

ORDINANCE NO. 2024-01

AN ORDINANCE OF THE CITY COUCL OF THE CITY OF FERNDAL AMENDING SECTION 6.05, DESIGN CONTROL COMBINING OR D-ZONE, OF THE FERNDAL ZONING ORDINANCE AND DETERMINING THE ORDINANCE TO BE EXEMPT FROM CEQA

WHEREAS, the City of Ferndale, California (City) is a municipal corporation, duly organized under the constitution and laws of the State of California; and

WHEREAS, California Government Code Section 65850, et seq. authorizes cities to regulate land use, and to adopt and amend general plans and zoning and building ordinances for such purposes, and sets forth procedures governing the adoption and amendment of such ordinances; and

WHEREAS, pursuant to Article 8 of the Ferndale Zoning Ordinance (Ordinance No. 02-02) an amendment to the Zoning Ordinance may be initiated by the City Council and, thereafter, be submitted to the Planning Commission for a public hearing on the proposed amendment and preparation of a report; and

WHEREAS, the agenda for the July 17, 2024 regular meeting of the Ferndale City Council included the agenda item for the adoption of Resolution 2024-14 for the submittal to the planning commission a proposed amendment to the Zoning Ordinance and requesting a report thereon, and said agenda was posted in accordance with State law;

WHEREAS, during the July 17, 2024 regular meeting of the Ferndale City Council unanimously adopted Resolution 2024-14, and thereby the City Council initiated the process to amend the Zoning Ordinance; and

WHEREAS, on Thursday, July 25, 2024, the City caused to be published in the Ferndale Enterprise, a newspaper of general circulation in the city of Ferndale, a Notice of Public Hearing on the proposed amendment to Section 6.05 of the Zoning Ordinance; further, the City published a Notice of Public Hearing on the proposed amendment on its website at <https://ci.ferndale.ca.us/>, and posted the same Notice of Public Hearing on two public bulletin boards in accordance with Section 8.08 of the Zoning Ordinance; and

WHEREAS, on August 7, 2024, the Planning Commission conducted a duly noticed public hearing to accept public comment and consider the proposed amendment to Section 6.05 of the Zoning Ordinance. Following the public hearing and Planning Commission deliberation, a motion for the Planning Commission to recommend that the City Council adopt the proposed amendment to Section 6.05 of the Ferndale Zoning Ordinance did not pass; and

WHEREAS, for the regular August 21, 2024 meeting of the Ferndale City Council, staff prepared a report of the August 7, 2024, Planning Commission public hearing, and the report was included as agenda item 13.b. As part of the August 21, 2024 meeting for agenda item 13.b, after considering staff's report and public comment, and deliberating, the City Council voted, 4 ayes and 1 abstention, to accept the Planning Commission's August 7, 2024 report, and directed staff to schedule and notice a public hearing and first reading of the amendment to Section 6.05, Design Control Combining or D-Zone, of the Ferndale Zoning Ordinance; and

WHEREAS, on Thursday, September 5, 2024, the City caused to be published in the Ferndale Enterprise, a newspaper of general circulation in the City of Ferndale, a Notice of Public Hearing on the proposed Ordinance amending Section 6.05 of the Zoning Ordinance; further, the City published a Notice of Public Hearing of the proposed amendment on its website at <https://ci.ferndale.ca.us/>, and posted the same Notice of Public Hearing on two public bulletin boards in accordance with Section 8.08 of the Zoning Ordinance; and said notices specify the availability of the Ordinance and the date, time, and location of the public hearing for this Ordinance; and

WHEREAS, the City Council has considered the staff report, supporting documents, public testimony, the report

of the Planning Commission August 7, 2024 public hearing, and all appropriate information that has been submitted with this Ordinance; and

WHEREAS, all legal prerequisites to the adoption of the Ordinance have occurred.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF FERNDALE, DOES HEREBY ORDAIN, AS FOLLOWS:

Section 1. Recitals. Each fact set forth in the recitals above is true and correct, and incorporated herein by reference.

