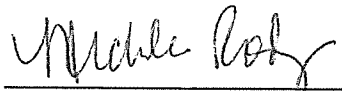
SECTION 2. The Planning Commission has reviewed the draft ordinance attached hereto as Attachment A1 and finds that it is consistent with the Town General Plan, as set forth above.

SECTION 3. The Planning Commission hereby recommends that the Town Council amend Title 17 of the Fairfax Town Code as set forth in Attachment A hereto to incorporate the requirement for a public hearing and 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.

The forgoing Resolution was duly passed and adopted at a regular meeting of the Planning Commission of the Town of Fairfax held in said Town on the 15th day of April 2021 by the following vote, to wit:

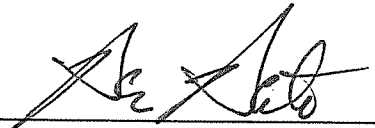
AYES: Fragoso, Green, Newton, Swift, Chair Rodriguez

NOES: None



Michele Rodriguez, Chair

ATTEST:


Ben Berto, Planning Director

ORDINANCE NO. XXX

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 ZONES EXCEPT RD 5.5-7, RS 6, RS 7.5, UR 7 AND UR 10

WHEREAS, the Town of Fairfax contains a small but colorful downtown area filled with small, one and two story commercial buildings; and

WHEREAS, the community of Fairfax values "the small-town feel" of the commercial areas; and

WHEREAS, the exterior color and structural design components of the commercial buildings create and maintain the small-town character and historical nature of the commercially developed properties including but not limited to those along Sir Francis Drake Boulevard, Broadway, Bolinas, and Center Boulevard; and

WHEREAS, being able to guide development, restoration, and improvements to the existing structures to maintain the historic, small town, character of the downtown area is essential. Incorporating into the design review process the review of exterior color changes and significant exterior design element changes is essential to maintaining the diversity and unique character of the commercial areas; and

WHEREAS, the Planning Commission conducted a duly noticed public hearing on March 18, 2021 and April 15, 2021 to consider the draft ordinance; and

WHEREAS, adoption of this Ordinance is consistent with and will further the following Fairfax General Plan Goals, objectives, policies, and programs of the Town's General Plan:

1. Land Use Element Goal LU-7: Preserve community and neighborhood character.
2. Land Use Element Objective LU-7.1: Preserve and enhance the community's small-town scale and character.
3. Land Use Element Objective LU-7.1.2: New and/or renewed development in the Town Center area should preserve and enhance the village character of the Town Center area in the mix of land uses, architectural styles and ornamentation, materials, colors, and textures.
4. Town Center Element Goal TC-2: Maintain and preserve the historic character of the Town Center Area:
5. Town Center Policy TC-2.1.1: New and/or renewed development in the Town Center Planning Area should be compatible with the architectural character of the downtown in terms of height, design treatment, colors, textures, and materials; and

WHEREAS, the Town Council conducted a duly noticed public hearing on XX, XX, XXXX to consider the draft ordinance, heard the presentation of a staff report, and received public comment on the matter.

NOW, THEREFORE, the Town Council of the Town of Fairfax does ordain as follows:

SECTION 1: Section 17. 020.030 ("APPLICABILITY") OF THE Fairfax Municipal Code, Chapter 17.020 ("Design Review Regulations"), is revised to include subsection "(C)" as follows:

§ 17.020.030(C) 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. Significant design element alterations include but are not limited to height, color, signs, landscaping and appurtenances.

SECTION 2: 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; and

SECTION 3: Severability. If any section, subsection, sentence, clause, phrase, or work of this Ordinance is, for any reason, deemed or held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, or preempted by legislative enactment, such decision or legislation shall not affect the validity of the remaining portions of this Ordinance. The Town Council of the Town of Fairfax hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or work thereof, regardless of the fact that any one or more sections, subsections, clauses, phrases, or work might subsequently be declared invalid or unconstitutional or preempted by subsequent legislation; and

SECTION 4. Effective Date and Posting. This Ordinance shall become effective 30 days following its adoption by the Town Council. Copies of this Ordinance shall, within fifteen days after its passage and adoption, be posted in three public places in the Town of Fairfax, to wit: 1. Bulletin Board, Town Hall Offices. 2. Bulletin Board, Fairfax Post Office; 3. Bulletin Board, Fairfax Women's Club building.

The foregoing Ordinance was introduced at a regular meeting of the Town Council of the Town of Fairfax on the XX day of XXX, 2021, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

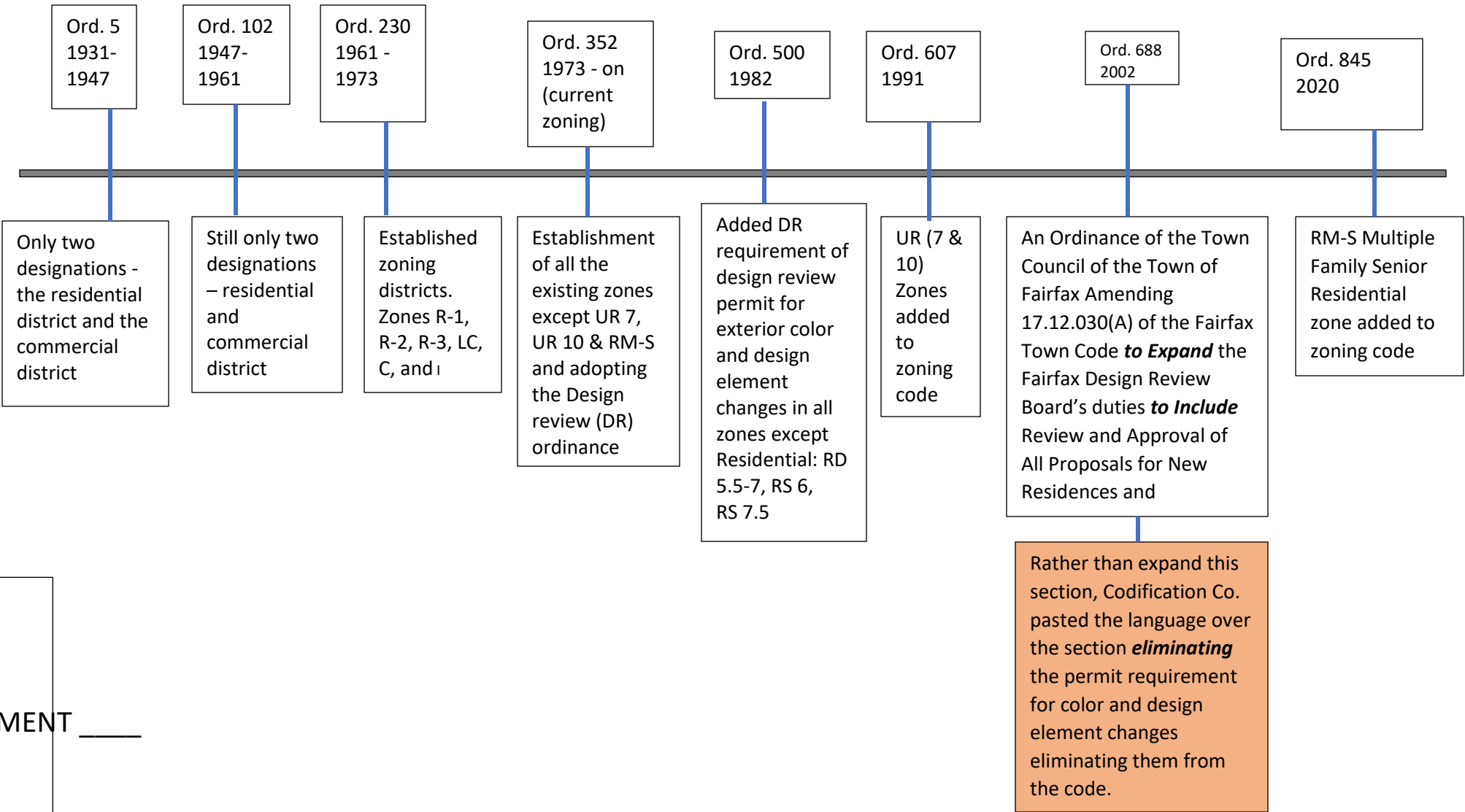
BRUCE AKCERMAN, Mayor

ATTEST: _____
Michele Gardner, Town Clerk

Town Code § 17.12.030 shall be amended as follows to add a new section “C” reinserting the language from Ordinance No. 500 [(original § number 11.04.(1))] that was inadvertently removed with the adoption of Ordinance No. 688, slightly modifying the original language eliminating the \$2,500 valuation trigger and adding zones UR 7 and UR 10 as zones that “C” below in the proposed language in the fourth column of the table below does not apply to.

HISTORY OF DESIGN REVIEW “APPLICABILITY” SECTION AND PROPOSED LANGUAGE TO RESTORE “MODIFIED” ORIGINAL LANGUAGE			
Ordinance No.	Ordinance # 500 (11/15/82)	Ordinance 688 (3/6/02)	Proposed Ordinance Language
Ordinance language for the “Applicability” section. TC §11.04 in 1982 TC §17.12.030 in 2002	§11.04 “The provisions of this Article shall apply to: (1) Alteration or additions in all zones except RD 5.5-7, RS 6 and RS 7.5 which have an estimated value of \$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 part of the design of the building. (2) New construction in Central Commercial, Limited Commercial, Service Commercial, Multiple Residential, Planned Development District, Single-family Residential Master Plan Zones, duplexes in the RD 5.5-7 zones and structures in the Ridgeline Scenic Corridor as required in Article 2, and residences which have a distance of more than ten (10) feet from the ground to the lowest point of complete enclosure (section became 17.12.030 in 1986 with a recodification of the code).	Town Code § 17.12.030(A) shall be amended as follows: A. New residences and alterations or additions constituting 50% remodels as set forth in Town Code § 17.10.040(B) in all zones including Residential RD 5.5-7 Zones, Residential RS 6 Zones, Residential RS 7.5 Zones and Upland Residential UR Zones B. New construction in Central Commercial, Limited Commercial, Service Commercial, Multiple Residential, Planned Development District, Single-family Residential Master Plan Zones, duplexes in the RD 5.5-7 zones and structures in the Ridgeline Scenic Corridor as required in Article 2, and residences which have a distance of more than ten (10) feet from the ground to the lowest point of complete enclosure (section became 17.12.030 in 1986 with a recodification of the code).	Town Code § 17.12.030 The provisions of this chapter shall apply to: A. New residences and alterations or additions constituting 50% remodels as set forth in Town Code § 17.10.040(B) in all zones including Residential RD 5.5-7 Zones, Residential RS 6 Zones, Residential RS 7.5 Zones and Upland Residential UR Zones B. New construction in Central Commercial, Limited Commercial, Service Commercial, Multiple Residential, Planned Development District, Single-family Residential Master Plan Zones, duplexes in the RD 5.5-7 zones and structures in the Ridgeline Scenic Corridor as required in Article 2, and residences which have a distance of more than ten (10) feet from the ground to the lowest point of complete enclosure. C. 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.

TIMELINE – TOWN ZONING ORDINANCE/DESIGN REVIEW CODE SINCE INCORATION IN 1931 TO PRESENT
RELATING TO "APPLICABILITY"



ARTICLE 11. DESIGN REVIEW

Sec. 11.00 Applicability and Purpose

11.01 The provisions of this Article shall be known as Design Review regulations.

11.02 The purpose of these regulations is to effect Design Review of all developments, buildings, structures, signs and other facilities constructed or modified in the City of Fairfax, except as herein provided.

11.03 The purpose of this procedure is to foster a good design character through consideration of esthetic and functional relationships to surrounding development, and in order to further enhance the City's appearance and the livability and usefulness of properties.

11.04 The provisions of this Article shall not apply to the following:

- (1) Single family dwellings and structures accessory thereto, except one-family residences which will have a distance of more than ten (10) feet from the ground to the lowest point of complete enclosure.
- (2) Alterations or additions taking place in any one calendar year which have an estimated value less than One Thousand Dollars (\$1,000), as determined by the Building Inspector.

Sec. 11.10 Design Review Criteria

11.11 The following criteria shall be applied in considering an application for Design Review approval:

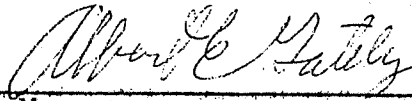
- (1) The proposed development shall create a well-composed urban design, harmoniously related to other facilities in the immediate area and to the total setting as seen from hills and other key vantage points in the community.
- (2) Only elements of design which have significant relationship to exterior appearance of structures and facilities shall be considered; these elements may include height, arrangement on the site, texture, material, color, signs, landscaping and appurtenances.
- (3) The proposed development shall be of a quality and character appropriate to, and serving to protect the value of, private and public investments in the immediate area.
- (4) The proposed development shall conform with all requirements for landscaping, screening, usable open space and the design of parking and off-street loading areas set forth in the Fairfax Zoning Ordinance.

The foregoing ordinance was duly and regularly introduced at a regular adjourned meeting of the City Council of the Town of Fairfax held in said town on the 6th day of December, 1971, and thereafter, at a regular adjourned meeting of said City Council of said Town of Fairfax held in said town on the 13th day of February, 1973, duly passed and adopted by the following vote:

AYES: COUNCILMEN NELDER, PARKERSON, SOUZA and MAYOR GATELY

NOES: COUNCILMAN EGGER

ABSENT: COUNCILMEN: NONE



Mayor

ATTEST:



City Clerk

mmend Ordinance No. 352 - Zoning Ordinance

Ord. #352
Zoning
Ordinance

erty." At a study session held January 10, 1973 the Planning
Commission reviewed and took action on Council changes to the
dmini- proposed zoning ordinance. Council did not accept additional
ed amendments suggested by the Planning Commission at the 1-10-73
e, meeting.

ORDINANCE NO. 352

rt. AN ORDINANCE ESTABLISHING LAND USE ZONES; REGULATING
THE USES OF LAND AND BUILDINGS; THE HEIGHTS OF BUILD-
INGS, ~~THE OPEN SPACES ABOUT BUILDINGS AND SETBACK~~
t. LINES ALONG STREETS; REQUIRING PERMITS FOR CERTAIN
BUILDINGS AND USES; DEFINING TERMS USED HEREIN;
SPECIFYING THE PROCEDURE FOR THE AMENDMENTS AND
ADMINISTRATION AND PRESCRIBING PENALTIES FOR THE
VIOLATION OF ANY OF THE PROVISIONS HEREOF; REPEAL-
ING ALL OTHER ORDINANCES OR PARTS OF ORDINANCES IN
CONFLICT HEREWITH.

to having been introduced and read by title at the meeting of
December 6, 1971, was again read by title.

- M/s, Parkerson-Gately, to waive further reading of
Ordinance No. 352.

AYES: All

s M/s, Parkerson,-Gately, to adopt Ordinance No. 352, as
transcribed.

Motion to
Adopt

Comments:

ort Councilman Parkerson: "This ordinance will firmly imple-
om ment the 1968 Fairfax Area General Plan, turning land use policy
into zoning code regulations; will promote a diversified com-
and munity through diversified zones for commercial and residential
uses; will provide for residential development in all ranges of
ful income; will assist the businessman in deciding the best loca-
et- tion for commercial uses oriented to pedestrian or highway trade
items or special uses such as restaurants or recreation; will help
preserve the historic balance between open space needs and the
realistic needs of undeveloped land for housing needs; will
change lot slope policy into lot slope law, providing equitable
decisions by writ rather than motion; will make it possible for
a small town with limited resources and limited staff to pre-
serve its environment in the best interests of its residents
and taxpayers."

ally Councilman Egger: "The zoning ordinance is not consistent
with the objectives of the General Plan; the scope of allowable

multiple development within the town broadens considerably under the proposed ordinance; by use permit eliminates present height restriction (Councilman Egger recommended including strict height limitations and not allow any use permit process)". Expressed concern regarding legal conforming duplexes on lots less than 7,000 sq. ft.