Section 2. Findings. All findings required by State General Plan law and the Ferndale Zoning Ordinance for the approval of the Ordinance amending Section 6.05 of the Ferndale Zoning Ordinance are made:

A. COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).

1) **FINDING:** Adoption of this Ordinance is exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.

EVIDENCE: a) Adoption of this Ordinance to amend the Zoning Ordinance is exempt from environmental review pursuant to CEQA Guidelines Section 15061(b)(3) the General Rule or Common Sense Exemption: it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. Since no development or other physical change to the environment would be approved by amending the procedures for reviewing and approving design review permits, it can be seen with certainty that there is no possibility that the adoption of the Ordinance may have a significant effect on the environment in the City of Ferndale.

b) The exceptions to categorical exemptions listed in Section 15300.2(a) through (f), of the CEQA Guidelines, do not apply to the proposed project.

15300.2(a) Location. This exception applies when the Categorical Exemptions specified in Classes 3, 4, 5, 6, and 11 are utilized. The proposed project does not utilize a Classes 3, 4, 5, 6, or 11 Categorical Exemption; therefore, this exception does not apply to the project.

15300.2(b) Cumulative Impact. The proposed amendment to the Zoning Ordinance changes the review and approval authority for design review permits from the Design Review Committee (DRC) to the Planning Commission; the proposed amendment does not change the design review standards.

15300.2(c) Significant Impact. Since no development or other physical change to the environment would be approved by amending the Design Review procedures, it can be seen with certainty that there is no possibility that the adoption of the Ordinance amending to the Zoning Ordinance may have a significant effect on the environment in the City of Ferndale.

15300.2(d) Scenic Highways. There are no designated Scenic Highways in Ferndale city limits or nearby in the unincorporated area of Humboldt county; nor are there any scenic highways pending designation.

15300.2(f) Historic Resources. Ferndale's Main Street is designated as a Historic District and is on the National Register of Historic Places. The project is to modify the body designated to review and approve design review permits.

Currently the DRC, a five-member subsidiary body to the Planning Commission, is the designated authority. The DRC's decisions are appealable to the Planning Commission. The amendment proposes to change the designated body from the DRC to the Planning Commission. The project does not include changes to standards for development in the Main Street Historic District or to the boundaries of the Historic District.

- c) The City Council hereby directs staff to prepare, execute, and file with the Humboldt County Clerk and the Governor's Office of Planning and Research a notice of exemption within five (5) working days of the adoption of this Ordinance.

B. PUBLIC INTEREST.

1) FINDING:

Section 8.01 of the Ferndale Zoning Ordinance and State General Plan Law stipulates that the Zoning Ordinance may be amended whenever the public necessity, convenience and welfare require such amendment. The proposed amendment is of public necessity, convenience and welfare.

EVIDENCE:

- a) The Ordinance designates the Planning Commission as the body to review and approval design review permits. The Ordinance advances the goals, policies, and implementation programs of the Historic & Cultural Resources Element and the Housing Element of the Ferndale General Plan, and therefore is in the public interest.
- b) Currently, design review permits are reviewed and approved by the DRC. The DRC is a subsidiary body to the Planning Commission, with its members appointed by the Council upon the recommendation of the Planning Commission. Decisions of the DRC are appealable to the Planning Commission. If the proposed amendment is adopted, the DRC will be eliminated and the Planning Commission will be tasked with the review and approval of design review permits. The Planning Commission is better suited to consider all aspects of a project as the scope of their duties include reviewing development applications for consistency with the entirety of the Zoning Ordinance and the Ferndale General Plan, and compliance with CEQA. That is, the Planning Commission's scope of review is comprehensive involving a review for compliance with all of the City's land use regulations, and State law. Additionally, for projects that require approval of another discretionary permit (e.g., a use permit or variance) the proposed amendment will allow for concurrent review of all discretionary permits thereby providing a more efficient entitlement process. The proposed amendment is also in the public interest because it would minimize the potential for piecemealing projects which is a violation of CEQA. With new state laws on housing, many cities now task design review processes either ministerial, or with the Planning Commission, based on the scope of the project. The proposed amendment will not modify or reduce requirements for noticing or public hearings for consideration of design review permits, demonstrating that the amendment is consistent with the public welfare: A noticed public hearing will still be required for a decision on a design review permit. The proposed amendment is of public necessity, convenience and welfare as it will reduce the potential for piecemealing, ensure a complete and comprehensive review for compliance

with local land use regulations and state law, and provide a more streamlined entitlement process for development projects.