Councilman Nelder: "I do have reservations about this ordinance, but a lot of people did work hard on it and it is a better ordinance than the one we have been working with."

Councilman Souza: "My major reservation concerns the Commercial-Recreation Zone and the matter of apparent taking of property without due compensation. My other reservation is the R-2 Zone and the problem of use permits. The P.D.D. Zone has not worked and I would hope that the Planning Commission will recommend that this zone be removed."

Mayor Gately: "The Commercial-Recreation Zone does not take anyone's property. This property has been used for recreation purposes for years. This ordinance does comply with the General Plan and is a living document. We have a citizens committee to incorporate the new statutory requirements as well as review the density. If there is a change in the General Plan, there will be a change in the zoning ordinance."

Planning Commissioner Lezzeni: "Tandem parking should be allowed in R-2 Zone; use permit application should be automatically approved after 30 days; P.D.D. Zone should be eliminated."

Vote on motion to adopt Ordinance No. 352:

AYES: COUNCILMEN Nelder, Parkerson, Souza and Mayor Gately

NOES: COUNCILMAN Egger

Ord. #352 in full at end of minutes and made a part of official minutes
Recessed from 10:00 p.m. to 10:10 p.m. Reconvened with all councilmen present.

Adoption
Ord. #352

First Fed.
Savings
Sign

First Federal Savings and Loan Assn. Sign

The Mayor read a letter from Design Review Board Chairman Lee Eckles advising that during the Board's discussion and review of the First Federal sign the 16 sq. ft. restriction for projecting signs was inadvertently overlooked.

Richard Tarrant, attorney representing First Federal, and Elliott Wilson, salesman for the Federal Sign Corporation, maintained that their client had approached the town in good faith.

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ORDINANCE NO. 500

AN ORDINANCE AMENDING ARTICLE 11, DESIGN REVIEW, TO
MODIFY THE DESIGN REVIEW REQUIREMENTS FOR SIGNS AND
OTHER STRUCTURES; ARTICLE 27, RIDGELINE SCENIC COR-
RIDOR, TO MODIFY THE REQUIREMENTS FOR DESIGN REVIEW
OF STRUCTURES IN THE CORRIDOR; AND ARTICLE 28, SIGNS,
TO MODIFY THE REQUIREMENTS FOR DESIGN REVIEW OF SIGN
PERMITS, OF ORDINANCE 352

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

SECTION 1

Section 11.04 is hereby amended to read as follows:

11.04 The provisions of this Article shall
apply to:

- (1) 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 deter-
mined by the Building Inspector
and/or changes in the exterior
color of structures or the alter-
ation of a significant design
element which is part of the
design of the building.
- (2) New construction in Central Com-
mercial, Limited Commercial, High-
way Commercial, Service Commercial,
Multiple Residential, Planned
Development District, Single Fam-
ily-Residential Master Plan zones,
duplexes in RD 5.5-7 zones and
structures in the ridgeline scenic
corridor as required in Article 27,
and residences which have a distance
of more than ten (10) feet from the
ground to the lowest point of com-
plete enclosure.

The foregoing ordinance was duly and regularly introduced by the Town Council of the Town of Fairfax at a regular meeting thereof held on the 8th day of November 1982, and thereafter adopted at an adjourned meeting thereof held in said town on the 15th day of November, 1982, by the following vote, to wit:

AYES: COUNCILMEMBERS Arnold, Egger, Willmann and Mayor Sherman

NOES: COUNCILMEMBERS (None)

ABSENT: COUNCILMEMBERS Lippi

Carol Sherman
MAYOR

ATTEST:

Charles A. Maeso
TOWN CLERK

17.12.010

Chapter 17.12

DESIGN REVIEW REGULATIONS

Sections:

17.12.010	Title.
17.12.020	Purpose.
17.12.030	Applicability.
17.12.040	Design review criteria.
17.12.050	Application.
17.12.060	Preliminary plans.
17.12.070	Application—Filing fee.
17.12.080	Procedure for consideration.
17.12.090	Period of consideration.
17.12.100	Public hearing—Notice.
17.12.110	Appeal to commission.
17.12.120	Appeal to council.
17.12.130	Enforcement.

17.12.010 Title.

The provisions of this chapter shall be known as design review regulations. (Ord. 352 § 11.01, 1973)

17.12.020 Purpose.

A. The purpose of these regulations is to effect design review of all developments, buildings, structures, signs and other facilities constructed or modified in the town of Fairfax, except as herein provided.

B. The purpose of this procedure is to foster a good design character through consideration of aesthetic and functional relationships to surrounding development, and in order to further enhance the town's appearance and the livability and usefulness of properties. (Ord. 352 §§ 11.02 — 11.03, 1973)

17.12.030 Applicability.

The provisions of this chapter shall apply to:

A. Alterations or additions in all zones except RD 5.5-7, RS-6 and RS-7.5 which have an estimated value of more than two

thousand five hundred dollars 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 part of the design of the building;

B. New construction in Central Commercial, Limited Commercial, Highway Commercial, Service Commercial, Multiple Residential, Planned Development District, Single Family-Residential Master Plan zones, duplexes in RD 5.5-7 zones and structures in the Ridgeline Scenic Corridor as required in Chapter 17.32, and residences which have a distance of more than ten feet from the ground to the lowest point of complete enclosure. (Ord. 515 § 11, 1983; Ord. 500 § 1, 1982; Ord. 482 § 2, 1981; Ord. 476 § 2, 1980; Ord. 352 § 11.04, 1973)

17.12.040 Design review criteria.

The following criteria shall be applied in considering an application for design review approval:

A. The proposed development shall create a well composed design, harmoniously related to other facilities in the immediate area and to the total setting as seen from hills and other key vantage points in the community;

B. Only elements of design which have significant relationship to exterior appearance of structures and facilities shall be considered; these elements may include height, arrangement on the site, texture, material, color, signs, landscaping and appurtenances;

C. The proposed development shall be of a quality and character appropriate to, and serving to protect the value of, private and public investments in the immediate area;

D. The proposed development shall conform with all requirements for landscaping, screening, usable open space and the design

of parking and off-street loading areas set forth in this title;

E. Where the proposed development is located in an area where a neighborhood plan or precise plan has been adopted by the town, the design of the development shall conform in all significant respects with such plans;

F. There shall exist sufficient variety in the design of the structures and grounds to avoid monotony in external appearance;

G. The size and design of the structure shall be considered for the purpose of determining that the structure is in proportion to its building site and that it has a balance and unity among its external features so as to present a harmonious appearance;

H. The extent to which the structure conforms to the general character of other structures in vicinity insofar as the character can be ascertained and is found to be architecturally desirable;

I. The extent to which ornamentation is to be used and the extent to which temporary and second-hand materials, or materials which are imitative of other materials, are to be used;

J. The extent to which natural features, including trees, shrubs, creeks and rocks, and the natural grade of the site are to be retained;

K. The accessibility of off-street parking areas and the relation of parking areas with respect to traffic on adjacent streets;

L. The reservation of landscaping areas for the purpose of separating or screening service and storage areas from the street and adjoining building sites, breaking up large expanses of paved areas, separating or screening parking lots from the street and adjoining building sites, and separating building areas from paved areas to provide access from buildings to open space areas;

M. In the case of any commercial or industrial structure, the board shall consider its proximity to any residential district and

shall consider the effect of the proposed structure upon the character and value of the adjacent residential district area;

N. The design review board may recommend design guidelines to the planning commission and town council for adoption in order to further the objectives of this section and to illustrate design criteria. (Ord. 605 § 1 (14) and (15), 1991; Ord. 352 § 11.11, 1973)

17.12.050 Application.

A. Application for consideration shall be made at a meeting of the design review board by the owner of the affected property, or his authorized agent, on a form prescribed by the planning commission, and shall be filed with the secretary of the board no later than fifteen days prior to the next meeting of the board.