C. CONSISTENCY WITH THE GENERAL PLAN.

3) FINDING: State General Plan Law states that amendments to the Zoning Code must be consistent with the General Plan. The Ordinance amending Section 6.05, of the Zoning Ordinance is consistent with the General Plan.

- EVIDENCE:**
- a) The proposed amendment to the Zoning Ordinance is consistent with the Goals and policies of the Historic & Cultural Resources Element (HCR) of the General Plan. Goal 4 of the HCR commits the City to guiding the design and context of new development to be compatible with existing historic resources. Policy 4.2 is to effectively utilize the City's Design Review process when permitting projects in the Design control combining zone. This process includes clear review and appeal procedures. The proposed amendment is consistent with Goal 4 of the General Plan as the Planning Commission, in place of the DRC, will guide the design and context of new development. For development projects involving other discretionary approvals, the review and approval will rest with a single body, the Planning Commission (whose decisions may be appealed). The proposed change in procedure will yield a more effective and clear design review process for the public, property owners, and developers, which is one of the goals and objectives of HCR.
 - b) The proposed amendment implements Housing Element Program 15. Program 15 commits the City to monitoring its design review process (along with its inventory of residential lands for compliance with no net loss statute) throughout the planning period (i.e., 2019 to 2027) and if at any point it becomes a constraint to development the process will be revised within six months. Designating the Planning Commission as the decision-making body for design review permits will ensure development applications receive a comprehensive review for compliance with all of the City's land use regulations and State law from the onset. Additionally, for projects that require approval of another discretionary permit (e.g., a use permit or variance) the proposed amendment will allow for concurrent review of all discretionary permits thereby providing a more efficient entitlement process.

Section 3. Zoning Ordinance Amendment. The following Sub-Sections of Section 6.05 of the Ferndale Zoning Ordinance are hereby amended by this Ordinance as set forth in Exhibit A, attached hereto and incorporated herein by reference:

- 6.05.2
- 6.05.3
- 6.05.4
- 6.05.5
- 6.05.6

Without modifying the substance, following approval of this Ordinance, the City Clerk shall cause the amendments to the Zoning Ordinance to be consistent in form and style with the Zoning Ordinance.

- Section 4. Effective Date.** The effective date of this Ordinance is thirty (30) days after its adoption of the City Council. The Clerk shall cause this Ordinance to be published in the manner required by Government Code section 36933.
- Section 5. Severability.** If any provision of this Ordinance or its application to any person or circumstance is held to be invalid, such invalidity has no effect on the other provisions or applications of the Ordinance that can be given effect without the invalid provision or application, and to this extent, the provisions of this resolution are severable. The City Council declares that it would have adopted this Ordinance irrespective of the invalidity of any portion thereof.
- Section 6. Limited Repeal.** Any provision of the Zoning Ordinance that are inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.
- Section 7. Enacting Dates and Signatures.** **PASSED, APPROVED, AND ADOPTED** at a regular meeting of the City Council of the City of Ferndale, California, on this 16 day of October 2024, by the following ROLL CALL vote of the City Council:

AYES:

5 (Lund/Ostler)

NOES:

0

ABSTAIN:

0

ABSENT:

0

Randy Cady
Randy Cady, Mayor

Attest:

Kristene Hall
Kristene Hall, City Clerk

FIRST READING:	9/18/2024	AMENDMENTS:
SECOND READING:	10/16/2024	
ENACTED:	11/16/2024	

Exhibit A

§6.05 Design Control Combining or -D Zone

The Design Control Combining or -D Zone is intended to be combined with any principal zone in which the appearance and design of buildings and structures form a substantial contribution to the desirability of the zone for the uses permitted therein, and in which it is desired to protect the over-all Historical appearance of the zone by regulating the design of proposed buildings and structures in the zone. The following regulations shall apply in any zone with which a Design Control Combining or -D Zone is combined, or as specified in Ordinance 2013-02 Sign Ordinance:

- 6.05.1 The procedures and authority for Design Review are established by this section to achieve the following purposes and objectives:
 - a. To ensure that new buildings and structures and/or the modification, alteration and/or enlargement of existing buildings or structures occurs in a manner which is consistent with the policies of the general plan;
 - b. To preserve the natural beauty of the town's site and setting;
 - c. To ensure that the architectural design of buildings and structures and their materials and colors are visually harmonious with and are conceptually consistent in character and scale with surrounding area; and
 - d. To ensure that the design and location of signs and their material and colors are consistent with the character and scale of the buildings to which they are attached or which are located on the same site, and to ensure that signs are visually harmonious with surrounding development.
- 6.05.2 Before any sign, structure or building may be erected, structurally altered, or in any way remodeled or improved so as to change the outward appearance of the sign, structure or building, a Design Review Permit shall be obtained unless exempted by Ordinance 2013-02.
- 6.05.3 All applications for permits as required by this ordinance shall be in writing, upon a form prescribed and furnished by the City, and filed in the office of the City Clerk. The application shall contain the name and address of the applicant; the name and address of the owner of the land; a description of the property involved; the street address; the reasons for filing the application; a description of the project to be undertaken; and other information as required by the City Manager or their designee to evaluate the application. Any application required by this Ordinance shall be accompanied by copies, in a quantity as required by the City Clerk, of site plans, diagrams, photographs, materials, or other presentation material as may be necessary for complete review and consideration of the proposed development.
- 6.05.4 Design Review Permits shall be subject to the following procedures:
 - a. The planning commission shall act on design review applications and follow the procedures in this section.
 - b. In the initial application, an applicant may request either conceptual design

review or final design review under the provisions of this Ordinance.

1. Conceptual Design Review. The purpose of conceptual design review is to provide the applicant with the planning commission's tentative reaction to the general design concept of a proposed project. Such review shall not include a formal decision on the application by the planning commission.
 2. Final Design Review. Final design review by the planning commission is for the purpose of rendering a final decision on the application. At the conclusion of final design review, the planning commission may impose such conditions that are reasonable and necessary to carry out the purposes of this chapter and may, in addition, require such public improvements as are deemed necessary for the promotion of the public health, safety, and welfare.
- c. A notice of the time and place of consideration of design review applications, including a general explanation of the matter to be considered and a general description of the area affected, shall be posted at least 10 calendar days before the hearing at City Hall.
- e. The decision-making authority shall make appropriate findings of fact in support of each final design review decision, including, but not limited to, findings regarding each of the following matters:
1. Compliance of the project with the California Environmental Quality Act;
 2. The consistency of the project design with the Ferndale general plan and zoning ordinance; and
 3. Consistency of the project with policies set forth in this Section 6.05.
- f. The decision-making authority may not base any final decision solely upon consideration of the following matters:
1. Design details such as the color, shape, volume, texture, or construction materials to be used on a project, except where such details are of a magnitude that will significantly affect the overall appearance of the project or the compatibility of the project with its surroundings or where such details are inconsistent with adopted design review polices, if any; or
 2. The interior design of a fully enclosed building.

- g. Actions of the planning commission are appealable to the city council in accordance with Article 11 of the Zoning ordinance.

6.05.5 Emergency / minor / routine repairs in Design Control Combining Zone.

- a. Any of said repairs as defined in Sections 3.29 and 3.48 having value of less than \$5,000.00 requires no Design Review Permit.

6.05.6 Time Limits:

- a. Applicants for projects that do not require a building permit shall have six months after the date of Design Review Permit issuance to complete the project.
- b. Applicants for projects that do require a building permit shall be subject to the conditions and time limits of the building permit. If a building permit is not obtained within six (6) months of Design Review Permit issuance, the Design Review Permit shall be revoked by operation of law.
- c. City staff may grant a one-time Design Review Permit extension of 6 months upon applicant's request, provided that the request is submitted prior to the expiration of the Design Review Permit.