B. The application shall be accompanied by such information as may be required to allow applicable design review criteria to be applied to the proposed action. This information may include site and building plans, drawings

ORDINANCE NO. 688

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX
AMENDING SECTION 17.12.030(A) OF THE FAIRFAX TOWN CODE TO EXPAND
THE FAIRFAX DESIGN REVIEW BOARD'S DUTIES TO INCLUDE REVIEW AND
APPROVAL OF ALL PROPOSALS FOR NEW RESIDENCES AND ALTERATIONS
OR ADDITIONS TO RESIDENCES THAT CONSTITUTE 50% REMODELS PER
TOWN CODE §17.10.040(B)

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

Section 1:

Town Code Chapter 17.12.030(A), shall be amended as follows:

A. New residences and alterations or additions constituting 50% remodels as set forth in Town Code § 17.10.040(B)] in all zones including Residential RD 5.5-7 Zones, Residential RS 6 Zones, Residential RS 7.5 Zones and Upland Residential UP Zones.

Section 2:

Copies of the foregoing ordinance shall within fifteen (15) days after its final passage and adoption be posted in three public places in the Town of Fairfax, to wit:

- (a) Bulletin Board, Fairfax Town Offices, Town Hall;
- (b) Bulletin Board, Fairfax Post Office; and
- (c) Bulletin Board, Fairfax Women's Club Building,

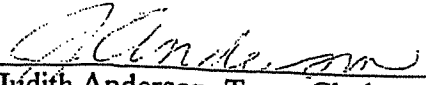
which said places are hereby designated for that purpose, and shall be in full force and effect thirty (30) days from and after its final passage and adoption.

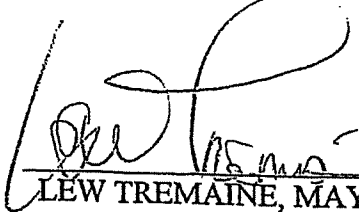
The foregoing ordinance was duly and regularly introduced at a regular adjourned meeting of the Town Council of the Town of Fairfax held in said town on the 5th day of February, 2002 and thereafter adopted on the 6th day of March, 2002 by the following vote, to wit:

AYES: Brandborg, Egger, Tremaine

NOES: Caldararo, Ghiringhelli

Attest:


Judith Anderson, Town Clerk


LEW TREMAINE, MAYOR

1/17/02 PLANNING COMMISSION Mtg

Conditional Use in the Central Commercial Zones, He said he has no problem with a birthing center in Fairfax, but he feels it should not be permitted in the Central Commercial zone. He feels that the proposed Ordinance Amendment is being proposed to accommodate one applicant and he feels the applicant will not be able to open because they do not have the staff to operate legally in the State of California. He said he thought the Town should not change the Code because this could open up the possibility of other similar uses in the Central Commercial zone on the first floor which would break up our retail area. He also recommended changing the wording to an "Alternative Birthing Center" so that the Town is using the same language as the State.

M/S Hailer-Madsen motion to adopt resolution 01-01 with the modification that the center must be licensed by the State and the wording used by the Town to refer to the center be changed from "Midwifery Center" to "Alternative Birthing Center".

AYES: Herbert, Hailer, Madsen, Arguimbau, Chair Shaiken

NOES: Alvillar, Craine

Proposed Zoning Ordinance Amendment and Resolution No. 01-02: consideration of amendment to Town Code § 17.12.030(A) expanding the Design Review Board's review of projects to include all new residences and alterations or additions constituting 50% remodels in the Residential RD 5.5-7 Zone, the Residential RS 6 Zone, the Residential RS 7.5 Zone and the Upland Residential UP Zone.

Planning Director Kirkey gave the staff report and recommended approval of the Resolution No. 01-02.

Commissioner Madsen asked staff if this would increase the cost to the applicants.

Planning Director Kirkey said yes it would increase the application cost.

Commissioner Madsen asked what the increase would be.

Planning Director Kirkey said the cost would increase by about \$500 for a new residence. He said there are projects proposed in the flat areas of the Town that don't receive Design Review and the staff opinion is that it would be beneficial for the Design Review Board to review those projects.

Commissioner Hailer asked if this would increase the staff's workload.

Planning Director Kirkey said yes and it would also increase the Design Review Boards work load.

Commissioner Craine asked staff if there is anyway to discourage nuisance appeals.

Planning Director Kirkey said under the current framework the answer is no. He also said given the Permit Streamlining Act as well as a desire to have a more predictable process for the applicants it is likely that the order in which projects are reviewed by the Planning Commission and the Design Review Board may need to be changed. He said the appeal issue could be looked into at that time.

Commissioner Alvillar asked staff if this would require noticing of all residence within 300 feet for all Design Review applications.

Planning Director Kirkey said yes.

Stan Schriebman, 51 Hickory, said he feels there are too many restrictions and ordinances already and he urged the Commission to deny this item.

Ian Roth, 74 Spruce and Chair of the Design Review Board, requested the Commission to pass this ordinance. He said he thought a design review of all 50% remodels and new residences could improve the quality of the community. He also encouraged the Commissioners to come to a Design Review meeting and he said he is encouraging the Design Review Board members to attend a Planning Commission meeting. He indicated that if each group has a better understanding of what the other group does, the process will work more smoothly for everyone.

Commissioner Hailer said she felt that it is not necessary to have every 50% remodel to go through the Design Review Board process.

Commissioner Alvillar said she is in favor of this amendment with the condition that any applications that are subject to the Planning Commission review go to the Commission first so that applicants are not delayed. She also said the flat area of Town that is not subject to Design Review and a lot of the lots in the flat areas are substandard, and she said all substandard lots in the hillside areas are subject to a discretionary permit review.

Chair Shaiken said he supports this amendment because he feels this will maintain the character of the Town.

M/S Alvillar-Craine motion to recommend approval of the Town Council proposed amendment to the Town Code 17.12.030 A expanding the Design Review Boards duties to include review of all new residences and 50% remodels with the condition that all Design Review subject to Planning Commission applications go to the Commission first.

Ian Roth, 74 Spruce Rd., said the placement of all applications first before the Planning Commission review before the Design Review Board makes a lot of sense.

Commissioner Herbert said he is torn by this issue. He said the Design Review Board is doing a great job but he is concerned about adding another layer to the application process.

AYES: Alvillar, Craine, Chair Shaiken

NOES: Herbert, Hailer, Madsen

ELECTION OF 2002 OFFICERS - PLANNING COMMISSION CHAIR AND VICE CHAIR TREE COMMITTEE MEMBER, AND ALTERNATE

The Commissioners unanimously agreed to continue the matter until the February 2002 Commission meeting.

PLANNING DIRECTOR'S REPORT ON TOWN COUNCIL MEETING

Planning Director Kirkey said the General Plan Advisory Committee (GPAC) has been meeting monthly since September. The group has been focusing on completing the out of date housing element, especially since the State is closely monitoring what cities and towns are doing to encourage new affordable

2/5/02 TOWN COUNCIL MINUTES

Ken Hughes, 363 Forrest, said that Ordinance No. 613, setting the Utility Users Tax at 6%, should have been repealed long ago and that he would like to see the fund of the overcharged money go to the restoration of the Pavilion.

Vince D'Amico, Arboleda Circle, said that he would like to see the money be returned to the people who had paid it.

Mayor Tremaine closed the Public Hearing.

M/S, Brandborg/Egger, Motion to waive further reading of Ordinance No. 687 repealing Ordinance No. 613 regarding the Utility Users Tax

AYES: All

M/S Brandborg/Caldararo, Motion to adopt Ordinance 687 repealing Ordinance No. 613 regarding the Utility Users Tax

Roll Call Vote: Brandborg: AYE, Caldararo: AYE, Ghiringhelli: AYE, Egger: AYE, Tremaine: AYE

It was the consensus of the Council that the names of the vendors that had been continuing to charge 6% be provided to the Council.

Introduction and First Reading of Ordinance No. 688 expanding the scope of the Design Review Board

Planning Director Kirkey presented the staff report. He said that the proposed amendment to Town Code §17.12.030(a) would expand the Design Review Board's review of projects to include all new residences and alterations or additions constituting 50% remodels in the Residential RD 5.5-7 Zone, the Residential RS 6 Zone, Residential RS 7.5 Zone and the Upland Residential UP Zone; that the current Town Code provided the Design Review Board with purview over new construction and 50% remodels on residential properties with a slope greater than 20%; that the proposed amendment would expand the Board's oversight to encompass all new residences and 50% remodels on properties with slopes of 20% or less.

Mayor Tremaine opened the Public Hearing.

Ian Roth, 74 Spruce, Chair, Design Review Board, said that at the January Planning Commission meeting the vote to expand the purview of the Design Review board had been split three to three; that the Design Review Board was in full support of the proposed amendment; that they would address the issues of Floor Area Ratio and "monster homes," ensuring that building projects would fit within their context; that the Design Review Board was requesting the support of the Town Council; and that they could revisit the amendment in a year to evaluate its effectiveness.

Stan Schriebman, 51 Hickory Rd. said that he had been present when the Council had voted 3-2 against an emergency ordinance prohibiting the building of large homes over 3200 square feet and that he saw this amendment as another level of preventing people from building their dream homes.

Mayor Tremaine closed the Public Hearing.

M/S, Brandborg/Caldararo, Motion to waive further reading of Ordinance No. 688, an Ordinance of the Town Council of the Town of Fairfax Amending Section 17.12.030(a) of the Fairfax Town Code to expand the Fairfax Design Review Board's duties to include review and approval of all proposals for new residences and alterations or additions to residences that constitute 50% remodels per Town Code §17.10.040(b)

AYES: All

M/S, Caldararo/Egger, Motion to introduce Ordinance No.688, an Ordinance of the Town Council of the Town of Fairfax Amending Section 17.12.030(a) of the Fairfax Town Code to expand the Fairfax Design Review Board's duties to include review and approval of all proposals for new residences and alterations or additions to residences that constitute 50% remodels per Town Code §17.10.040(b)

Roll Call Vote: Brandborg: AYE, Caldararo: AYE, Egger: AYE, Ghiringhelli: NO, Tremaine: AYE

Introduction and First Reading of Ordinance No. 689 adding Midwifery as a permitted use in the Downtown Commercial Zone

Planning Director Kirkey presented the staff report. He said that the Planning Commission had approved a Use Permit for a midwifery center at 145 Bolinas Road subject to compliance with the Fairfax Parking Ordinance, among other conditions; that the Town Attorney advised the Commission that a parking variance could not be granted for such a use; that the applicant appealed the Commission's condition of approval requiring four on-site parking spaces; that the Town Council directed the staff to prepare a change in the Zoning Ordinance to add birthing centers as a permitted use in the Central Commercial Zone; that the proposed amendment to Section 17.52.040(a), Principal Permitted Uses and Structures, would be amended to include "Alternative Birthing Centers Licensed by the State of California Department of Health Services"; and that, at their January Meeting, the Planning Commission adopted Resolution No. 01-01, recommending that the Town Council approve Ordinance No. 689.

Councilmember Caldararo asked what the Town's potential liability would be if the birthing center were not licensed by the State and a death occurred on the premises related to its use.

Town Attorney Brecher said that in the event that such an incident took place and the clinic was not licensed by the State the Town would not be liable and that it was not the Town's business to enforce State requirements.

Mayor Tremaine opened the Public Hearing.

Tim Chambers, Attorney for Circle of Life, said that the item was a zoning issue rather than a medical issue; that the current wording of the proposed amendment was too narrow to allow for midwifery as a principal permitted use in the Central Commercial Zone; that he felt that it singled out midwifery centers; and that he had a list of other centers that had been approved by the State and that didn't have alternative birth center licenses.

Discussion followed regarding insurance; whether licensing of alternative birth centers was required by the State; the zoning and permitted uses of the area in question; the number of Alternative Birth Centers in the State of California; and the language of the proposed amendment.

Diane Holzer, 17 Valley Rd., midwife, said that the current law addressed MediCal and County peri-natal insurance providers; that licensed midwives currently could not accept MediCal; and that denial of the project would create a restraint of trade issue.

Tim Chambers, Attorney for Circle of Life, said that it would be better to have the wording say that midwifery centers would be licensed as alternative birth centers if required by the State; that they would be willing to obtain licensing if required by the State; and that they didn't want to be in the position of having to obtain licensing if only required by Fairfax.

3/6/02 TOWN COUNCIL MINUTES

Stan Schriebman, 51 Hickory Rd., thanked Councilmember Brandborg for her leadership role at the February 26, 2002 budget presentation meeting and said that there was not enough reporting being done on the issue.

Louise Matthews, San Anselmo, said that it was essential for the taxpayers that the Check Summary show information such as voided checks, and what department an expenditure came from and why.

Terri Alvillar, Box 1014, said that she objected to two disbursements, namely, that Fox & Schmidt had been paid over \$18,000 for an internal personnel investigation and that \$2,000 had been paid in attorney fees to Bertrand and Associates; that the Council should wait for justification for such disbursements and pay the total amount at one time; and that she wanted to know who signed the contract with Fox & Schmidt.

Town Administrator Bengyel said that the disbursement that Ms. Alvillar referred to was the only payment made and was for the entire services rendered; that approval to hire an outside service for an internal affairs investigation was made in a verbal agreement by the previous Interim Town Administrator; and that Bertrand and Associates was still providing legal services.

Barbara Dolan, Fairfax, said that it seemed that the internal investigation was very confusing and not an orderly process and that making decisions would be difficult without a good point of reference.

Suzanne Lindelli, San Anselmo, questioned what appeared to be an open expenditure to Attorney Bertrand.

Town Administrator Bengyel said that the investigation was not a planned activity and that the payments were made when billed.

Discussion continued regarding the internal investigation of a personnel matter and related expenditures.

Chief of Police Hughes said that the issue was an internal personnel matter and that to comment on any of the public's questions would be very improper.

It was the consensus of the council to continue any unheard items to an adjourned meeting.

Second Reading and Adoption of Ordinance No. 688 expanding the scope of the Design Review Board

Planning Director Kirkey presented the staff report. He said that the proposed amendments to the Town Code would expand the Design Review Board's (DRB) review of projects to include all new residences and alterations or additions constituting 50% remodels in the Residential RD 5.5-7 Zone, the Residential RS 6 Zone, the Residential RS 7.5 Zone and the Upland Residential UP Zone; and that the Town Council introduced Ordinance No. 688 at the February 5, 2002 meeting.

Mayor Tremaine opened and closed the public hearing when no speakers came forward.

M/S, Egger/Brandborg, Motion to waive further reading of Ordinance No. 688, an ordinance of the Town Council of the Town of Fairfax amending Section 17.12.030(A) of the Fairfax Town Code to expand the Fairfax Design Review Board's duties to include review and approval of all proposals for new residences and alterations or additions to residences that constitute 50% remodels per Town code §17.10.040(B).

AYES: All

M/S, Brandborg/Egger, Motion to adopt Ordinance No. 688, an ordinance of the Town Council of the Town of Fairfax amending Section 17.12.030(A) of the Fairfax Town Code to expand the Fairfax Design Review Board's duties to include review and approval of all proposals for new residences and alterations or additions to residences that constitute 50% remodels per Town code §17.10.040(B).

Roll Call Vote:

Brandborg: AYE, Caldararo: NO, Egger: AYE, Ghiringhelli: NO, Tremaine: AYE

Second Reading and Adoption of Ordinance No. 689 adding "Alternative Birthing Center" as a permitted use in the Downtown Commercial Zone

Planning Director Kirkey presented the staff report. He said that the proposed amendment to the Town Code would include Alternative Birthing Centers as permitted uses in the Central Commercial CC District; that the Town Council introduced the proposed ordinance at the February 5, 2002, meeting; and that the Council made the following change to the wording of the ordinance: Section 17.52.040(A), Principle Permitted Uses and Structures, shall be amended to include "Alternative Birthing Centers Licensed by the State of California Department of Health Services Unless Such Requirement Is Waived By The State of California" in the list of permitted uses.

Mayor Tremaine opened and closed the public hearing when no speakers came forward.

M/S Egger/Ghiringhelli, Motion to waive further reading of Ordinance No. 689, An Ordinance Of The Town Of Fairfax Amending Chapter 17.52 Of The Fairfax Town Code To Include As A Permitted Use Alternative Birthing Centers Licensed By The State Of California Department Of Health Services Unless Such Requirement Is Waived By the State of California in the list of permitted uses.

AYES: All

M/S, Egger/Ghiringhelli, Motion to adopt Ordinance No. 689, An Ordinance Of The Town Of Fairfax Amending Chapter 17.52 Of The Fairfax Town Code To Include As A Permitted Use Alternative Birthing Centers Licensed By The State Of California Department Of Health

RESOLUTION NO. 2216

A RESOLUTION OF INTENTION OF THE FAIRFAX TOWN COUNCIL TO
AMEND SECTION 17.12.030(A) OF THE FAIRFAX ZONING ORDINANCE TO
EXPAND THE FAIRFAX DESIGN REVIEW BOARD'S AUTHORITY TO INCLUDE
REVIEW AND APPROVAL OF ALL PROPOSALS FOR NEW RESIDENCES AND
ALTERATIONS OR ADDITIONS TO RESIDENCES THAT CONSTITUTE 50% OR
GREATER REMODELS PER TOWN CODE §17.10.040(B)

WHEREAS, the Fairfax Town Council, having conducted a public hearing at their September 4, 2001 regular meeting, determined that the current Zoning Ordinance does not include regulations adequate to preserve the character of the Town from negative impacts related to current development trends; and

WHEREAS, the Fairfax Town Council has determined that the proposed amendment is necessary to protect the quality of life in the varied residential neighborhoods of Fairfax; and

WHEREAS, the Fairfax Design Review Board has the necessary expertise to review issues related to the siting, mass, size, and design of residential structures; and

WHEREAS, there will be no physical impacts to the environment as a result of expanding the review authority of the existing Design Review Board;

NOW THEREFORE, BE IT RESOLVED,

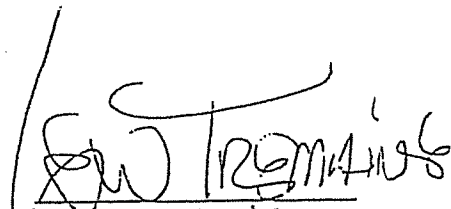
We the Fairfax Town Council direct staff to initiate a proposed amendment to Section 17.12.030(A) of the Fairfax Town Code, expanding the duties of the Fairfax Design Review Board to include review and approval of all new residences and alterations or additions to residences that constitute 50% remodels per Town code section 17.10.040(B). We further direct staff to send the proposed amendment to the Planning Commission for their review and action at the regular December 20th, 2001 meeting of the Fairfax Planning Commission.


The foregoing resolution was duly presented and adopted at a regular meeting of the Fairfax Town Council of the Town of Fairfax held in said Town on the 4th, day of December 2001, by the following vote to wit:

AYES: Brandborg, Caldararo, Egger, Tremaine

NOES: None

ABSENT: Ghiringhelli


Lew Tremaine, Mayor

ATTEST: 
Town Clerk



How San Francisco lost its color

In the Mission District and across San Francisco, once-vibrant street blocks have been receding into a puzzling state of aesthetic neutrality. Why are so many San Francisco homes going gray?

By Annie Vainshtein | Oct. 11, 2019

Sergio De La Torre still remembers the moment when gray took over his neighborhood.

The artist and professor had developed a cache of familiar sights during his 12 years living in the Mission District at the intersection of Treat and 25th streets. One of them was a halfway house situated right behind his home.

hear one of them singing songs as she strung up her wet clothes by the back staircase. They became fixtures of his everyday world, permanent staples of his mental metropolis.

But one day in 2014, it all seemed to disappear. The residents, the singing, the cigarettes and the pajamas were gone. He didn't see anyone walking around anymore. Then the scaffolding went up. All he could see was that the house, once light-blue, had been repainted gray.

Millennials moved in — the employees, De La Torre said, of a Silicon Valley company that bought the house. Each floor allegedly went for \$9,000. They had parties but didn't talk to their neighbors.

Soon, newly gray buildings seemed to follow him like a shadow. Especially in the Mission District, once-vibrant street blocks with ornate Victorians and Edwardians were receding into a puzzling state of aesthetic neutrality, dotted by FOR SALE signs, then moving trucks. People he knew were getting evicted, rental rates soared. There were fires, shootings, struggles with the police. An artisan paint store, painted gray itself, had recently opened nearby but was always closed.

It might have been easy to dismiss the gray as an emblem of the city's increasingly modern aesthetic — with its glassy robot-run cafes, proliferation of luxury condos, and slatwall panel horizontal fences — after all, color psychology characterizes gray as a detached color, one manufactured not to offend. But De La Torre, a professor of fine arts at the University of San Francisco whose projects have focused on immigration and transnational identities, felt strongly that the drab colors were anything but silent. In a city with as loud an identity as San Francisco, they were visual signifiers of gentrification.

They started to feel like an omen.



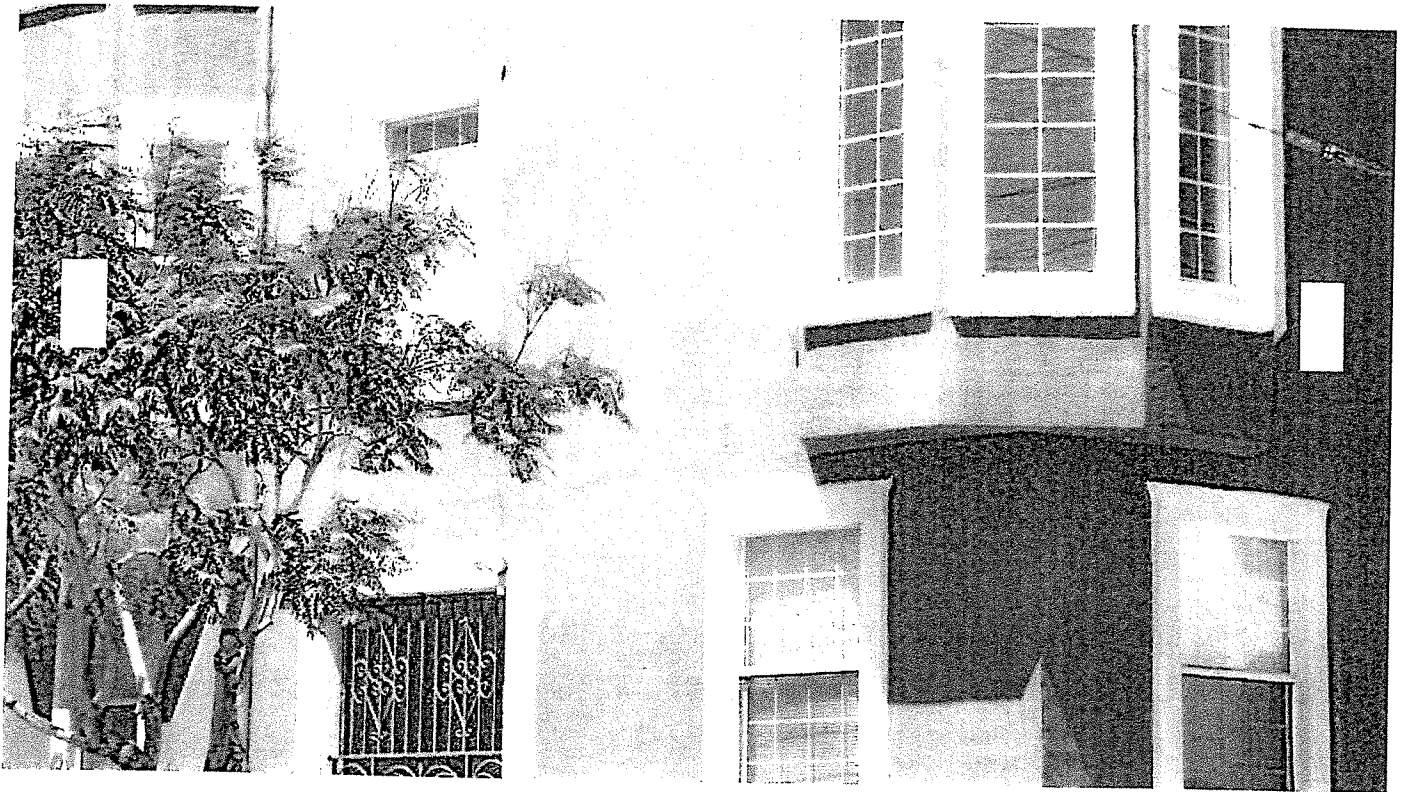


Photo: Kate Munsch / Special To The Chronicle

IMAGE 1 OF 8

Houses in the Mission District showing the new trend of gray-painted houses in the Mission District of San Francisco, Calif., on August 26, 2019.

Over the past year, De La Torre has been investigating what he calls the “gray-washing” of the Mission District, teaching a class and working on a project titled “After the Ashes: The Curious Case of Gray Houses in the Mission.” He’s in the early stages of research, which involves photographing gray houses and approaching people in the neighborhood to talk. Some of them ignore him and walk away.

“Some people say it’s a neutral color, a non-color,” De La Torre said. “These words around the Mission, they mean a lot. You can’t be mute. You cannot be non-color. You have to see color. It’s a neighborhood of immigrants.”

Both in the Mission and across San Francisco, one thing is certain: Gray is in vogue. The question, though, is what this new aesthetic uniformity says about San Francisco’s

Dirk Kinkley, a real estate broker associate for Compass, noticed the gray trend crop up five to seven years ago.

“It’s a quick way to class up a house,” Kinkley said during a recent open house for one of his listings, a gray four-bedroom apartment on Folsom Street. “It feels sophisticated. It’s almost like wearing a tuxedo or a nice evening dress. It’s the little black dress of the house.”

The trend is not limited to San Francisco. Gray-painted houses are found from coast to coast. And there’s a clear reason why. In 2017, a Zillow analysis found that homes painted gray, especially “greige,” sold for \$3,496 more than comparable homes painted other colors. In 2015, the Washington City Paper reported on a trend of gray-painted and newly renovated brick row houses in D.C., where “houses are bought and sold like day trader shares.”

Jill Pilaroscia, an architectural color consultant and the founder of Colour Studio, a color consultation company in San Francisco, distinctly remembers the first gray home she was asked to work on, in 2008. It was an “impeccable, amazing home” on Webster Street. “Then they gutted the interior, and made it into a much more modern residence,” she said. “This client did not want a Painted Lady in any way.”

She’s only seen gray increase in popularity over time.

Pilaroscia can’t fathom why gray has such resonance now, but she says the cultural virtues instituted by the Painted Ladies — Victorians and Edwardians that were repainted in three or more colors to accentuate their historic details — are slipping further and further away.

Ladies generation of the 1960s and 1970s was extroverted — one that wanted to express, she said. This era of San Franciscans does not.

Bob Buckter, a legendary local color consultant who's earned the name "Dr. Color" for his almost 50 years of aesthetic service to the city's Victorians and Edwardians, estimates he's been called to do more than 17,500 jobs just in San Francisco. Recently, many of them have been gray.

He's tired of the trend — the "consumable" choice that seems to be popular among techies.

"I'm a polychromist," he said. "I can't help myself. (Gray is) a mindless, thoughtless, insensitive, trendy, zero contribution color. It's a negative contribution, I think."

This isn't the first time San Francisco has gone gray.

More than 48,000 Victorians and Edwardians were constructed in San Francisco between 1849 and 1915, according to Elizabeth Pomada and Michael Larsen, who coined the term "Painted Ladies" and authored the 1978 book, "Painted Ladies: San Francisco's Resplendent Victorians." Many of those houses were also painted in austere palettes that included gray.

Take San Francisco's Haas-Lilienthal house, a 133-year-old Queen Anne Victorian at 2007 Franklin St., which is listed in the National Register of Historic Places. In 2015, the historic home got a \$4.3 million renovation to maintain and improve the building. People were surprised when it was repainted gray. They'd expected a polychromatic Painted Ladies job, but San Francisco Heritage, a preservation nonprofit that has owned the house since the 1970s, wanted to restore it to its original 1886 color: an armored-steel greenish-gray.

Even in the 1880s, however, there was a growing movement toward more vibrant shades.

"Just when the present aesthetic movement began, it would be hard to determine; but it first manifested itself in a growing aversion to gray paint," read an article in The Chronicle dated June 19, 1887. "Cautiously at first, then more and more boldly, houses appeared in browns, yellows, greens and even reds — all sorts of unorthodox colors; yet one was forced to admit that the town did look better for it."

Gray became increasingly popular in San Francisco during both world wars due to an overstock of cheap Navy battleship gray paint. But shortly after WWII, a 1947 planning study set the stage for transformation on another level — urban renewal.

Victorians fell to the wayside, many carted out of the city on railcars. Pomada and Larsen estimate that of the 16,000 Victorian homes that survived after urban renewal, half were “smothered” of their charms by stucco, asbestos, tarpaper, brick, permastone, texcoat and aluminum siding.

Many of the remaining Victorians were also plagued by problems. As more people were pushed into renting, fewer were able to spend the money to preserve the homes.

“The facades crumpled with age,” Pomada and Larsen write. “The powder cracked; the mascara ran.”

Then came the sea change.

By the 1960s and 1970s, born partly out of the psychedelic ethos of self-expression and a communal interest in beautifying the dull cityscape, a legion of painters, artists and colorists began to paint the city’s remaining Victorians and Edwardians. They used exuberant color patterns that turned heads — hues of incandescent limes, turquoises, yellows and blues — leading the charge in what’s now called the Colorist Movement.

Butch Kardum, one of the first Colorists, began experimenting with intense blues and greens on his Italianate home in 1963. For him, painting his home was one of the only things at that time he felt was uniquely his. At first the reaction of his neighbors was negative — but after a short while, his entire block had been repainted in colors as bright and inventive as his own.

The Colorist movement, which developed spontaneously, became the signpost for what’s now considered an iconic feature of San Francisco culture: individualism and self-expression. For people who’d lived many years in their muted Stick-style homes, reinventing their residences — and by proxy, themselves — in glowing coats of violet, lilac, gold and silver was a way to expand their own aesthetic self-conceptions and, in many cases, bring light and regeneration to streetscapes that were graying into the fog.

and jobs which are means not ends, painting their homes is a satisfying form of self-expression,” Pomada and Larsen write. “Nothing in San Francisco has been as effective in making people take pride in their homes, streets, neighborhoods and city as paint applied with imagination.”

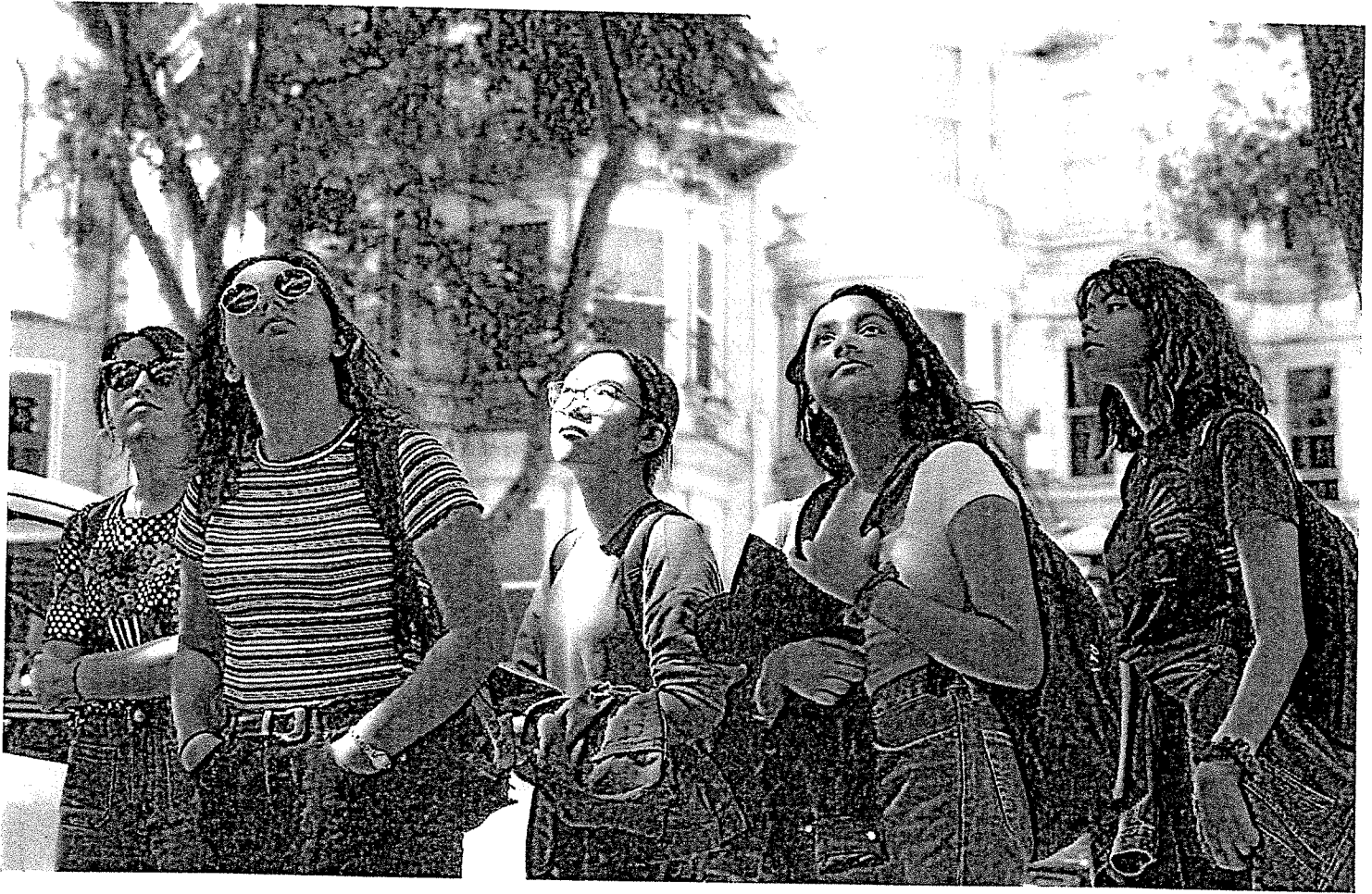
Yet at the same time the Painted Ladies were breaking through the mainstream, the pendulum swung again, and a counterculture of darker colors began to subvert the polychrome. In 1968, Jefferson Airplane bought a mansion by Golden Gate Park and painted it black.

Corporations and downtown business interests were quick to steer away from the vibrancy, and a muted modern design followed: high-rises, the skyscraper at One Post St., construction of the Embarcadero Center throughout the 1970s. The Urban Design Plan from 1971 stated that new buildings should “avoid extreme contrasts in color,” The Chronicle reported. The Downtown Plan of 1985 discouraged disharmonious colors. “Buildings should be light in color,” it read.

The 1980s had its gray moment, too. According to Nita Riccardi, founder of Winning Colors and a painter who has worked on more than 400 period homes in the city, the legend goes that a number of gay men began painting their houses gray-brown with white trim and a glossy black door for a period in the 1980s, a trend that she suspects might have been a communal coping in the era of HIV panic. (Artists in the community named it the gay potato, she said.)

Light and dark toggled back and forth over the next two decades. In 2014, black paint began to blanket blocks of the city, urban design critic John King reported in The Chronicle. The black behemoths intended to stand out on the corner of a colorful block. But even then, there was the concern they might overshadow San Francisco’s colorful aesthetic. “One dark building can be a bold nudge to quiet neighbors,” King wrote. “When too many are too big, or in too-close proximity to one another — thud.”

The deeper concern was that they threatened the city’s essence.



Students of USF Professor Sergio De La Torre, during a tour of a new trend of gray-painted houses in the Mission District of San Francisco, Calif., on August 26, 2019. | Kate Munsch / Special To The Chronicle

On a recent Wednesday at the Mission's Kadist gallery, which is gray, De La Torre presented some of his photos of newly coated gray houses to a capacity crowd. He wanted to hear what the community thought about gray: Had they noticed it? Did it bother them? He wanted to unravel if or how this color conformity symbolized the spirit of San Francisco. "It was basically a town hall meeting," he said. "But people didn't know that."

He led with a quotation from Gehrard Richter, a German artist who famously called gray the "ideal colour for indifference, fence-sitting, keeping quiet, despair." Then De La Torre turned it over to Tanu Sankalia, a University of San Francisco professor and urban studies program director, who began with a premise.

“Is (gray) an anxiety with the modern, or a way to disavow the Colorist movement?” Sankalia asked the audience. “Is it a sign of transformation, a way to go unnoticed? Or in the end, is the color of a house completely arbitrary?”

Hands shot up. Someone in the audience said the gray houses felt like another faux-modest badge of San Francisco’s nouveau-riche trying to hide their wealth: gray Teslas, tech company T-shirts, personal scooters. “When I see a gray house, all that tells me is that the house has recently been sold,” a young woman said. “It’s a weird restructuring of what is a home space into an asset, a luxury good.”

Another attendee suggested that painting a house gray was a way to hide as a gentrifier in a new neighborhood. A different audience member said it hurts to see her neighbors get evicted, and then their house painted gray. “It’s almost like they’re trying to erase their history,” she said. “The family that cried on the corner ... we know all these stories, and when you see the gray house — it’s a gut punch.”

One crucial element of the Great Gray Dispute is what’s imperceptible from the outside — that the insides of these houses are also being excavated to strip away every part of their Victorian interiors. According to Richard Sucre, principal planner for San Francisco, even in historic homes, the city doesn’t govern color. In this case, gray — or another nondescript color — can be one of the easiest ways to resolve the visual dissonance between a modernized interior and the facade of historic polychrome on a Victorian.

There are a number of reasons to explain the new wave of gray. But the point, perhaps, is not about justification, but about its reverb. Like any other visual or architectural phase in the city’s history, the discussion is not simply about color or aesthetic but rather, a tab in the sustained debate over San Francisco’s “true” identity. Now, it seems, it’s not just about gray buildings, or gray houses or gray cars, but about a growing gray-ness, one that’s not quite as easy to catalog.

and selling of property. Definitely that houses are changing hands and they're changing quite quickly." It also illuminates the growing desire to shed the history of the Victorian behind.

Joe Zucca, a Mission District resident of more than 30 years, is painting the house he rents out gray. "I just didn't want to go with the typical Victorian multicolor look," he said. "I just wanted to do something different."

He had no idea it was a design trend, let alone a controversy. He just liked the way gray looked as a solid color. What wasn't simple was finding the right shade. He didn't want it to be too light, or drab or overly blue. In fact, he was so obsessed with a shade of gray he'd seen painted on a recently remodeled Victorian in Bernal Heights that he rang their doorbell every day for two weeks, at different times of the day. No one ever answered.

The narrative of an apathetic gray also wasn't true for Zachary Scholz. In 2012, Scholz — an artist — and his wife decided to renovate and repaint the Mission District house in which they've lived for the last decade (it was built in the 1950s). They were the only gray house on the block for a while; now, their neighbors across the street have decided to go gray, too.

"Something about gray feels very honest," Scholz said. "It has a very solid and physical sense to it. It sort of foregrounds the building as an object rather than being a color that's a decision in its own right."

There's a beautiful kind of melancholy to it, too — its neutrality and privacy are what he likes about it. "It's not broadcasting a whole lot to the outside world," he said. "It's an introvert's choice."

Correction: A previous version of this story misstated some details of the Haas-Lilienthal house. It is 133 years old and was renovated in 2015 to maintain and improve the building.